

**NEIGHBORHOOD CONSERVATION DISTRICTS AND THEIR RELEVANCE TO
HISTORIC PRESERVATION IN THE 21ST CENTURY**

by

Malachi Reid Peacock

(Under the Direction of John C. Waters)

ABSTRACT

The regulatory tools of historic preservation have evolved since the landmark National Historic Preservation Act of 1966, and local governments are enacting more flexible measures to preserve the built environment and character in neighborhoods that are not yet “historic.” Many local governments and communities have adopted and modified the key regulatory techniques of historic preservation to establish neighborhood conservation districts. While neighborhood conservation districts pose some serious questions related to the values and goals of historic preservation, a case study of three neighborhood conservation district programs shows that they are an effective tool for moderating growth and protecting community character in older neighborhoods.

INDEX WORDS: Neighborhood Conservation Districts, Conservation Districts, Neighborhood Planning, Teardowns, McMansions, Infill Development, Historic Preservation

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TABLE OF CONTENTS

	Page
LIST OF FIGURES	vi
FOREWORD	vii
CHAPTER	
1 INTRODUCTION	1
Teardowns and Infill	3
Purpose and Methodology	7
2 WHY NEIGHBORHOOD CONSERVATION DISTRICTS?.....	10
3 LEGAL BASICS OF NEIGHBORHOOD CONSERVATION DISTRICTS.....	14
State Enabling Legislation	14
Preservation or Planning.....	15
Establishing a Neighborhood Conservation District Program.....	16
Designating a Neighborhood Conservation District.....	20
The Review Process and Enforcement	24
4 CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN CHAPEL HILL, NORTH CAROLINA	26
The Land Use Management Ordinance	29
Criteria and Designation of Neighborhood Conservation Districts.....	32
Design Standards and Administration	34
The Glenn Lennox Experience	36

5	CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN ANNAPOLIS, MARYLAND.....	42
	The Single-Family Residence Neighborhood Conservation District.....	45
	Development Standards and Design Review	49
	Demolition	52
	The Eastport Neighborhood Conservation District.....	54
6	CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN DALLAS, TEXAS.....	61
	The Dallas Development Code and Conservation District Ordinance	65
	General Provisions and Designation Procedures	69
	Neighborhood Eligibility and the Conceptual Plan	71
	Drafting and Enacting the Conservation District Ordinance	73
	The “Conservation District Overview”.....	75
	The Conservation District Process in Little Forest Hills	76
7	SUMMARY AND CONCLUSION	82
	Opportunities for Future Research.....	86
	Recommendations.....	87
	REFERENCES	91
	APPENDIX.....	95
	SELECTED LIST OF CITIES WITH NEIGHBORHOOD CONSERVATION DISTRICT PROGRAMS.....	95

LIST OF FIGURES

	Page
Figure 1.1: A teardown near completion	4
Figure 1.2: Incompatible new construction dwarfs an existing home	6
Figure 4.1: Chapel Hill Special Districts	41
Figure 5.1: A typical streetscape in Eastport	55
Figure 5.2: The Eastport neighborhood conservation district.....	56
Figure 6.1: Existing Dallas conservation districts	63
Figure 7.1: List of Recommendations.....	90

FOREWORD

My interest in infill development and neighborhood conservation districts came about as I observed the evolution of my parents' neighborhood in my hometown of Decatur, Georgia. Decatur is a small city enveloped by the sprawl of metro-Atlanta. Over the past fifteen years, Atlanta experienced the same real estate and building boom that occurred in cities throughout the United States.

My parents' home was built in the 1970s in a subdivision called *The Ponderosa*, and the majority of houses in their neighborhood were built in the same period. By contemporary historic preservation standards, the post-World War II architecture of *The Ponderosa* does not have historical significance, and this has left a regulatory void. It has made the neighborhood a target for inappropriate development and architecture. Because the houses are not eligible for or protected by a local historic district, developers, real estate agents, and homebuyers have seized upon the property in my parents' neighborhood, and the surrounding communities, to demolish existing homes, construct McMansions, and build infill, often times "incompatible infill."

Fortunately, *The Ponderosa* subdivision withstood the major teardown threats, but the adjacent neighborhoods were not so lucky. Numerous twentieth century houses have been torn down to make way for out-of-scale new constructions, the majority of which have negatively impacted the distinguishable neighborhood character of Decatur and *The Ponderosa*. After watching this in my hometown and throughout metro-Atlanta, it is my goal to find a way of integrating new construction and modifications into older and established neighborhoods, while at the same time preserving the historic integrity and sense of place in these neighborhoods.

CHAPTER 1

INTRODUCTION

Since the enactment of the National Historic Preservation Act of 1966, the American judicial system has utilized the fifty-year rule as a benchmark for the initial determination of whether a building, district, or site may have historic significance. Historic preservation efforts tended to focus on the most noteworthy structures of the elite and upper classes, but historic preservation efforts have slowly shifted. This has resulted in the “definition of significance [expanding] to represent the broader American experience.”¹ As the goals and philosophies of the twentieth century historic preservation movement have garnered additional public support, as well as adapted to the changing political climate, the key principles of historic preservation have been adopted in other areas of community development and planning.

The widespread recognition of the benefits of preservation has brought many accomplishments, but with success new challenges have arisen. As a result of historic preservation, countless historic resources have been preserved and maintained, and many historic districts and neighborhoods have been officially designated as well. These district designations have occurred on both the local and federal government levels, however federal designations are largely commemorative and do not explicitly protect against the destruction or deterioration of historic homes and neighborhoods. Primarily, the power to preserve neighborhoods is wielded by local governments and municipalities that may draft and enact local historic preservation ordinances.

¹ Adam Lovelady, “Broadened Notions of Historic Preservation and the Role of Neighborhood Conservation Districts,” *The Urban Lawyer* 40, no. 1 (2008): 147.

The challenge for local governments in the twenty-first century is to preserve a rapidly increasing number of historic resources and to protect those resources that are not yet “historic.” Much of this comes as a result of growth in the housing, development, and infrastructure sectors, all of which have become part of an ever more lucrative industry that has taken advantage of new technologies and market desires for “bigger and better” homes and communities. Some of this development manifests itself as suburban sprawl, eating up open space and paving over rural, natural, and historic resources. Other development turns back to the cities to take advantage of urban amenities, moderate property values, and the established character of older neighborhoods. In many ways, this movement back to the city is what has fueled the teardown-to-McMansion trend throughout the United States.

Although historic preservation legislation and practice do not explicitly address older, established neighborhoods, the relationship and opportunity for collaboration exists. In the past, many individuals have negatively associated historic preservation with restricted personal property rights, constricted growth and economic development, or an impractical approach to preserving heritage and culture. Such perceptions are largely misconceived notions and stereotypes. On the contrary, the ideals of historic preservation are being coordinated with the related fields of community planning, sustainable development, and urban and economic planning to provide for the future and benefit communities throughout the United States. The primary preservation tools are now being utilized for neighborhood planning and preservation.

There are two key reasons for the appropriateness of this partnership. First, historic preservation is inherently linked to neighborhood design and conservation because the regulatory methods of historic preservation can easily be applied to the architecture, streetscapes, and comprehensive design of established, albeit not “historic,” neighborhoods. The goals of historic

preservation and neighborhood conservation can simultaneously be realized if established neighborhoods are preserved in a reasoned and logical fashion that appreciates and highlights the character, design qualities, and sense of place of a given neighborhood while also allowing for some level of development and change over time.

Second, historic preservation and neighborhood conservation are inextricably related to sustainability and environmental quality. Although not as pertinent for the purposes of this thesis, preservation of the built environment is synonymous with protection of the natural environment. This is because valuable, existing resources of the built environment can be adapted for new uses and purposes, saving precious energy, open space, and natural resources in the process. If adaptive reuse, rehabilitation, or restoration is undertaken in a way that appreciates and highlights the historic nature and significance of a building or neighborhood, a community will reap the benefits of preserving their cultural heritage *and* preserving the natural environment in which they live.

Teardowns and Infill

As cities large and small have sprawled into the surrounding environment, individuals and families have begun to move back to the city in order to be closer to urban amenities, reduce commute times, and experience the *character* and environment of established, intown communities. This sense of place found in established neighborhoods is a direct result of their historic character, their pleasing land and streetscapes, and the fact that they conform to a reasoned, good design and overall plan. The irony is that this sense of place—the same sense of place for which people seek out these neighborhoods—is destroyed when teardowns and incompatible development occur (**Figure 1.1**).



Figure 1.1: The result of a teardown

(Photograph courtesy of Leafmore Creek Park Hills Civic Association)

Infill development, for this thesis, refers to new buildings that are constructed in areas that have previously been developed to a certain capacity. The term “infill” calls forth a range of different responses depending upon an individual’s specific circumstances, location, employment, and background, but rarely is a discussion of infill free of some level of controversy and emotion. In recent years, the need for good infill development has come to the forefront because of the real estate boom and the teardown trend. Adrian Scott Fine of the National Trust for Historic Preservation, in 2002, defined the relationship between infill and teardowns:

It is the teardown trend, a real estate development practice that is devastating historic neighborhoods across the nation. Over the past year, the National Trust has documented more than 100 communities in 20 states that are experiencing significant numbers of teardowns, and that number is climbing fast...The term “teardown” refers to the practice of demolishing an existing house to make way for a dramatically larger new house on the same site.²

² Adrian Scott Fine and Jim Lindberg, *Protecting America’s Historic Neighborhoods: Taming the Teardown Trend* (Washington: National Trust for Historic Preservation, 2002), 1.

It is precisely this trend and real estate practice that have brought the terms infill and teardown into the public conscience.

For individuals and homeowners in many established, intown neighborhoods, infill is immediately associated with *incompatible* infill development. In Decatur, Georgia, the Leafmore Creek Park Hills Civic Association prepared a presentation addressing teardowns and incompatible infill. The presentation explained that recent new home constructions were “incompatible with the existing heights and styles of neighborhood homes” and pointed out that incompatible infill undermined the “character and consistency,” the “community ambiance,” “property and home values,” the natural environment,” and “the ‘walking’ community” found within the neighborhood.³ As in Leafmore Creek Park Hills, teardowns in established neighborhoods have made way for McMansions to crop up in cities and communities throughout the United States, and neighborhoods have experienced the same negative consequences mentioned above. Although terminology varies throughout the United States, “McMansion” broadly refers to “Monster Home”⁴ infill development that is grossly over-scaled and “dramatically larger” than surrounding homes.⁵ This residential development trend accelerated throughout the 1990s and early 2000s.

Real estate developers, opposite to intown homeowners, search out sites for urban infill because moderate property values and existing infrastructures make it possible for large profits to be made through redevelopment and new construction on these sites. Developers refer to this

³ Leafmore Creek Park Hills Civic Association, “Overview of the Proposed Overlay Zoning District,” *Leafmore Creek Park Hills Civic Association*, www.leafmore-creekpark.org/lcph_overlay_district_presentation.ppt (accessed April 22, 2009).

