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TOWN OF CHAPEL HILL

April 1, 2003

Neil G. Pedersen
Superintendent
Chapel Hill-Carrboro City Schools
750 S. Merritt Mill Road
Chapel Hill, NC 27516

Dear Dr. Pedersen:

We received your letter of March 25, 2003 related to the Gary Buck property on Eubanks Road. On March 17, 2003, the Town Council held a concept plan review meeting discussing a potential development on this site. This site is identified as a potential school site on the Town's Land Use Plan.

I apologize for any erroneous or misleading statement that may have been made at the concept plan review meeting that the Chapel Hill-Carrboro Board of Education had released the site designated on the Town's Land Use Plan from consideration as a future school site. Our files confirmed that you notified the Town on June 8, 2001 that the Board of Education released sites "1" and "2" related to the Larkspur subdivision as shown on a map provided with that letter. Please see Attachment 1. The map also showed a site "3" which the supporting documentation attached to the letter indicated was not being released (the Gary Buck property). Thus, the Buck property remains subject to the Ordinance provisions set out below.

Perhaps the confusion arose because the Town's Land Use Plan shows two "S" designations in the general area south of Eubanks Road. Please see Attachment 2. The two "S" designations cover an area with three specific properties, as shown on the map you provided. The two "S" designations remain on the Town's Land Use Plan.

You also asked in your letter of March 25th for clarification about the procedures in the Land Use Management Ordinance relating to reservation of school sites. Section 4.6.13 (Reservation of School Sites) reads:

"Whenever a **subdivision** application is submitted for approval which includes part or all of a school site designated to be reserved in the Comprehensive Plan, the Town Manager shall immediately notify the Chapel Hill/Carrboro Board of Education, and the Board shall promptly decide whether it wishes the site to be reserved. If the Board does not wish to reserve the site, it shall notify the Town Manager and no site shall be reserved. If the Board does wish to reserve the site, the **subdivision** shall not be approved without

such reservation. A note indicating such reservation shall be recorded on a final plat. The Board shall then have 18 months beginning on the date of final approval of the **subdivision** within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board has not purchased or begun proceedings to condemn the site within 18 months, the owner may treat the land as freed of the reservation.” (**Emphasis added.**)

This language is carried over from and identical to Section 17.7.1 of the previous Town Development Ordinance.

The Concept Plan reviewed by the Town Council for the Gary Buck property is “Chapel Watch,” a proposed apartment complex. The applicant has indicated that they will be submitting a Special Use Permit application for a Planned Development-Housing (PD-H), not a subdivision application.

The process of concept plan review by the Town Council is a new feature of the Town’s Land Use Management Ordinance adopted on January 27, 2003. The intent is to give developers early feedback and direction at a conceptual level before detailed planning is undertaken for a property and before a development application is submitted. Concept review applications go directly to the Town Council for comment without staff review or analysis. At this stage in the process, no formal applications for the development of this property have been filed. Normally, school system staff would be notified and asked to make comments at the formal application stage of a development.

Based on the concept plan that was considered by the Council, we do not anticipate receiving a subdivision application for this property that would trigger the provisions of Section 4.6.13 quoted above.

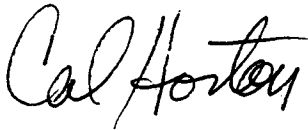
The provisions of Section 4.6.13 of the Town’s Development Ordinance relate specifically to subdivisions. This Ordinance was enacted under the authority of the North Carolina General Statutes. Specifically, Section 160A-372 of the General Statutes authorizes the Town to implement this section. Section 160A-372 is part of Part 2, Article 19 of Chapter 160A of the General Statutes and relates to the Town’s authority to regulate the subdivision of land. The Town does not presently have the legal authority to delay development that is not subject to a subdivision application to allow the School Board to consider acquisition.

Finally, you ask for advice as to whether the Board of Education “has any recourse that would lead to our having the option to purchase that property.” In response, we note the Chapel Hill-Carrboro Schools certainly has the option of approaching the owner/applicant directly to discuss its interest in acquisition of this site.

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Please contact Roger Waldon, Planning Director, at 968-2728, if you should have further questions about the Concept Plan application currently under review, or the Subdivision review process for potential school sites. In the future if you have similar concerns, I suggest you may wish to contact me by telephone so that we can discuss them and seek to resolve the issues as soon as possible.

Sincerely,

A handwritten signature in black ink that reads "Cal Horton". The signature is written in a cursive style with a large initial "C" and "H".

