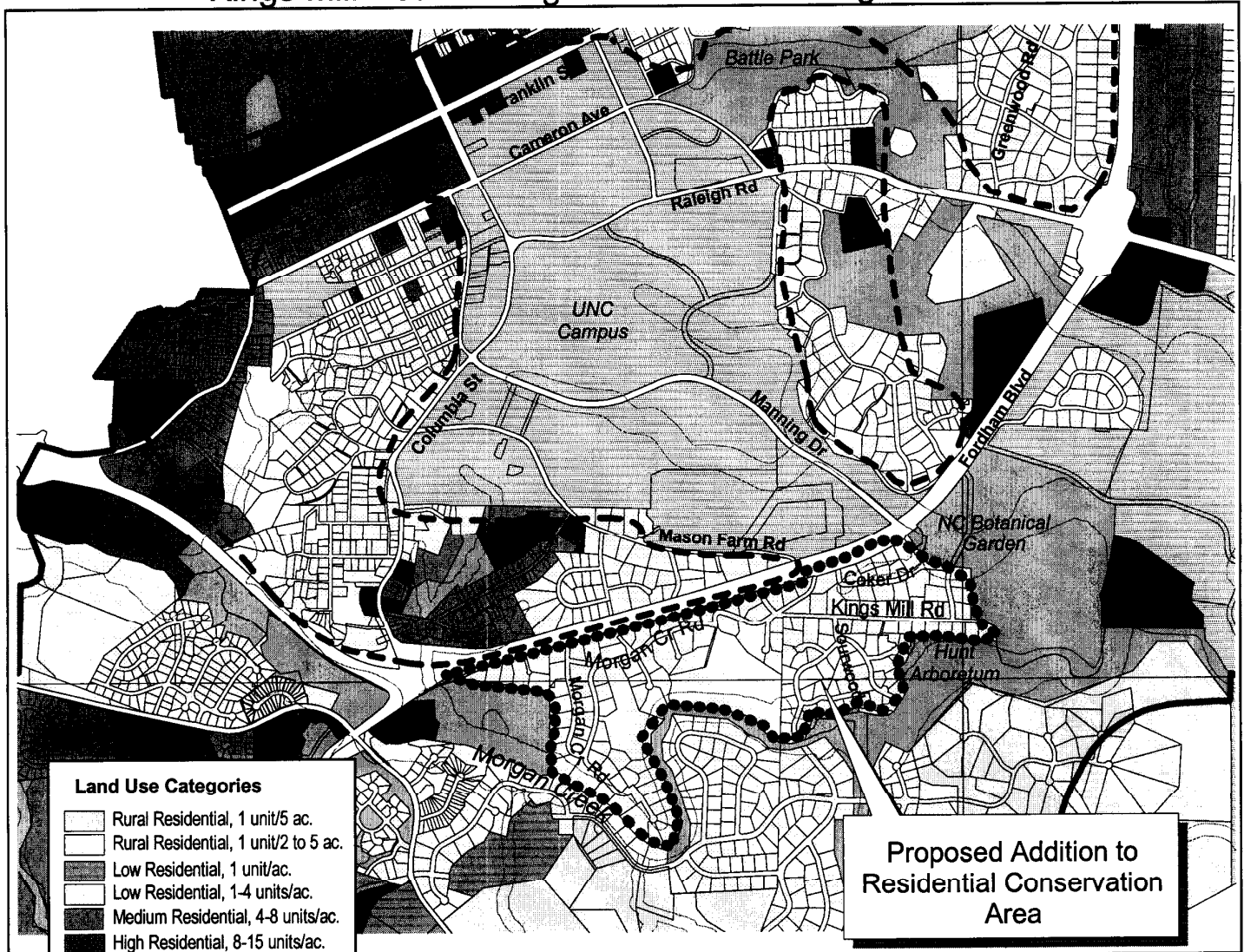
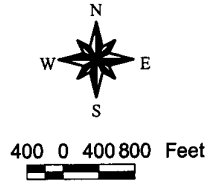
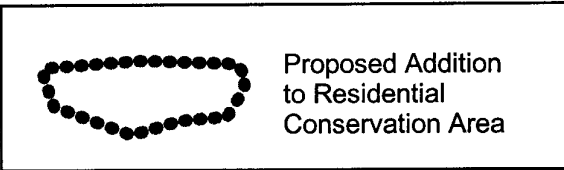