⁴ Fine, 2.

⁵ *Ibid.*, 1.

profit-making principle as the “Rule of Three.”⁶ If a finished new home (**Figure 1.2**) can be sold “for about three times what [was] paid for the property, the conventional wisdom goes, then a teardown will pay off.”⁷ Often times, developers are able to go forward unencumbered because established communities do not have up-to-date zoning codes or development guidelines that regulate the *design and scale* of new constructions, demolitions, or modifications in residential neighborhoods. Infill guidelines and design review, for these stakeholders, are largely viewed as an expensive delay in progress and an unnecessary obstacle.



Figure 1.2: Incompatible new construction dwarfs an existing home
(Photograph courtesy of Leafmore Creek Park Hills Civic Association)

Planners and a growing number of municipalities, finally, view well-planned infill development as an imperative because it is the antispawl. Infill development saves natural resources, preserves open space, nurtures community, and utilizes existing infrastructure systems. For these stakeholders, the key to infill development is good design and construction

⁶ Ibid., 9.

⁷ Ibid.

that physically melds the existing built environment with the new construction and also functions well within the community. Community involvement in the planning process is also an essential aspect of the professional planner's view of infill development so that the public goals, needs, and visions for the future are realized. Nonetheless, planners and local officials realize that the enactment of design guidelines and conservation districts, as well as implementing an inclusive community planning process, is a challenging and potentially divisive political and logistical issue.

For the twenty-first century, successful infill development is an urgent necessity because a growing population and diminishing natural resources prohibit the sprawling growth that has characterized post-World War II development in the United States. Unfortunately, infill development is frequently met with resistance because of ill-planned projects that have negatively impacted urban environments and neighborhoods in the past, and so citizens automatically reject infill development regardless of good design or the potential benefits. In order to advocate for and facilitate quality infill development, it is necessary for communities to undertake community awareness and education programs so that the negative stereotypes and perceptions of infill are rectified.

Purpose and Methodology

The purpose of this thesis is to answer two questions: 1) Are neighborhood conservation districts effective in preserving neighborhood character? 2) How do neighborhood conservation districts interact with historic resources and preservation? To these ends, this discussion will analyze the implementation of neighborhood conservation districts as a way to preserve older and established neighborhoods and prevent incompatible infill. Neighborhood conservation

districts for the purposes of this thesis are defined as residential neighborhoods “with a distinct physical character that have preservation or conservation as the primary goal” and that are “[a]ccomplished through the adoption of a zoning overlay or independent zoning district.”⁸ Throughout, the terms “older” and “established” refer to twentieth century neighborhoods that have a distinct character and unity but may not have historic integrity or significance, as evidenced by listing on the National Register of Historic Places or designation as a local historic landmark.

This thesis will analyze the relationship between historic preservation and neighborhood conservation districts, as well as explore the opportunities for these two regulatory frameworks to coexist. In particular, this commentary will look at ways to regulate the teardown-to-McMansion trend in established neighborhoods, preserve historic resources in these communities, preserve sense of place, character, and landscape in these neighborhoods, and wisely facilitate quality residential infill design. In addition to evaluating the regulatory effectiveness of neighborhood conservation districts, this thesis will explore the larger questions that neighborhood conservation districts pose for the goals and principles of historic preservation.

A case study methodology will be utilized to examine the neighborhood conservation district programs in Chapel Hill, North Carolina, Annapolis, Maryland, and Dallas, Texas. The cities’ varying populations, ages, geographies, and challenges guided the selection of the case studies. For each city, a list of research questions will guide this commentary and direct the analysis of their respective programs and ordinances. These research questions address the

⁸ Julia Miller, *Protecting Older Neighborhoods Through Conservation District Programs* (Washington: National Trust for Historic Preservation, 2004), 1.

criteria for establishing a neighborhood conservation district, the intent of a given district, the specific details regulated by the design guidelines, whether or not the design guidelines are regulatory or advisory, and finally who reviews and makes decisions regarding construction and permitting in neighborhood conservation districts. It is hoped that this will provide valuable insight as to the technical aspects of the case study programs.

Throughout, the relationship between neighborhood conservation districts and contemporary historic preservation will also be discussed. A series of broader analysis questions will guide this more theoretical discourse. Specifically, these points will question whether or not neighborhood conservation districts protect or compromise historic resources, if neighborhood conservation districts represent “preservation lite,”⁹ if neighborhood conservation districts are effective stewards for neighborhoods that are not yet fifty years old, if neighborhood conservation districts are likely to be converted into local historic districts when it is feasible, and finally, if the concept of neighborhood conservation districts threatens the overall validity of historic preservation and the protections of local historic districts. “Preservation lite” occurs either when neighborhood conservation districts adopt advisory guidelines or when a neighborhood with historic integrity is designated a neighborhood conservation district and not held to appropriate and compulsory design guidelines. It is hoped that the questions above will uncover the benefits and risks of neighborhood conservation districts with regard to historic preservation, as well as the potential for integrating the two.

⁹ Lovelady, 157.

CHAPTER 2

WHY NEIGHBORHOOD CONSERVATION DISTRICTS?

Neighborhood conservation districts are not a new regulatory tool, but their use by local governments has become more widespread and well known over the past decade. According to Adam Lovelady, neighborhood conservation districts became mildly popular in the 1980s, but “cities have seen a recent resurgence of [neighborhood conservation districts].”¹⁰ The reasons for this resurgence relate directly to the development pressures and building boom of the 1990s and 2000s. Local governments and neighborhood entities have enacted neighborhood conservation districts “in an effort to address neighborhood development concerns—whether mansionization, the proliferation of vacant parcels and parking lots, disinvestment, or commercial encroachment.”¹¹ Although similar to local historic districts in their administration and operation, neighborhood conservation districts are distinct in their purpose and applicability: the purpose is generally more focused on overall neighborhood character, rather than specific architectural details, and the design standards adopted respond directly to the needs and qualities of neighborhoods that do not qualify for historic district status. Currently, this refers to neighborhoods of the late-twentieth and twenty-first centuries. Neighborhood conservation districts, for this reason and others, are suitable for a variety of residential neighborhoods.

Primarily, neighborhood conservation districts can be adapted to work effectively with neighborhoods of varying ages. It is a regulatory tool for neighborhoods old and new, “historic”

¹⁰ Ibid., 154.

¹¹ Julia H. Miller, “Neighborhood Conservation Districts,” in *The Alliance Review*, November/December 2003: 24.

and not. This includes those that are not yet 50 years old, as well as communities that are fifty years old but may not have historic significance or integrity. Robert Stipe refers to these younger districts as “pre-natal” historic districts that have not yet gained “the patina of age.”¹² Stipe, moreover, argues that some fifty-year-old districts are important to preserve even though they “may never qualify for ‘historic’ status.”¹³ It is presumptive to assume that “pre-natal” districts will eventually become historic districts, but many neighborhoods of the latter half of the twentieth century fall into this gray area of the recent past. In Nashville, although “staff from the [Metropolitan Historic Zoning Commission] thought that...neighborhoods might eventually switch from conservation zoning to traditional historic districts,” neighborhood conservation districts have not been a precursor to local historic district status.¹⁴ However, because there are so many suburban and late-twentieth century neighborhoods devoid of adequate zoning protections, neighborhood conservation districts are an effective tool.

Second, in relation to historic districts, neighborhood conservation districts can protect neighborhoods, properties, and areas that are adjacent to designated local historic districts. Stipe calls these types of neighborhood conservation districts “buffers” because they “[surround] or [border] on an existing local historic district.”¹⁵ Since intown historic districts are often times surrounded by newer construction and neighborhoods, buffer districts are needed in order to protect the overall integrity of the area. Buffers will preserve streetscapes, maintain viewsheds, and prevent incompatible development from encroaching on and harming an historic district.

¹² Robert E. Stipe, “Conservation Areas: A New Approach To An Old Problem,” *Issues Paper: Conservation Districts in Cultural Resources Partnership Notes*, June 1998: 4.

¹³ *Ibid.*

¹⁴ Pratt Cassity, *Maintaining Community Character: How to Establish a Local Historic District* (Washington: National Trust for Historic Preservation, 1992), 13.

¹⁵ Stipe, 4.

Third, neighborhood conservation districts are flexible and offer a good compromise for communities in which there is not a strong preservation ethic or a strong desire for regulatory controls. In this situation, neighborhood conservation districts are appropriate for neighborhoods in which “residential support for stricter controls is lacking.”¹⁶ Strident preservationists may disagree with this compromise, but the reality is that a segment of the population does not support historic preservation or see the recent past as worthy of historic district status. Some level of design review is better than no regulation at all. For these communities, neighborhood conservation districts offer a flexible tool that can “be tailored to the physical, historical, or political needs of particular neighborhoods.”¹⁷ If neighborhood conservation districts are allowed to work and are effective in these communities, historic district status might one day be palatable and feasible.

In addition to these primary reasons, there are several other advantages of neighborhood conservation districts. They allow neighborhoods “to retain a source of affordable housing in low- to moderate-income areas.”¹⁸ Affordable housing and property values are protected by neighborhood conservation districts because teardowns-to-McMansions are not permitted to gentrify neighborhoods and negatively influence the property values of existing residents. In low- to middle-income neighborhoods, the specific needs of residents and homeowners may not be satisfied by the designation of a local historic district,¹⁹ but neighborhood conservation districts are flexible enough to protect homeowners’ interests *and* neighborhood character. Also, neighborhood conservation districts require less administrative work while still addressing

¹⁶ Miller, *Protecting Older Neighborhoods*, 2.

¹⁷ Lovelady, 148.

¹⁸ Cassity, 13.

¹⁹ Carole Zellie, “A Consideration of Conservation Districts and Preservation Planning: Notes from St. Paul, Minnesota,” *Issues Paper: Conservation Districts in Cultural Resources Partnership Notes*, June 1998: 10.

neighborhood development issues. Adrian Scott Fine and Jim Lindberg state that neighborhood conservation districts concentrate on “demolition and oversized new construction with less administrative burden than historic districts.”²⁰ This may indirectly weaken the validity of local historic districts and historic preservation commissions, but it is positive from the perspective of the city planning department and neighborhood conservation district overseer.

Finally, neighborhood conservation districts may be especially appropriate for historic or established neighborhoods in which home maintenance is already very high. The former director of Nashville’s Metropolitan Historical Zoning Commission, Shane Dennison, describes neighborhood conservation districts as being “best suited for areas where buildings are fairly well-maintained, where little rehab work is needed but where demolition and incompatible new construction are threats.”²¹ A neighborhood conservation district of this type, though, might undermine historic preservation efforts because maintenance, modifications, and additions to historic resources would not be regulated by the local historic preservation commission. In this scenario, homeowners initiate their own neighborhood conservation district, and the District provides peace of mind for homeowners that their investment and neighborhood is protected from out-of-place development.