W. Calvin Horton
Town Manager

WCH/tcp
Enclosures

cc: Mayor and Town Council

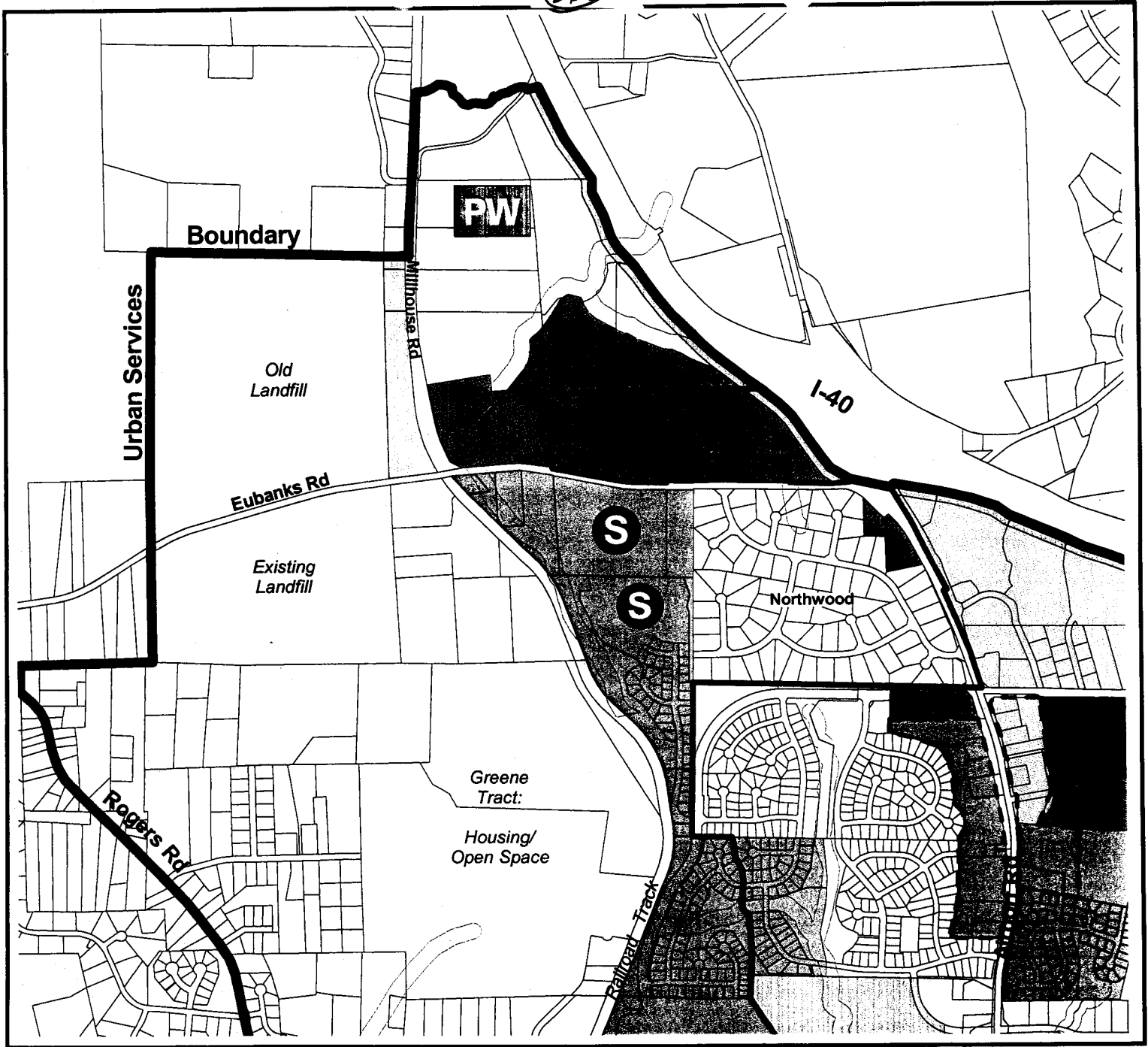
(21)

Map with
June 8, 2001 letter
from School System

**Eubanks Road Property
Town of Chapel Hill Master Plan**

Owner
Acreage
Valuation
Parcel Number





Northwest Area
Chapel Hill Land Use Plan
Adopted May 8, 2000

Legend

Land Use Categories	Special Areas
Rural Residential, 1 unit /2 to 5 ac.	Floodplain with RCD
Low Residential, 1-4 units /ac.	Potential School Site
Medium Residential, 4-8 units /ac.	Potential Affordable Housing Site
Mixed Use, Office/Com. Emphasis	Potential Public Works Facility Site
Mixed Use, Office Emphasis	
Institutional	
Parks/Open Space	
Landfill Activities	
	Boundaries
	Urban Service Boundary
	City Limits, 1999