Proposed Addition to Residential Conservation Area Kings Mill Road - Morgan Creek Road Neighborhood



Proposed Addition to Residential Conservation Area

- Land Use Categories**
- Rural Residential, 1 unit/5 ac.
 - Rural Residential, 1 unit/2 to 5 ac.
 - Low Residential, 1 unit/ac.
 - Low Residential, 1-4 units/ac.
 - Medium Residential, 4-8 units/ac.
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 - Commercial
 - Mixed Use, Office/Commercial
 - Mixed Use, Office Emphasis
 - Town/Village Center
 - Institutional
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 - University
 - Parks/Open Space
 - Landfill Activities
- Special Areas**
- Residential Conservation Area
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 - A-H: Airport Hazard
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- Boundaries**
- Urban Service Boundary



5

MEMORANDUM

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Public Hearing: Designation of Kings Mill/Morgan Creek Neighborhood as a Residential Conservation Area

DATE: February 18, 2002

The purpose of tonight's public hearing is for the Town Council to receive public comment and to consider amending the Town's Land Use Plan to designate the Kings Mill/Morgan Creek area a Residential Conservation Area.

BACKGROUND

At the June 11, 2001 Town Council meeting, Ms. Sally Green, on behalf of the Kings Mill/Morgan Creek Neighborhood Association, asked the Council to help the neighborhood association in developing a small area plan and in creating a residential conservation overlay district (see Attachment 1). She noted that the neighborhood made this request because of the potential impacts of the University's Master Plan on the neighborhood.

On November 12, 2001, the Town Council endorsed a schedule of action to amend the Town's Land Use Plan to designate the Kings Mill/Morgan Creek area a Residential Conservation Area (see map, Attachment 2). The schedule included review by the Planning Board in January 2002, a public hearing before the Town Council on February 18, 2002, and final action by the Council on March 4, 2002.

On January 15, 2002, the Planning Board recommended the Council amend the Town's Land Use Plan to designate the Kings Mill/Morgan Creek area a Residential Conservation Area (see Attachment 3).

DISCUSSION

The Kings Mill/Morgan Creek neighborhood is located immediately south of Fordham Boulevard, generally between Morgan Creek Road on the west and Manning Drive on the east (see Attachment 2). The University Botanical Garden and Hunt Arboretum are to the east and south of the area and the University campus is located to the north. The Chapel Hill Town Limits forms the southern boundary of the neighborhood.

⑥

Residential Conservation Areas

Strategy 3A of the Comprehensive Plan describes the establishment of Residential Conservation Areas to protect the character of neighborhoods that touch and circle the downtown and central campus. The Kings Mill/Morgan Creek neighborhood currently is not designated a Residential Conservation Area on the Land Use Plan. Designation as a Residential Conservation Area means that when policy choices that affect these areas are before the Town Council, the balance should tilt in favor of protection and preservation, and that when new neighborhood protection initiatives are being considered (small area plans, design guidelines, occupancy or parking restrictions), these are the areas that should be considered first.

Comprehensive Plan Policy Basis

Strategy 3A establishing Residential Conservation Areas was based on broader policies in the Comprehensive Plan relating to existing residential neighborhoods. One of the major themes of the Comprehensive Plan is to “conserve and protect existing neighborhoods” (see page 4, Comprehensive Plan). The Plan notes that “some residential neighborhoods will face pressures for infill development and redevelopment. This is especially true for neighborhoods immediately surrounding downtown and the main campus of the University of North Carolina at Chapel Hill (UNC). The character of these neighborhoods needs to be conserved” (page 4).