From this discussion, it is apparent that neighborhood conservation districts are valuable practically, politically, and functionally. Because neighborhood conservation districts tend to be neighborhood-initiated and rely on public participation, residents not only obtain a “sense of ownership” in their ordinance,²² but also tailor the district in accord with the conditions, needs, and goals of their community.

²⁰ Fine, 14.

²¹ Miller, *Protecting Older Neighborhoods*, 2.

²² Ibid, 10.

CHAPTER 3

LEGAL BASICS OF NEIGHBORHOOD CONSERVATION DISTRICTS

State Enabling Legislation

For local governments considering the initiation of a neighborhood conservation district program, the first step is to identify the state enabling legislation that will establish the guidelines to which the ordinance must conform. A given state's enabling legislation will outline the purpose and intent of the conservation districts in that state, as well as describe the powers that local governments may take in carrying out a neighborhood conservation district. For most states, this legislation will be found under a specific enabling law, the home rule authority, or the historic preservation legislation.²³ Alternatively, "a broad grant of zoning authority" within a state's land use or development law will imply that the local governments have the power to establish neighborhood conservation districts.²⁴ This type of enabling legislation guides the way in which local governments "can divide the land area...into districts, or *zones*, each with a set of regulations."²⁵ Regardless of the specific state legislation through which local governments derive districting power, the basic goals and regulatory measures of enabling legislation remain uniform.

²³ Miller, "Neighborhood Conservation Districts," 25.

²⁴ Ibid.

²⁵ Stephen A. Morris, "Zoning and Historic Preservation," *Cultural Resources Partnership Notes*, June 1998: 1.

Preservation or Planning

The goals of varying neighborhood conservation district programs are generally very similar, but the measures that a community uses to reach these goals vary based upon the state enabling legislation and public support for the program. Throughout the United States, the two general approaches to Neighborhood conservation districts are the “‘historic preservation model’ or the ‘neighborhood planning model.’”²⁶ The preservation model concentrates on the physical character of the neighborhood, aims to halt development that could harm the architecture of the neighborhood, and is usually applied to neighborhoods with a number of older buildings displaying a cohesive character through their architectural style, period, or form.²⁷ Alternatively, the planning model utilizes, for example, “lot coverage, setback requirements, and permitted uses, as well as, or in lieu of design” to accomplish the same long-term goals of preserving neighborhood character.²⁸ The planning model is distinct in that it does not govern style or form, and may therefore allow for reasonable change and new design over time.

As more neighborhoods have explored neighborhood conservation districts, a third model has developed because, as Lovelady observes, for many communities “preservation is just one goal among many community development goals.”²⁹ The hybrid approach is the third model, which has recently grown in its popularity and effectiveness, and exists as a synthesis of the preservation and planning models. Julia Miller describes that the hybrid approach “incorporate[s] both development restrictions and design controls to remove underlying pressures for the incompatible development.”³⁰ The hybrid approach seems to be a particularly

²⁶ Miller, *Protecting Older Neighborhoods*, 2.

²⁷ Ibid.

²⁸ Ibid., 3.

²⁹ Lovelady, 155.

³⁰ Miller, *Protecting Older Neighborhoods*, 5.

promising solution since the need for neighborhood conservation districts stemmed from both planning and preservation perspectives.

Establishing A Neighborhood Conservation District Program

A local government can establish a neighborhood conservation district program either as an overlay zoning ordinance or as a stand-alone zoning ordinance. In practice, these two approaches vary little, but it is nonetheless useful to describe both scenarios because “the particular circumstances within a community”³¹ may dictate which type of ordinance is enacted. Stephen A. Morris describes an overlay zone “as an additional layer of regulations for a particular area, which is laid atop the underlying or base zoning regulations,”³² meaning that a neighborhood will be protected both by the original zoning and neighborhood conservation district regulations. On the other hand, a stand-alone zoning ordinance “combine[s] the underlying zoning restrictions with the specific goals of an overlay into a single district.”³³ The primary difference is that a stand-alone zoning ordinance requires that a new document be drafted and adopted in which the regulations, purpose, and guidelines for future neighborhood conservation districts are delineated, and so this process may pose more of a political challenge than an overlay zoning district.

Based upon the boundaries set forth in the state enabling legislation and zoning regulations, a local government can draft a *local* enabling ordinance under which individual neighborhood conservation districts may subsequently be established.³⁴ For the majority of local governments, local enabling ordinances contain a set of core components. These

³¹ Ibid, 6.

³² Morris, 4.

³³ Miller, “Neighborhood Conservation Districts,” 25.

³⁴ Miller, *Protecting Older Neighborhoods*, 6.

components are: the purpose statement, the administrative review body, district designation process, actions to be reviewed, conservation guidelines and standards, the review process, enforcement measures, and the process for appeals.³⁵ The combination of these elements will outline all of the broad details concerning the establishment, operation, and guidelines to which subsequent neighborhood conservation districts must adhere.

Of particular importance are the purpose statement, the review body, the designation process, the actions subject to review, and the conservation guidelines. The purpose statement will identify the public purpose of the ordinance, which often aims “to protect neighborhood character, guide future development, stabilize property values, or encourage neighborhood rehabilitation.”³⁶ These purposes relate directly to the threats being faced by a neighborhood and the goals for the future. A strong, clear purpose statement helps citizens understand the intent and sets the tone of the ordinance.

The administrative review body is the public entity that will review applications for building permits within a neighborhood conservation district. In general, a “historic preservation commission, a zoning or planning commission, or a specially-designated neighborhood commission” will review and administer a District.³⁷ Which of these commissions a community selects will depend upon the type and the goals of the ordinance. If a historic preservation commission oversees a district, architectural details and integrity are most likely very important to the citizenry. Likewise if a planning commission makes decisions about a district, it can be assumed that broader goals of long-term development and neighborhood planning guide the

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid., 7.

neighborhood conservation district program. In addition to the goals of a community, the state enabling legislation can determine who will review the districts.

The designation of neighborhood conservation districts will be discussed in greater detail below, but it is significant because the designation process revolves around public participation.

Julia Miller summarizes this process:

A key aspect of neighborhood conservation district programs is mandatory public participation. The neighborhood plan is usually developed as part of the designation process with direct input from the community through the establishment of an advisory board.³⁸

This inclusive and comprehensive participation process leads to greater community support for the district, as well as a sense of pride within the neighborhood and community.

The actions that will be reviewed within a neighborhood conservation district vary depending on the goals of the neighborhood. For neighborhoods interested in architectural character, “proposed alterations, additions to existing structures, and new construction based on specific design standards and...demolitions”³⁹ will be subject to review. Neighborhoods more concerned with planning and streetscapes tend to regulate new construction based on “lot coverage, height, and setback”⁴⁰ in order to protect the overall neighborhood character. However different these approaches may be, many neighborhood conservation district programs adopt a combination of these regulatory tools to accomplish preservation and planning goals. According to Fine, “[c]onservation districts generally provide for review of demolitions and other major changes to existing properties, such as large additions.”⁴¹ Review of these actions is

³⁸ Ibid., 9.

³⁹ Ibid., 11.

⁴⁰ Ibid.

⁴¹ Fine, 14.

a crucial measure in achieving the purpose of neighborhood conservation districts, which is to preserve the overall scale and massing that make up the character of the neighborhood.

When residents of a neighborhood conservation district desire to modify or alter the exterior appearance of their home, the adopted conservation guidelines for that district will guide the administrative review process and decision-making. As Julia Miller states, neighborhood conservation districts “may find it necessary to establish an administrative process that reviews proposed construction on a case-by-case basis.”⁴² This case-by-case method will facilitate compatible development “in terms of size, scale, massing, and, in some cases, architectural style”, but it is important that the decision-making review body be qualified and capable of making sound judgments dealing with new construction and modifications.⁴³ Since the administrative review body will make decisions based on the mass, scale, building form, materials used, building orientation and alignment, and character-defining features of a neighborhood conservation district,⁴⁴ the administrative review body members should be educated and knowledgeable about these architectural elements. If this is accomplished, well-drafted and articulate conservation guidelines allow neighborhoods to tailor their neighborhood conservation district to meet their goals while also serving as a benchmark of what is compatible and acceptable for current and future residents.

Most neighborhood conservation district programs have two types of conservation guidelines. General guidelines, usually found within the local enabling legislation, identify the review threshold and process that will govern all of the neighborhood conservation districts

⁴² Miller, *Protecting Older Neighborhoods*, 13.

⁴³ *Ibid.*

⁴⁴ *Ibid.*, 11.

within that municipality.⁴⁵ The specific guidelines for a given neighborhood conservation district will be drafted as part of the neighborhood plan and will “govern the review of specific actions within a specific neighborhood.”⁴⁶ Whether a neighborhood is more concerned with planning and development or architectural integrity will determine the types of guidelines adopted as part of a designated neighborhood conservation district. For example, in one of the Hollywood/Santa Monica neighborhood conservation districts, the guidelines address “accessory structures, street façade width, roofs...façade openings... [and] windows”, but in another Hollywood/Santa Monica District guidelines mandate that “all new homes be built in the Tudor style with no renovations visible from the front.”⁴⁷ This example exhibits the latitude and the specificity with which neighborhood conservation district guidelines can be drafted.

Designating a Neighborhood Conservation District

Once a local enabling ordinance has been adopted, residential neighborhoods can present and potentially designate their neighborhood as an official neighborhood conservation district. The designation process is a multi-phase process revolving around public participation, research and assessment, and identification of future goals. Once completed, the specific ordinance will set forth “the qualifications and objectives of the district, the official boundaries, any applicable development or design restrictions, and other pertinent information.”⁴⁸

The first consideration for a potential neighborhood conservation district is to identify the criteria that must be met for designation, much like designating a local historic district. The local

⁴⁵ Ibid., 13.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid., 7.

enabling ordinance will outline what these criteria are. For most neighborhood conservation district ordinances:

...the criteria for designation insist that the neighborhood under consideration has a unique or special character. The neighborhood must be recognizable as a distinct area with shared attributes, yet distinguishable from other parts of the city or town. Factors such as architectural and historic integrity, although not essential to designation, often become important in defining neighborhood character.⁴⁹

Although neighborhood character can be difficult to cogently define, this description clearly suggests that the relationship between neighborhood character and historic integrity is intimately linked. This is important for post-World War II and contemporary neighborhoods because their significance may not be recognized by current historic preservation standards; neighborhood conservation districts fill this void and offer regulatory protections for neighborhoods that are not “historic.”

Whether the neighborhood conservation district program is preservation- or planning-based will generally determine how the application process is structured. If the program is preservation-based, the historic preservation commission will oversee the application process and eventually “nominate or recommend” that a neighborhood be designated.⁵⁰ For planning-based neighborhood conservation district programs, the planning commission will administer the application process which, notably, is often times mandated by a community’s comprehensive plan.⁵¹ The application process in some neighborhood conservation district programs begins when a designation report, which includes the significance of the neighborhood and proposed boundaries, is submitted to the overseeing body.⁵² The specific details of the local enabling ordinance will define the step-by-step process and direct citizens in how to move forward with

⁴⁹ Ibid., 8.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

designating their neighborhood. Neighborhood involvement, support, and input, throughout the process, are a crucial part of the application and designation process. In Dallas, Texas and Boulder, Colorado, 50 percent of the property owners must support the general concept of a neighborhood conservation district in order for research and designation to begin.⁵³ This high threshold for neighborhood support assures that residents support the proposed district and that the District is tailored to neighborhood-specific conditions and future goals of the community.

Two final components of the designation process are research and neighborhood planning. The research of the proposed neighborhood conservation district will document the area's significance and provide justification for the protection of the neighborhood character.⁵⁴ In addition, feasibility research studies should be undertaken, as well as architectural surveys for preservation-based programs.⁵⁵ Detailed and pragmatic research displays the purpose of designating the proposed district and gives further validity to the neighborhood conservation district process. The neighborhood planning component of the designation will be executed prior to the designation and adoption of the new neighborhood conservation district. As Miller states, “[t]he neighborhood plan often becomes the central component of the designation process” and “sets forth the conservation standards that will be used to govern new projects in the area.”⁵⁶ The neighborhood plan realizes the needs and desires of the neighborhood residents and customizes the conservation guidelines to respond to these needs. For the most part, the historic preservation or planning commission drafts the neighborhood plan and includes specific

⁵³ Ibid., 9.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

elements such as the boundaries of the district, streetscape characteristics, and building conditions and remarkable qualities.⁵⁷

Throughout this process, neighborhood conservation districts are distinct because the major decisions and guidelines are based on public participation. Charrettes, design workshops, public meetings, and neighborhood history sessions are some of the participatory tools that engage residents and give them a “sense of ownership” in the new district, according to Ann Bennett of the Knoxville Metropolitan Planning Commission.⁵⁸ The formation of a community advisory board aids this process and receives input from the citizenry, and the advisory board will incorporate this information into the neighborhood plan.⁵⁹ Upon completion of the neighborhood plan it is distributed to residents of the neighborhood for comment and approval.⁶⁰ In Phoenix, Arizona, for instance, 70 percent of residents must show support for the neighborhood plan before a public hearing is scheduled.⁶¹ While this level of public participation and support is central to a neighborhood conservation district program, it also poses some challenges. Public meetings and workshops, as in the development of a comprehensive plan, take extensive amounts of time and may make it difficult to negotiate varying perspectives and opinions within a neighborhood. However, these potential detractors can most times be resolved, and public participation should be presented as a very positive benefit of neighborhood conservation districts.

⁵⁷ Ibid.

⁵⁸ Ibid., 10.

⁵⁹ Ibid., 9.

⁶⁰ Ibid.

⁶¹ Ibid.

The Review Process and Enforcement

In established neighborhood conservation districts, the neighborhood plan and conservation guidelines will determine how the district operates and what residents must do to conform to these guidelines. In practice, neighborhood conservation districts operate much like local historic districts in that residents or developers must obtain “certificates of appropriateness” in order to undertake major work on or demolish a home, build a new construction, or change the exterior of an existing building.⁶² Homeowners and developers in neighborhood conservation districts may only legally obtain a building permit if they have a certificate of appropriateness for the work to be completed. In addition to certificates of appropriateness, some neighborhood conservation district programs grant “certificate[s] of non-applicability” and “certificate[s] of minor work” for actions that are not regulated by the conservation guidelines or for those actions that will not affect the character or integrity of the building.⁶³ On the rare occasion, a “certificate of hardship” may be issued if the denial of a certificate of appropriateness would render the property without any “reasonable or beneficial use.”⁶⁴ The issuance or denial of a given certificate will follow a public hearing by the administrative review, at which time the review body will make its decision. As stated above, a historic preservation commission, planning commission, or other designated commission will typically make the decisions based on the goals and model of the neighborhood conservation district program. If an applicant disagrees with a decision of the review body, an appeal is directed to another administrative body such as the board of appeals, city council, or court, depending on the local jurisdiction.⁶⁵

⁶² Ibid, 15.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid, 16.

The enforcement of conservation guidelines and review body decisions is absolutely critical for the short- and long-term success of a neighborhood conservation district programs. The local neighborhood conservation district ordinance must outline penalties that will deter homeowners and developers from taking advantage of or bypassing the conservation guidelines. If neighborhood conservation district ordinances only provide for advisory guidelines and review, then homeowners and developers must simply go through the review process in order to eventually construct or demolish whatever they please. Sufficient consequences and regulatory guidelines will curb the construction of incompatible infill and protect neighborhood character. Penalties can range from fines to reconstruction requirements, and the neighborhood conservation district ordinance should also require that the building permit be displayed in the front yard of building project so that neighbors and local officials can monitor the district.⁶⁶ By carefully drafting the neighborhood conservation district ordinance to include penalties and enforcement procedures, local officials, residents, and stakeholders can ensure that the designated neighborhood conservation districts will be protected.

⁶⁶ Ibid.

CHAPTER 4

CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN CHAPEL HILL, NORTH CAROLINA

Chapel Hill is a small, iconic college town located in Orange County, which is in the north-central region of North Carolina. The city was founded in 1793 in order to support and meet the needs of the University of North Carolina.⁶⁷ Receiving its charter in 1789, the University of North Carolina was not the first state university to be chartered, but it was the first public state university to officially begin classes in the United States.⁶⁸ The city was named after New Hope Chapel on the Hill, an Anglican “chapel of ease”⁶⁹ and an important landmark, and the first residents of Chapel Hill began living there in 1795 as students were taking their first university classes.⁷⁰ To a large extent, the history and culture of Chapel Hill go hand-in-hand with the University of North Carolina, and the landscapes of the two institutions are inexorably linked.

Chapel Hill, for most of its existence, remained a rural town surrounded by countryside, and the natural environment characterized and shaped the development of the urban landscape. According to M. Ruth Little, the town had intentionally been located “far from vice” until interstate highways were constructed in the twentieth century.⁷¹ Franklin Street and Rosemary

⁶⁷ Town of Chapel Hill, “History of Chapel Hill,” *Town of Chapel Hill*, <http://www.ci.chapel-hill.nc.us/index.asp?nid=6> (accessed April 2, 2009).

⁶⁸ Ibid.

⁶⁹ M. Ruth Little, *The Town and Gown Architecture of Chapel Hill, North Carolina: 1795-1975* (Chapel Hill: The University of North Carolina Press, 2006), 3.

⁷⁰ Town of Chapel Hill, “History.”

⁷¹ Little, xv.

Lane were historically the town's two main roads, and until 1870 the majority of residential construction was located on these streets.⁷² To this day, historic structures define the University of North Carolina campus and the residential neighborhoods, and the built heritage weaves the history of the University and the town together. The interplay of these environments is present throughout Chapel Hill. The Town of Chapel Hill's website describes the setting:

Present day reminders of Chapel Hill's history are...quiet winding streets, wooded homesites, stone walls, and small shops...Much of the character of Chapel Hill is due to its great natural beauty including steep wooded slopes, small streams, and tree-covered vistas...[There are] protected natural environments with the cosmopolitan and institutional setting of the University...⁷³

This description makes it apparent that the rural and historic nature of Chapel Hill shape the form of the town.

The architecture of Chapel Hill accounts for a large part of the town's unique atmosphere and is notable for several reasons. Little states that “[i]f there is an underlying theme to all of the town's historic buildings – its houses, commercial buildings, churches, and so on – it may be their modesty and their modernity.”⁷⁴ Since the University of North Carolina is a public university, the “comfortably middle-class” buildings of Chapel Hill have been wholly a product of state and federal funding, as well as private contributions.⁷⁵ Chapel Hill's built environment, at the same time, remained modern throughout its development because the “progressive spirit” of the University of North Carolina compelled new buildings to have strong symbolism and be practical and forward-looking at the same time⁷⁶. The progressive spirit continues to guide the

⁷² Ibid., xvi.

⁷³ Town of Chapel Hill, “History.”

⁷⁴ Little, xv.

⁷⁵ Ibid.

⁷⁶ Ibid.

University and residents of Chapel Hill in an effort to maintain and improve the environment of Chapel Hill.

This combination of historic and contemporary architecture makes Chapel Hill an ideal city for a neighborhood conservation district program. Since the majority of Chapel Hill's growth came in the twentieth century, the town's historic core is surrounded by more contemporary architecture. The University grew rapidly beginning in 1940, when the "turn-of-the-century-village" grew into a "thriving, cosmopolitan" college town.⁷⁷ Likewise, Little points out that Chapel Hill experienced the same post-World War II building boom that took place throughout the country in the 1950s and 1960s.⁷⁸ The building boom and construction of highways, to an extent, changed the character of Chapel Hill, but the town adapted to the changing landscape. In the ten years from 1968-1978, Chapel Hill responded to its growth by enhancing public services for residents, notably by including divisions of Parks and Recreation, Planning, and Transportation in the local government.⁷⁹ For the town's residents, the natural environment and architecture continues to be a crucial resource within Chapel Hill.

Census data for Chapel Hill illustrates that the University is critical to the town's population and economy. According to a 2005 estimate, the permanent population of Chapel Hill is 52,397 people,⁸⁰ and the University had a student enrollment of over 27,700 in 2006.⁸¹ Whether faculty or students, business people, retirees, or native Chapel Hillians, a large segment of the population associates with or gains economic livelihood from the University. Indeed, the

⁷⁷ Town of Chapel Hill, "History."

⁷⁸ Little, xvi.

⁷⁹ Town of Chapel Hill, "History."

⁸⁰ Town of Chapel Hill, "Demographics," *2007 Chapel Hill Data Book*, 3.1, <http://www.ci.chapel-hill.nc.us/DocumentView.asp?DID=1799> (accessed April 6, 2009).

⁸¹ The University of North Carolina at Chapel Hill, "Compendium of Key Facts," *The University of North Carolina at Chapel Hill: News Services*, <http://www.unc.edu/news/compendium.shtml> (accessed May 8, 2009).

2000 Census shows that over a quarter of Orange County residents had earned a graduate or professional degree,⁸² and it is safe to assume that resources and opportunities offered by the University play a role in this statistic. In addition, within the local Chapel Hill economy, the University employed over 11,000 residents in 2000, and the University of North Carolina Hospitals employed 6,475 residents.⁸³ Currently, the University is currently expanding its main campus, and it is estimated that this will create over 5,000 new jobs by 2010.⁸⁴ In terms of household size, income, and age, Chapel Hill appears to be a stable city and a desirable place to live. The 2000 Census shows that the average household consists of 2.3 persons, and the population density is fairly low at 3.6 persons per acre.⁸⁵ Chapel Hill's median family income in 2006 was 155 percent of the national average,⁸⁶ indicating a high quality of life. Predictably, the 15-29 age group makes up almost 50 percent of Chapel Hill's population, but the town is also attractive to retirees over-65 who have been the fastest growing segment of population over the last four decades.⁸⁷ Taken together, these population and economic figures show that Chapel Hill is a relatively small city, but the rich history and diversity of the town have generated many neighborhoods and districts with distinctive character and design.