Chapter 3 (Community Character) of the Comprehensive Plan notes that “maintaining Chapel Hill’s special community character in the face of growth and change represents a fundamental challenge for the future” (page 9). The forces of change include regional growth, the University and UNC Health Care System expansion, increased traffic, and Chapel Hill’s attractiveness as a place to live. The Comprehensive Plan notes that “certain areas of Chapel Hill are more susceptible to change than others because of particular growth pressures or the potential availability of land for development” (page 9). These areas are depicted on Figure 1 of Chapter 3. As a general group, “close-in residential neighborhoods” are listed being susceptible to change. The Plan notes that “the older, established neighborhoods surrounding the downtown and UNC campus are subject to influences such as the demand for off-campus student housing and institutional development at the edges of the campus” (page 10). The Kings Mill/Morgan Creek neighborhood is one of the areas depicted as “most susceptible to change” on Figure 1, and falls within the definition of a “close-in residential neighborhoods.”

The Comprehensive Plan contains a variety of strategies and actions to manage growth and change and to maintain Chapel Hill’s community character and quality of life, including Strategy 3A related to residential conservation areas. The Plan notes that “the strategies primarily focus on the areas shown on Figure 1 because the changes that occur in these areas are most likely to shape the future character of Chapel Hill” (page 11). These strategies could include the development of small area plans or design guidelines for these areas, in addition to other Town-wide policies.

We believe that it would be appropriate to designate this area a Residential Conservation Area on the Town’s Land Use Map. The northeastern portion of the neighborhood is adjacent to the

central campus (separated by Fordham Boulevard) and has similar characteristics as other areas currently designated as Residential Conservation Areas.

RECOMMENDATIONS

Planning Board Recommendation: The Planning Board recommended by a 6-2 vote that the Council amend the Town's Land Use Plan to designate the Kings Mill/Morgan Creek area a Residential Conservation Area (see Attachment 3).

Manager's Preliminary Recommendation: We recommend the Town Council amend the Town's Land Use Plan to designate the Kings Mill/Morgan Creek area a Residential Conservation Area.

ATTACHMENTS

1. Excerpt from June 11, 2001 minutes (p.4).
2. Location map (p. 6).
3. Planning Board Summary of Action (p. 7).

⑧

Comments of Sally Greene at public hearing on second draft of development ordinance
Sept. 20, 2001

The Kings Mill/Morgan Creek Neighborhood is eager to take advantage of the Neighborhood Conservation District concept. On Monday night, you'll receive a recommendation that at this stage, while the development ordinance is not yet final, we be designated a Neighborhood Conservation Area. That would be a great first step.

I'd like to address the second draft at sec. 3.6.5, pg. 3-60. That's the "application procedures." It says, "A zoning change application for designation as a Neighborhood Conservation District shall be initiated at the direction of the Town Council, or at the request of property owners of 75% of the property within the proposed district." The first draft said 51%.

Note what this is. It is only the "initiation" of a "zoning change application." Nobody is bound yet. There's a lot more procedure to it. To wit, "All property owners within the proposed district shall be afforded the opportunity to participate." The neighbors work with the planning staff on a plan. Then, the plan has to be "approved as part of a Zoning Atlas Amendment." It goes through the same process as any zoning amendment. All of that long and very public process makes it most unlikely that a bare minority of 51% could force their will upon an unwilling 49%.