The Land Use Management Ordinance

Despite the implementation of local historic districts, Chapel Hill has numerous intown, established neighborhoods that until recently were not protected by design guidelines or a regulatory process. Beginning in the 1990s, as a building boom swept across the country, these

⁸² Town of Chapel Hill, "Demographics," 3.2.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid., 3.1.

⁸⁶ Ibid., 3.2.

⁸⁷ Ibid., 3.1.

neighborhoods became targets for teardowns and incompatible development, and community members and the local government took steps to protect the character of their neighborhoods. Chapel Hill, in 2003, adopted and began to utilize the neighborhood conservation district as a planning tool to preserve the character and overall integrity of these older neighborhoods.

Neighborhood conservation districts in North Carolina are authorized as overlay zoning districts in Chapter 160A of the North Carolina General Statutes. The state enabling legislation in Article 19, Section 382(a) of Chapter 160A states:

For any or all these purposes, the city may divide its territorial jurisdiction into districts of any number, shape, and area...and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land...overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general or special use districts...⁸⁸

Through this statement, cities and towns are granted the power to establish overlay districts and then regulate land use and the construction and alterations of buildings within that district's area. Neighborhood conservation overlay districts in Chapel Hill are included in the Chapel Hill Land Use Management Ordinance, and subsequent neighborhood conservation districts introduce new district regulations atop the base zoning districts.

In 2003, the comprehensive zoning, planning, and development ordinance, of Chapel Hill, which also contains the enabling legislation for local historic districts, was amended to include the local enabling legislation for neighborhood conservation districts. The "Neighborhood Conservation District" purpose statement is defined and explained in Article 3, Section 6.5:

⁸⁸ Article 19: Planning and Regulation of Development, "Districts," *North Carolina General Statutes*, Chapter 160A, Article 19, Section 382(a), http://www.ncga.state.nc.us/enactedlegislation/statutes/html/byarticle/chapter_160a/article_19.html (accessed May 11, 2009).

Within the Town of Chapel Hill there are unique and distinctive older intown residential neighborhoods or commercial districts which contribute significantly to the overall character and identity of the town and are worthy of preservation and protection. Some of these districts are designated as historic districts, others may lack sufficient historical, architectural or cultural significance at the present time to be designated as historic districts. As a matter of public policy, the Town Council aims to preserve, protect, enhance, and perpetuate the value of these residential neighborhoods or commercial districts through the establishment of neighborhood conservation districts.⁸⁹

This purpose statement is important in communicating that neighborhood conservation districts are established for the public health and welfare, and it immediately outlines the key characteristics of established residential neighborhoods in Chapel Hill. The ordinance recognizes that there are “unique and distinctive *older intown*”⁹⁰ (italics added) communities that contribute to the character and sense of place of Chapel Hill. Accordingly, the Chapel Hill Neighborhood Conservation District purpose statement underlines the fact that some neighborhoods may lack the “historical, architectural or cultural significance”⁹¹ to be designated as a historic district, but still realizes that these communities have desirable qualities that warrant legal protection if the residents so desire. Often times these qualities may not be attributed to a specific architectural style or plan, but instead the houses exhibit a consistent massing, height, setback, and orientation that unify the neighborhood and contribute to the character. In addition, the plan, streetscapes, and landscapes of the neighborhood often conform to original design principles envisioned by the builders, architects, and residents of Chapel Hill.

⁸⁹ Chapel Hill Land Use Management Ordinance, “Neighborhood Conservation Districts,” *Code of Ordinances of the Town of Chapel Hill*, Appendix A, Article 3, Section 6.5, 62-3, <http://www.townofchapelhill.org/index.aspx?NID=144#LUMO> (accessed May 8, 2009).

⁹⁰ Ibid.

⁹¹ Ibid.

Criteria and Designation of Neighborhood Conservation Districts

After stating the purposes of neighborhood conservation districts, Section 6.5 of The Land Use Management Ordinance lays out the criteria for designation. In particular, the criteria include that the proposed district must have been “platted or developed” at least twenty-five years ago, that at least 75 percent of the land is improved, and that the area is primarily residential.⁹² These criteria apply to and describe many established intown neighborhoods within urban areas and around historic cores in the United States. In addition, the proposed district must have one or more “distinctive features that create a cohesive identifiable setting;” the features relate to scale, size, or building materials, lot and street layouts, natural environment characteristics, land use patterns, and adjacent or nearby historic districts.⁹³ The last feature illustrates the recognized relationship between older neighborhoods and historic districts, as well as how historic preservation and neighborhood conservation districts can positively interact. Finally, the criteria state that “[a]ny designated historic overlay district shall be deemed to satisfy the criteria listed above.”⁹⁴ This indicates that a local historic district in Chapel Hill could simultaneously be a neighborhood conservation district, although this seems both redundant and somewhat contradictory.

The zoning authority declares that “[s]eparate ordinances are required to designate each district” and be tailored to a specific neighborhood, and the zoning authority also states that neighborhood conservation districts are overlays of which property within that area must be in a general use district.⁹⁵ If a majority of residents decide that a neighborhood conservation district overlay zone is appropriate for their neighborhood, the ordinance lays out a process to gather

⁹² Ibid., 64.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

information, develop a conservation plan, and draft design guidelines for the neighborhood. To start the process, either the Town Council, owners representing 51 percent of the land area within the proposed district, or 51 percent of the property owners in a proposed district initiate the process by introducing a proposal for designation.⁹⁶ Next, the Planning Board or a committee chosen by the Town Council, with representation from the Planning Board, creates a neighborhood conservation plan.⁹⁷ The conservation plan is the core of the neighborhood conservation district process. It includes the proposed district boundaries, age of buildings, land use, and graphic and written evidence explaining the distinctive characteristics of the proposed district.⁹⁸ In addition, the Planning Board or committee will draft design standards that will govern new constructions and alterations within the proposed district.⁹⁹ While the design standards are formulated by neighborhood residents and the Planning Board, it is critical that the standards are carefully articulated and tailored to the needs and unique qualities of the proposed district.

The next part of the designation process includes public meetings which allow all property owners in the proposed district to comment and contribute to the conservation plan.¹⁰⁰ If this process is successful, the Town Council and residents will approve the completed neighborhood conservation plan, and the Chapel Hill zoning atlas will be amended to include a new neighborhood conservation district.¹⁰¹ Throughout the designation process and drafting of the conservation plan, public participation is central in achieving a well-conceived plan that meets the desires and goals of the community. The neighborhood conservation district will not

⁹⁶ Ibid., 65.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid., 65-6.

be approved if property owners do not support the purpose, goals, or design standards of the conservation plan.

Design Standards and Administration

Adopted in the conservation plan of a neighborhood conservation district, the design standards may utilize a variety of planning- and preservation-oriented design standards. The language of Section 6.5 states that the new zoning ordinance “shall include design standards for new construction or placement of any building, structure, foundation, sign, public art or outdoor apparatus or equipment...and any additions, alterations, relocations or rehabilitation to the street façade of existing buildings [or] structures.”¹⁰² Like many historic districts and neighborhood conservation districts, all elements that contribute to the neighborhood character and are visible from the street may be regulated by the design standards. However, the design standards do not apply to those “ordinary” undertakings using “the same material and design” that currently exist on the building.¹⁰³

To preserve the character of a neighborhood, the primary elements that the design standards may address are building height, size, massing, lot coverage, yard setbacks, and paved area of the lot.¹⁰⁴ These elements are, for the most part, regulatory tools used in planning and zoning, but the ordinance also allows a range of other elements to be regulated. “Building orientation”, “[a]rchitectural style and details”, “[b]uilding materials”, “[f]ront window, dormer size and location”, “[f]ences and walls”, and “[d]emolition” may be regulated by a Chapel Hill

¹⁰² Ibid., 66.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

neighborhood conservation district ordinance,¹⁰⁵ and all of these are preservation-oriented regulatory tools that relate to smaller details and specific architectural styles or features. Although a neighborhood conservation district is not required to use both planning- and preservation-oriented measures, The Chapel Hill Land Use Management Ordinance authorizes and makes possible hybrid model neighborhood conservation districts.

As opposed to a neighborhood review board or historic preservation commission, the Chapel Hill Town Manager reviews and administers the designated neighborhood conservation districts. Under “Administration of ordinance” the language states:

No building permit shall be issued for new construction or an alteration or addition to the street façade of an existing building or structure within a designated neighborhood conservation district without the submission and approval of design plans and the issuance of a Zoning Compliance Permit by the Town Manager.¹⁰⁶

The “Zoning Compliance Permit” is equal to a “Certificate of Appropriateness” in a local historic district, although the term compliance implies merely that the design plans satisfy the design standards whether or not they are necessarily “appropriate.” If the Town Manager deems the design plans are “in conformance with the design standards adopted for the district”, the plans will be approved and the building department may issue a building permit.¹⁰⁷ If the design plans are not in conformance, the Town Manager will issue to the applicant notification of non-compliance and explicitly point out the design standards that were not met.¹⁰⁸ Finally, a denied applicant may appeal the Town Manager’s decision to the Chapel Hill Board of Adjustment.¹⁰⁹ Neighborhood conservation district residents, like those in historic districts, must submit design

¹⁰⁵ Ibid., 66-7.

¹⁰⁶ Ibid., 67.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

plans, drawings, and diagrams that demonstrate the potential scale, size, and overall impact of a new construction. Because the Town Manager may not have a particular knowledge of architectural styles and details, thorough design plans and submittals will make the process easier both for the Town Manager and applicant.

The Glen Lennox Experience

The Glen Lennox neighborhood of Chapel Hill is currently completing Phase Two of the neighborhood conservation district designation process. To simplify the application process, the Planning Department implemented a two phase neighborhood conservation district designation process: Phase One begins when residents submit a petition requesting a public information meeting about neighborhood conservation districts; Phase Two begins when residents submit a petition to start the formal process to create a neighborhood conservation overlay district.¹¹⁰ The Glen Lennox experience is unique because the proposed district includes sixty-eight acres of apartments and shopping center space, and overall the proposed Glen Lennox district is the largest land area to be nominated as a neighborhood conservation district within Chapel Hill.¹¹¹ The residential architecture in the proposed district was built for GIs returning home after World

¹¹⁰ Town of Chapel Hill, "Neighborhood Conservation Districts, *Town of Chapel Hill Planning Department*, <http://www.townofchapelhill.org/index.aspx?NID=144> (accessed May 12, 2009).

¹¹¹ Jesse James DeConto, "Glen Lennox residents, developers to meet," *The News and Observer*, 8 February 2009, sec. A, p. 1, http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1263B19C1626AF50&p_docnum=3&s_dlid=DL0109040219062018678&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=FreeAccess&s_accountid=AC0107030117170502657&s_upgradeable=no (accessed April 2, 2009).

War II.¹¹² Despite the large area and multi-use developments within Glen Lennox, residents value the architecture of the neighborhood and the diverse character of the housing and population.

According to columnist Jesse James DeConto, “tenants and neighbors who surround them don’t want to lose what makes Glen Lennox a unique place: small-scale buildings, open green space, a leafy canopy and moderate rental rates.”¹¹³ The architecture, the environment, and the affordability of Glen Lennox are all qualities that residents desire to protect through the enactment of a neighborhood conservation district ordinance. The walkability and tree-lined streetscapes are also important elements for the character of Glen Lennox.¹¹⁴ When the initial redevelopment plans for Glen Lennox were introduced, the public outcry was so great that the developer “pulled [the application] before the Town Council even saw it and...apologized to the community.”¹¹⁵ The developer, nonetheless, is “not fighting the conservation district process,” but he believes “[t]here is a way to modernize and still have what people love about Glen Lennox.”¹¹⁶ This is exactly the purpose of neighborhood conservation districts, to preserve the character of a neighborhood but also facilitate quality design and change over time, and it is hoped that a neighborhood conservation district will accomplish this in Glen Lennox. Residents have been enthusiastic about the prospects and have packed neighborhood churches to hear

¹¹² Mark Schultz, “Glen Lennox redevelopment plan ‘starting over,’” *The News and Observer*, 11 February 2009, sec. A, p. 1, http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1264AD126F299BC0&p_docnum=1&s_dlid=DL0109040218254721467&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=FreeAccess&s_accountid=AC0107030117170502657&s_upgradeable=no (accessed April 2, 2009).

¹¹³ DeConto, 1.

¹¹⁴ Schultz, “Glen Lennox redevelopment,” 1.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

informational meetings about neighborhood conservation districts.¹¹⁷ The designation process in Glen Lennox, although not complete, exhibits the success of Chapel Hill's neighborhood conservation district program, the range of neighborhoods that can be designated neighborhood conservation districts, and the emphasis on public participation throughout the designation process.

By analyzing the legal and technical aspects of Chapel Hill's neighborhood conservation district program, the overall goals and effectiveness of the program can be better understood. The intent of the district is clear – to provide protection for Chapel Hill's older, established, and intown neighborhoods for which a local historic district designation is not feasible. Although the local enabling legislation does not mandate that the design standards of a designated neighborhood conservation district be regulatory, as opposed to advisory, the ordinance is certainly drafted to allow neighborhood conservation plans to provide for mandatory regulations that will be reviewed by a city official. Unfortunately, this means that a neighborhood could choose “preservation lite” by drafting design standards which were only advisory.

The criteria for establishing a neighborhood conservation district are appropriate and specifically target those residential neighborhoods greater than twenty-five-years-old. However, the ordinance seems to imply that any neighborhood eligible for local historic district designation could also be a neighborhood conservation district. This part of the ordinance is dangerous for

¹¹⁷ Mark Schultz, “Rallying buys time for Glen Lennox,” *The News and Observer*, 9 February 2009, sec. B, p. 3, http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=1264047995718C38&p_docnum=2&s_dlid=DL0109040218513016338&s_ecproduct=SUB-FREE&s_ecprodtype=INSTANT&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2012%2F14%2F2015%2011%3A59%20PM&s_subexpires=12%2F14%2F2015%2011%3A59%20PM&s_username=FreeAccess&s_accountid=AC0107030117170502657&s_upgradeable=no (accessed April 2, 2009).

historic preservation because the residents of an historic neighborhood could simply choose to become a neighborhood conservation district because of the looser and more lenient regulations that the neighborhood conservation district process allows. Lastly, the ordinance specifies that the Town Manager will make decisions about building permits in neighborhood conservation districts. This may be effective in terms of reducing staff time and streamlining the review process, but it could also result in a loss of integrity and character within the neighborhood if the Town Manager is not qualified to make decisions regarding architecture and design.

For historic preservation and local historic districts, Chapel Hill neighborhood conservation districts pose some minor challenges, but on the whole the neighborhood conservation district program is designed to work collaboratively with the local historic preservation ordinance. The most threatening aspects of the neighborhood conservation district program are that neighborhoods that qualify for local historic district status may instead be designated as neighborhood conservation districts and that the review process is overseen by only one person, not a preservation or planning commission which may be more likely to make an informed decision. Additionally, a situation could arise in which a neighborhood conservation district consisted primarily of late-twentieth century architecture but also contained several historic resources. This could create a regulatory void that would not provide a higher level of protection and design review for historic resources, and the architecture, historic integrity, heritage, and culture of Chapel Hill could be lost. An amendment that provided for local historic resources or landmarks, fifty years of age or older, to receive greater protections within designated neighborhood conservation districts could solve this regulatory issue, and this would be most suitable in communities that also designate local historic districts.

Despite some questions, the neighborhood conservation district program can be a constructive partner of the local historic preservation ordinance. The neighborhood conservation district designation criteria, for example, clearly states that those neighborhoods adjacent to local historic districts qualify for neighborhood conservation district status. Neighborhood conservation districts, in this instance, could serve as a “buffer” for a local historic district and maintain the overall character of Chapel Hill. **Figure 4.1** shows the National Register, local historic districts, and neighborhood conservation districts in Chapel Hill and exhibits that the neighborhood conservation districts do, in fact, buffer many of the local historic districts. In addition, the neighborhood conservation district design standards provide for a hybrid model in which architectural styles and details are regulated *together with* broader planning and landscape features in older, established neighborhoods.

Since the Chapel Hill neighborhood conservation district program was adopted in 2003, it remains relatively new, and thus, it is difficult to offer definitive conclusions as to the effectiveness of the program. There are some promising signs, though. In just five years, six neighborhood conservation districts have been officially designated, and a seventh neighborhood designation is underway. The Northside Neighborhood Conservation District was the Town’s first conservation district, which was designated in response to a boom of unregulated student housing in a residential neighborhood, and subsequent neighborhood conservation districts have addressed house size and the removal of trees.¹¹⁸ Glen Lennox is undergoing designation for a different reason. In general, judging by the high number of districts that have completed the process and been designated in this five-year period, it appears that residents are pleased with the designation process, purpose, and custom-made nature of neighborhood conservation districts.

¹¹⁸ Schultz, “Glen Lennox redevelopment,” 1.

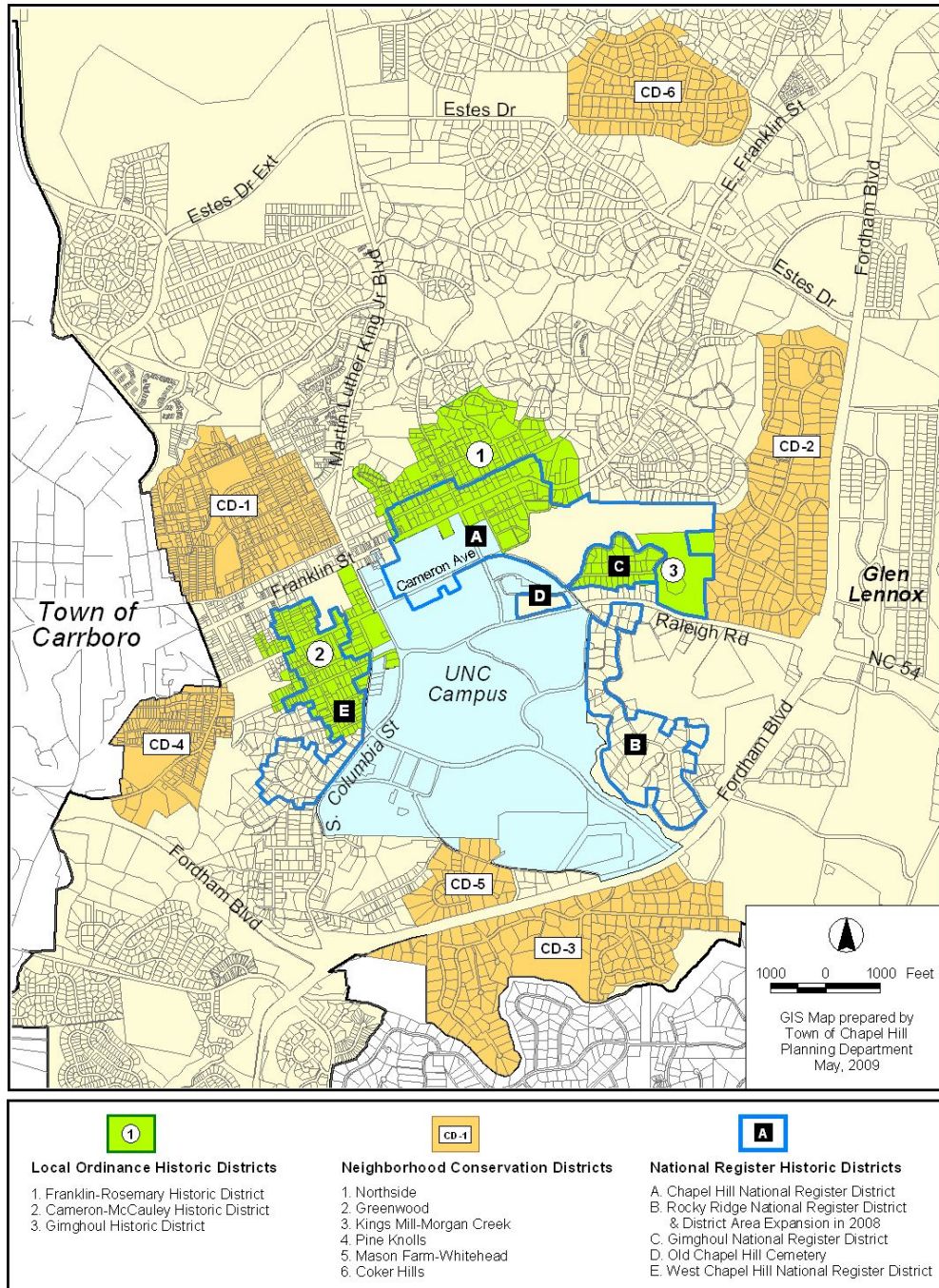


Figure 4.1: Chapel Hill Special Districts
 (Map courtesy of Chapel Hill Planning Department)

CHAPTER 5

CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN ANNAPOLIS, MARYLAND

The City of Annapolis, Maryland is one of the oldest cities in the United States and is the capital of Maryland. Located in Anne Arundel County off the Chesapeake Bay, Annapolis is a city rich with heritage and is only a short distance from Washington, D.C. Annapolis was founded in 1649, and quickly developed into a major colonial port town.¹¹⁹ In 1694, Annapolis became the capital city of Maryland,¹²⁰ and it was known as the “Athens of America” throughout the colonial years because of its plentiful and diverse culture.¹²¹ After being officially chartered by Queen Anne of England, the town’s namesake, the city of Annapolis was designed in the baroque manner by the Royal Governor Sir Francis Nicholson, with streets radiating in circles away from the urban center.¹²² It is the earliest example of a Baroque plan in the United States,¹²³ and the plan was unique because it did not follow the strict grid pattern in which most colonial cities were designed. After it was founded, Annapolis rapidly became a well-to-do city

¹¹⁹ City of Annapolis, “General Demographic Information,” *City of Annapolis*, <http://www.annapolis.gov/info.asp?page=7266> (accessed April 6, 2009).