It's more like a nomination. We've learned from Mr. White that there are many ways to get the process started. "In Atlanta, the city council, 10 property owners, or owners of 10 percent of the property in the proposed area can nominate a neighborhood for protection. . . . In Boston and Cambridge, any 10 voters can make the nomination. In Nashville, any interested group can do so." ("Conservation Districts: Latest Zoning Tool to Preserve Neighborhood Character," by Mark S. Dennison, *Zoning News* [American Planning Association], November 1992.) In other places, the nomination is on a majority petition of the neighborhood, but the 51% that was in the first draft is based on real examples (San Antonio, Texas, e.g.).¹

As you know, getting people mobilized to do something proactive is hard. It's one thing to pack this hall when some kind of threat is looming. It's another to get people to come out and sign petitions when the neighborhood seems calm. As was pointed out at the planning board meeting on Tuesday, there's even a class issue here: even if well-off neighborhoods, like ours, might include people with the time and energy to organize a 75 percent campaign, in working-class neighborhoods—Northside comes to mind—it could be really difficult.

There's also a language problem in this draft. The draft says "at the request of property owners of 75% of the property." Does that mean owners of 75% of the land mass, or does it mean 75% of the people who own property in the area? If it means land mass, then that's a real problem for our neighborhood. There are two undeveloped

¹ None of the examples we received from Mr. White, via the planning staff, contained a percentage higher than 51. I will follow up and ask him if he knows of any such examples anywhere.

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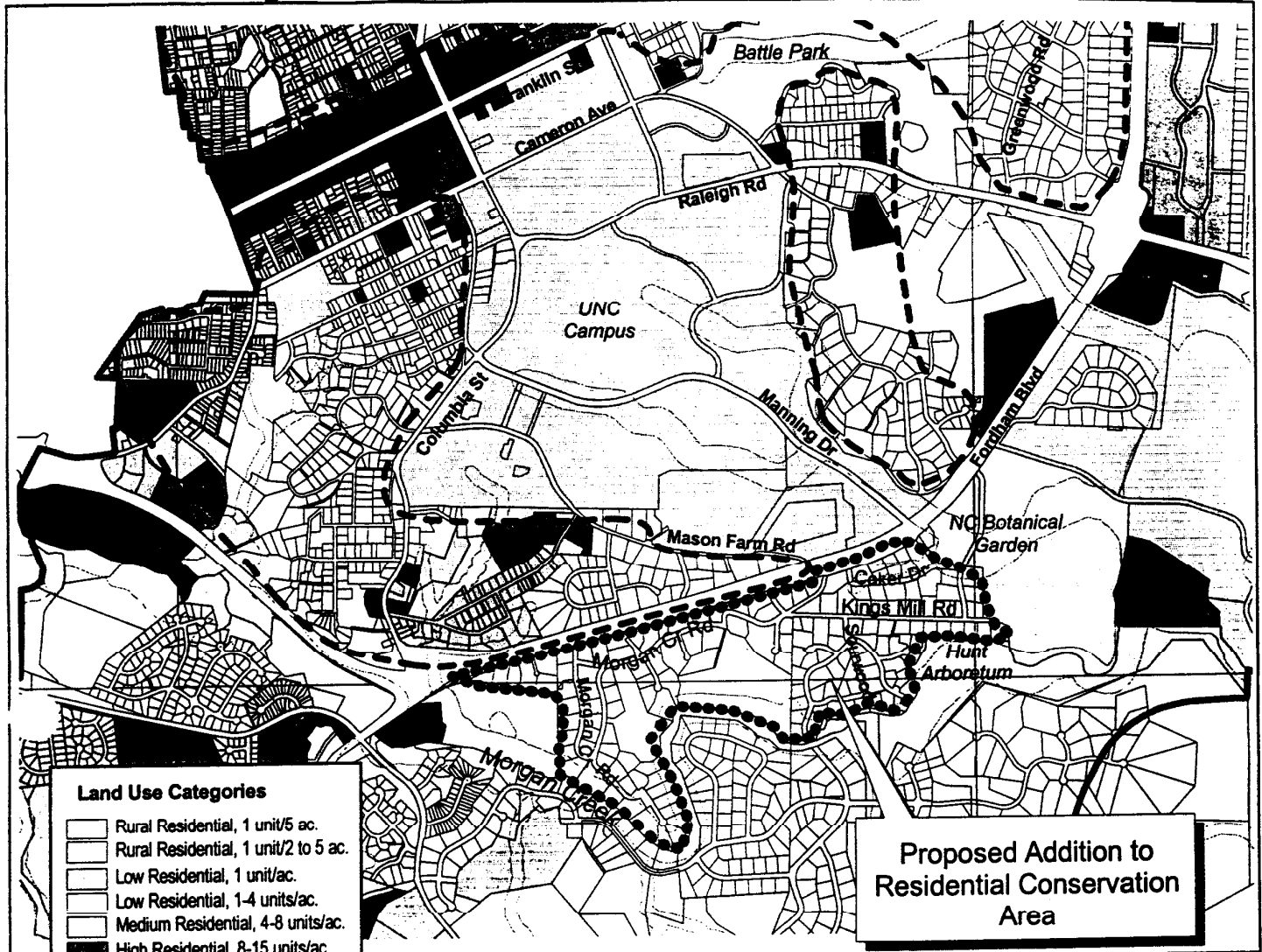
parcels that could well amount to almost 25% of the land. At the least, the interests of the owners of those properties are likely to be conflicted. This could mean we have to get basically 100% of the homeowners to sign on—just to begin the process.