¹²⁰ Donna C. Hole, ed., “Building in the Fourth Century: Annapolis Historic District Design Manual,” *The Annapolis Historic Preservation Commission*, 12, http://annapolis.gov/upload/images/government/boards/hist_pres/designManual.pdf (accessed May 13, 2009).

¹²¹ City of Annapolis, “History,” *City of Annapolis*, <http://www.ci.annapolis.md.us/info.asp?page=1714> (accessed May 13, 2009).

¹²² Hole, 13.

¹²³ *Ibid.*

as a result of its thriving shipping and merchant businesses, and the city remains somewhat affluent today.¹²⁴

Annapolis, like Chapel Hill, owes much of its culture and livelihood to being a college town, although Annapolis boasts two major colleges. St. John's College was begun in 1696, as King William's School, and is now the third oldest institute of higher education in the United States.¹²⁵ Much later, in 1845, the United States Naval Academy was established, but the Naval Academy is what first comes to mind when many individuals think of Annapolis. In addition to being home to St. John's and the Naval Academy, Annapolis hosts numerous international sailing and boating events annually.¹²⁶ By and large, Annapolis's location as a port city is central to its character, culture, and heritage.

Given that Annapolis is a very old and compact city, the historic architecture throughout the city and the college campuses is a defining element of the built environment and culture. The Colonial Annapolis Historic District was, in fact, designated a National Historic Landmark District by the Department of the Interior in 1965.¹²⁷ Annapolis contains many elegant mansions and townhouses built by the wealthy elite living in the city, and Annapolis's role as a political center brought elaborate government and public buildings to the colonial city as well.¹²⁸ According to the Annapolis website, the city has more "original eighteenth century structures than any other city in the United States,"¹²⁹ and the city has certainly been a good steward and advocate for its historic architecture. Because of its geography, a single local historic district – the Annapolis Historic District – encompasses the majority of the historic buildings and the

¹²⁴ City of Annapolis, "History."

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Hole, 5.

¹²⁸ City of Annapolis, "History."

¹²⁹ Ibid.

original downtown of the city.¹³⁰ Although the Annapolis Historic District Ordinance was amended in 1996,¹³¹ Annapolis has designated two neighborhood conservation districts in an effort to preserve the outlying and more residential neighborhoods of the city.

The population and economic data from Annapolis illustrate that the city is a small but vibrant community. For 2009, Annapolis's estimated population is 38,992 people, and Anne Arundel County's estimated population is 536, 925.¹³² Census Data from 2000 shows that out of its total population Annapolis had 8,765 family households and that the average household income is estimated to be \$80,017 in 2009.¹³³ The per capita income is estimated to be \$36,541 in 2009.¹³⁴ These statistics evidence the strength of Annapolis's economy. The local economy is driven by the fact that Annapolis is the Maryland State Capital and the Anne Arundel County Seat, and the two other major economic engines are "maritime industries and tourism."¹³⁵ Additionally, as in Chapel Hill, Annapolis's two colleges play a significant role in the local culture and contribute to the education and livelihoods of Maryland residents. For residents over twenty-five years of age, 2009 estimates of college education in Annapolis are that nearly 22 percent of residents have a bachelor's degree and over 16 percent have a master's degree.¹³⁶

Geographically, the land area of Annapolis is quite small, and this is a significant determinant of how the city has approached historic preservation and neighborhood conservation. Annapolis consists of 7.2 square miles of land area, but this includes seventeen

¹³⁰ Hole, 6.

¹³¹ *Ibid.*, 9.

¹³² City of Annapolis, "General Demographic Information."

¹³³ City of Annapolis, "Family Households," *City of Annapolis*, <http://www.annapolis.gov/info.asp?page=7269> (accessed April 7, 2009).

¹³⁴ *Ibid.*

¹³⁵ City of Annapolis, "General Demographic Information."

¹³⁶ City of Annapolis, "Education," *City of Annapolis*, <http://www.annapolis.gov/info.asp?page=7279> (accessed April 7, 2009).

miles of waterfront property on the Chesapeake Bay.¹³⁷ One of the reasons Annapolis is such a sought-after city is because it maintains the environment of a small city but is nonetheless centrally located between two larger cities. From Washington, D.C. and Baltimore, Maryland, Annapolis is thirty-five miles away, and an efficient highway system links Annapolis to both of these larger cities.¹³⁸ In terms of growth, development, and demographics, the culture and urban form of Annapolis have been determined by its geographic location in the tidewater region of the Chesapeake Bay, its history as a government and political hub, and its relationship with two major colleges. Residents of Annapolis have, traditionally, embraced the city's built heritage and culture through historic preservation, but more recently neighborhood conservation districts have been used to address new development in Annapolis's older neighborhoods and those bordering local historic districts.

The Single-Family Residence Neighborhood Conservation District

In addition to the Annapolis Historic District Ordinance, the city has enacted several zoning districts that focus on new construction and neighborhood character in a variety of Annapolis's older neighborhoods and business districts. The conservation districts in the Annapolis, Maryland Municipal Code and Charter include the Single-Family Residence Neighborhood Conservation District, the General Residence Neighborhood Conservation District, and General Residence Neighborhood Conservation 2 District, as well as the Office and Commercial Design Overlay District. Originally, the conservation districts in Annapolis were established as overlay zoning districts, but in 2005 the city amended these districts to be independent, stand-alone zoning districts. The intent of these districts covers a range of

¹³⁷ City of Annapolis, "General Demographic Information."

¹³⁸ Ibid.

neighborhood conservation issues, from protecting building scale and massing to preserving streetscapes and viewsheds.

In Maryland, the enabling legislation for neighborhood conservation districts is found in the Land Use article of *The Annotated Code of Maryland*. The Historic Area Zoning enabling legislation is also found in this article. In Article 66B: Land Use, the stated “Visions” of the General Provisions are that “[s]ensitive areas [be] protected” and that “[c]onservation of resources, including a reduction in resource consumption [be] practiced.”¹³⁹ Neighborhood conservation districts aim to accomplish these goals both environmentally and culturally. Section 1.03 of Article 66B relates to the comprehensive plan and enables Maryland counties to take measures to achieve the aforementioned visions. Section 1.03(e) is entitled “Land use ordinances and regulation” and states that a county may achieve its visions “through the adoption of...[a]pplicable zoning ordinances and regulations [and]...[o]ther land use ordinances and regulations that are consistent with the comprehensive plan.”¹⁴⁰ The General Provisions also state that the “[r]equired elements” of a comprehensive plan include “[t]he use of flexible development regulations to promote innovative and cost-saving site design and protect the environment.”¹⁴¹ In the case of Maryland, the enabling legislation for neighborhood conservation districts is achieved with the “broad grant of zoning authority” referenced by Julia Miller, however the more general language in Maryland’s Land Use article does not affect the implementation or regulation of neighborhood conservation districts.

¹³⁹ Article 66B: Land Use, “General Provisions,” *Annotated Code of Maryland*, Article 66B, Section 1.01, http://michie.lexisnexis.com/maryland/lpext.dll/mdcode/283a7/283a9/283b0?f=templates&fn=document-frame.htm&2.0#JD_66b101 (accessed May 19, 2009).

¹⁴⁰ *Ibid.*, Section 1.03(e).

¹⁴¹ *Ibid.*, Section 1.03(a).

The Annapolis Municipal Code, operating under the Maryland enabling legislation, establishes the local enabling legislation for neighborhood conservation districts in Title 21: Planning and Zoning. Although Annapolis has enabled and enacted several types of conservation districts, Section 40.060 of Title 21 is most pertinent to this thesis and sets out the guidelines for single-family residential conservation districts. The “Single-Family Residence Neighborhood Conservation district” is a stand-alone zoning district and is established by Section 06.010: Establishment of zoning districts. The purpose statement of the “Single-Family Residence Neighborhood Conservation district” is as follows:

The purpose of the R2-NC Single-Family Residence Neighborhood Conservation district is to preserve patterns of design and development in residential neighborhoods characterized by a diversity of styles and to ensure the preservation of a diversity of land uses, together with the protection of buildings, structures or areas the destruction or alteration of which would disrupt the existing scale and architectural character of the neighborhood.¹⁴²

This statement shares some similarities with the Chapel Hill ordinance, but there are key differences. First, the Single-Family Residence Neighborhood Conservation district purpose statement does not refer to *older* or *in-town* neighborhoods that have historic or established character, but instead points out that Annapolis’s neighborhoods may have “patterns of design and development” attributed to “a diversity of styles.”¹⁴³ In addition, the Single-Family Residence Neighborhood Conservation district purpose statement explicitly states that there is a need to preserve “a diversity of land uses” together with “protection of buildings, structures, or areas.”¹⁴⁴ Finally, the Single-Family Residence Neighborhood Conservation district purpose statement discusses the “existing scale and architectural character” of Annapolis’s

¹⁴² Title 21: Planning and Zoning, “R2-NC Single-Family Residence Neighborhood Conservation district,” *Annapolis, Maryland Municipal Code and Charter*, Title 21, Section 40.060(A), <http://bpc.iserver.net/codes/annapolis/> (accessed May 19, 2009).

¹⁴³ Ibid.

¹⁴⁴ Ibid.

neighborhoods.¹⁴⁵ This purpose statement, overall, suggests that the goal is to preserve neighborhood character defined by architecture and building patterns, but the statement is significant because it includes broader goals, such as diversifying land use and preserving larger areas within a neighborhood. The language signifies that neighborhood and urban planning, not just architectural or building preservation, are crucial components of the Single-Family Residence Neighborhood Conservation district.