Working from the models Mr. White provided, I would suggest the following:

A zoning change application for designation as a Neighborhood Conservation District shall be initiated (1) at the direction of Town Council, (2) at the request of owners representing 51% of the land area within the proposed district, or (3) at the request of 51% of property owners within the proposed district.

This is potentially a great tool for our older neighborhoods. The second draft, prudently, changed the introduction of the Neighborhood Conservation District section (the first sentence of sec. 3.6.5) from saying there are “many unique and distinctive older in-town neighborhoods” to saying just that there are such neighborhoods. That’s right. There are not “many” neighborhoods like ours in Chapel Hill. There are precious few. That’s one reason why we love them. Please don’t make beginning the process of conserving them harder than it needs to be.

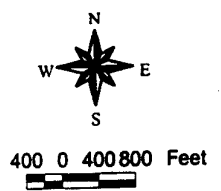
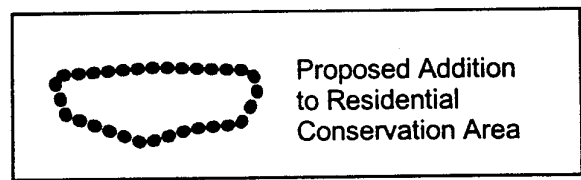
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 Proposed Addition to Residential Conservation Area
 Kings Mill Road - Morgan Creek Road Neighborhood



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Proposed Addition to Residential Conservation Area



①

SUMMARY OF PLANNING BOARD ACTION

- Subject:** Residential Conservation Area for the Kings Mill/Morgan Creek Neighborhood
- Date:** January 15, 2002
- Recommendation:** The Planning Board recommends that the Council expand the residential conservation area shown on the Town's Land Use Plan to include the Kings Mill/Morgan Creek neighborhood.
- Vote:** 6-2
- Ayes were John Hawkins, Chair; Julie Coleman, Coleman Day, Gay Eddy, Scott Radway, and Ruby Sinreich. Nays were Nancy Gabriel and Bob Reda.
- Discussion:** Board members discussed that the proposal is appropriate, considering that the designation is on the Land Use Plan. However, the designation could give a false sense of security. It is reasonable to attempt to protect the area using any technique available, given its proximity to the University of North Carolina. The designation would establish a policy for preservation of the area.
- Explanation of Dissenting Vote:** One member felt that the area should not be in a residential conservation area; the other member stated the proposal has no teeth and is too vague.

Drafted by: John Hawkins, Chair *JH*
Chris S. Berndt, Long Range Planning Coordinator *CSB*