The general purposes of the ordinance are further explained and developed into three points in the next subsection. The first purpose is the “[p]rotection of architectural massing, composition and styles...[and] neighborhood scale and character.”¹⁴⁶ The next purpose deals with compatible development in terms of “new construction and structural alterations” as compared to the existing nature and character of the neighboring properties.¹⁴⁷ The final general purpose is to encourage “existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community.”¹⁴⁸ Like the Maryland enabling legislation, the Single-Family Residence Neighborhood Conservation district purposes are somewhat broad, but all of the stated purposes discuss the *existing* character of Annapolis’s neighborhoods and promote compatible new design within the context of established neighborhoods. Concisely citing the goals of the ordinance is important because residents of Annapolis can quickly understand and embrace the underlying and long-term visions of the Single-Family Residence Neighborhood Conservation districts.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

Development Standards and Design Review

The Single-Family Residence Neighborhood Conservation district ordinance next states where the table of conforming uses for residential districts can be found, which is also in Title 21, and sets out the “Development Standards” for future districts. Section 48.010 of Title 21 exhibits that such uses as “[a]partment hotels,” multi-family dwellings, “[g]roup homes,” and offices are not allowed in Single-Family Residence Neighborhood Conservation districts, but uses such as bed-and-breakfasts, museums and art galleries, and “historic buildings and shrines for patriotic, cultural and educational purposes” are permitted under certain terms.¹⁴⁹ These uses will preserve the overall residential character of the neighborhood by not allowing office buildings or hotels, but the uses are flexible so that public and historic buildings may be preserved as historic sites and resources. For historic preservation, this is potentially a positive aspect of the ordinance because historic buildings are not overlooked and can be protected within a neighborhood conservation district, but as in Chapel Hill, an amendment that specifically designates historic properties and regulates modifications to historic properties within neighborhood conservation districts is crucial for preserving historic integrity.

The Development Standards are the crucial aspect of the ordinance and are divided into subsections addressing bulk, site design review, and demolition. In Section 50.050, the building standards are put forth in terms of: minimum “Lot Dimensions Area” and “Lot Dimensions Width;” minimum front, rear, and side yard setbacks as well as corner side yard requirements; maximum height, lot coverage, and floor area ratio; and open space for certain building types.¹⁵⁰ All of these bulk requirements are traditional planning and zoning tools, and the sole purpose of these requirements is to maintain the height, scale, landscaping, and overall site design

¹⁴⁹ Ibid., “Table of Uses—Residential Zoning Districts,” Title 21, Section 48.010.

¹⁵⁰ Ibid., “Bulk Regulation Table R2-NC District,” Title 21, Section 50.050.

characteristics of the neighborhood, as determined by the majority of adjacent and neighboring buildings. For example, a single-family detached dwelling can be “2.5 stories [high],” “up to twenty-six feet [high] or *average on block face*,” (italics added) and “not [higher than] thirty-five feet.”¹⁵¹ This requirement sets an absolute maximum number of stories and height in feet that a building can be *or* sets the average height of buildings on a given block as the height-limit, as long as the building is not higher than thirty-five feet. While these regulations are thorough and potentially effective, materials and architectural styles are not addressed in the least, and new constructions could potentially disrupt the established neighborhood character based upon the building materials used. The regulations may allow for appropriate change over time, but if the average building height method is used, then the overall height and scale of buildings could increase if enough new constructions gradually increase this average. If a Single-Family Residence Neighborhood Conservation district simply relies on the bulk regulations, the district could potentially lose historic resources, fabric, and integrity as a result.

Unlike Chapel Hill, the design review process simply follows the same process as any other zoning application. The “Site Design Plan Review” outlines the process by which residents will apply for and be granted or denied approval for new constructions, modifications, and additions. The section states that:

...new buildings, enlargements to building size or bulk, or structural alterations to existing structures which have an impact upon any exterior façade of a structure or building are subject to review and approval, *with emphasis placed on facades visible from the public view*, by the Department of Planning and Zoning in accordance with the provisions of Chapter 21.22, Site Design Plan Review.¹⁵² (italics added)

¹⁵¹ Ibid.

¹⁵² Ibid., “Single-Family Residence Neighborhood Conservation district,” Title 21, Section 40.060(C).

This review process focuses on those plans and modifications that will affect view from the public right of way, and Section 21.22 states that the Annapolis Director of Planning and Zoning will make site design plan review decisions for major and minor applications based on “District Standards,” “Design,” “Compatibility,” “[minimizing] Adverse Impacts,” “Building Locations,” and “Natural Features.”¹⁵³ For the Director of Planning and Zoning, this comprehensive list of criteria is intended to facilitate quality and appropriate design in a given neighborhood conservation district. In the event that an applicant does not agree with the Director of Planning and Zoning’s decision, Section 22.120 states that Board of Appeals will oversee the appeals process.

In addition to the requirements of the Site Plan Design Review, the Single-Family Residence Neighborhood Conservation district ordinance includes further measures. First, “[a]ny new structure, enlargements or structural alterations to building size or bulk of existing structures which results in the structure or building being in excess of three thousand two hundred fifty square feet of floor area is subject to public hearing, review and approval by the Planning Commission.”¹⁵⁴ This stipulation addresses exceptionally large new constructions, such as a McMansion, by creating a threshold floor area that requires buildings that break this threshold to undergo a more rigorous public review process. Next, if conflict exists with the Site Plan Design Review process, the ordinance puts forth more detailed standards of design review. Applicable to all uses in the Single-Family Residence Neighborhood Conservation district, “[n]o design plans shall be approved” unless “their design [is] compatible with the historic character and design of the area and [promote] the existing spatial and visual qualities” of the

¹⁵³ Ibid., “Site Design Plan Review,” Title 21, Section 22.060 – 22.080.

¹⁵⁴ Ibid., “Single-Family Residence Neighborhood Conservation district,” Title 21, Section 40.060(C).

neighborhood, including such features as porches, roof pitch, and landscaping.¹⁵⁵ This section of the ordinance is significant in that it highlights the historic character of certain neighborhoods. Among other things, the regulations taken into account during the approval of design plans are the “established, historic front setbacks and building heights,” “vernacular streetscape[s] of the neighborhood,” and minimizing “structural alterations to historic and contributing structures.”¹⁵⁶ The historic nature of older neighborhoods is clearly recognized and valued in the supplementary design review considerations. For historic preservation, this is encouraging, on the one hand, because historic buildings are explicitly provided for in the ordinance, however they are not held to the same standard of review that a local historic district would provide. If the Director of Planning and Zoning has the ability to make a reasoned and educated decision, Annapolis’s Single-Family Residence Neighborhood Conservation districts *may protect* historic resources along with neighborhood character.

Demolition

As with new construction and building permit applications, the Director of Planning and Zoning makes decisions regarding demolition permits in the Single-Family Residence Neighborhood Conservation districts. Demolition for the Single-Family Residence Neighborhood Conservation district ordinance equals the complete removal of an exterior wall or of the roof structure, but the demolition standards do not apply to interior demolitions.¹⁵⁷ The general demolition permit guidelines in Section 14.040 explain the review criteria that will be considered for demolition permits in all zoning districts. In particular, the Director of Planning

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

and Zoning will make a decision based upon “Significance of Structure,” “Effect on Significant Historic Resources,” “Significance to the Purposes of the Zoning District,” “Relationship to Other Structures,” “Compatibility of Proposed Structure,” and “Public Benefit,” if any, of the demolition and new construction on a given site.¹⁵⁸ The composition of this list, in itself, indicates the significant number of historic resources found throughout Annapolis. Appropriately, the majority of the demolition review criteria focus on the effect a demolition and new construction would have on surrounding historic resources and the overall character of an established or historic neighborhood. Unfortunately, the Director of Planning and Zoning makes all of the decisions for building and demolition permits, and it could be beneficial if a neighborhood decision-making board or local historic preservation commission were to weigh in on these decisions as well.

In addition to the general zoning provisions, the Single-Family Residence Neighborhood Conservation district ordinance incorporates additional considerations to be reviewed by the Director of Planning and Zoning. Section 40.060(C) states that the Director “shall make additional written findings” in regards to the impact that the demolition of a building would have on a neighborhood.¹⁵⁹ The additional findings will determine if “[l]oss of the structure or building would not be adverse to the...public interest by virtue of the structure’s uniqueness or contribution to the significance of the district,” if the “proposed demolition would not have an adverse effect on the design and historic character of the structure and surrounding environment,” if the demolition is “for the purposes of assembling properties for the construction of a large-scale structure,” if the replacement structure “reflects the compatibility objectives of

¹⁵⁸ Ibid., “Review Criteria,” Title 21, Section 14.040.

¹⁵⁹ Ibid., “Single-Family Residence Neighborhood Conservation district,” Title 21, Section 40.060(C).

this chapter,” and if a partial demolition would “impact the stability or structural integrity of the remaining portions of the structure.”¹⁶⁰ The considerations, taken together, illustrate the focus on historic preservation and resources in Annapolis and are intended to protect historic structures within a district.

The Eastport Neighborhood Conservation District

Eastport is Annapolis’s primary Single-Family Residence Neighborhood Conservation district, and all building modifications must undergo the Site Plan Design Review process. Not annexed by the City of Annapolis until 1951, Eastport is an historically working class community on the Horn Point Peninsula in Annapolis and was first settled in the late nineteenth century.¹⁶¹ The neighborhood is comprised of “modest, turn-of-the-century homes” surrounded by “maritime and related businesses along [the] water’s edge.”¹⁶² Instead of pursuing local historic district designation, the residents desired “to protect the traditional building patterns and urban design of Eastport” by implementing a Single-Family Residence Neighborhood Conservation district and an Office and Commercial Design Overlay district.¹⁶³ The residents, who seemed to be more concerned with the “small, intimate scale”¹⁶⁴ of the neighborhood, preferred a neighborhood conservation district for Eastport. “Eastport: A Guide to the Design Review Process” illustrates the architecture and character aimed to be protected by the Single-Family Residence Neighborhood Conservation district (**Figure 5.1**). Since the architecture of

¹⁶⁰ Ibid.

¹⁶¹ Annapolis Department of Planning and Zoning, “Eastport: A Guide to the Design Review Process,” *Annapolis Department of Planning and Zoning*, 1, http://www.annapolis.gov/upload/images/government/depts/pl_zon/compplan/Eastport%20Design%20Guideline.pdf (accessed April 7, 2009).

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

Eastport is modest and working class, the neighborhood may not have qualified as or had the public support to be designated a local historic district. While neighborhood conservation districts are not a desirable substitute for local historic districts, this seems to be the case in Eastport—scale, massing, and urban design were deemed most important by the residents.



Figure 5.1: A streetscape in Eastport

The Annapolis Department of Planning and Zoning published “Eastport: A Guide to the Design Review Process” as an educational tool and resource for residents and builders of Annapolis. For Annapolis stakeholders, “Eastport: A Guide to the Design Review Process” is an excellent publication because it is a user-friendly document that shows the boundaries (Figure 5.2) and describes in whole the application and design review processes for the overlay districts in Eastport. In addition to stating the key elements of the Single-Family Residence Neighborhood Conservation districts, such as the purpose, applicability, and review process, the document also gives the details that are specific to the Eastport overlay district. This includes the submittal requirements, consisting of “a site plan and architectural drawings,” design guidelines for the district, specific bulk requirements such as building setback, height, and massing, and the public notice and public hearing procedures.¹⁶⁵ This document is a useful example of an information tool that city planning departments can use when explaining the neighborhood conservation district process to residents and citizens of a town, and such a

¹⁶⁵ Ibid., 1-4.

document will ultimately make a neighborhood conservation district function better both for residents and planning staff.

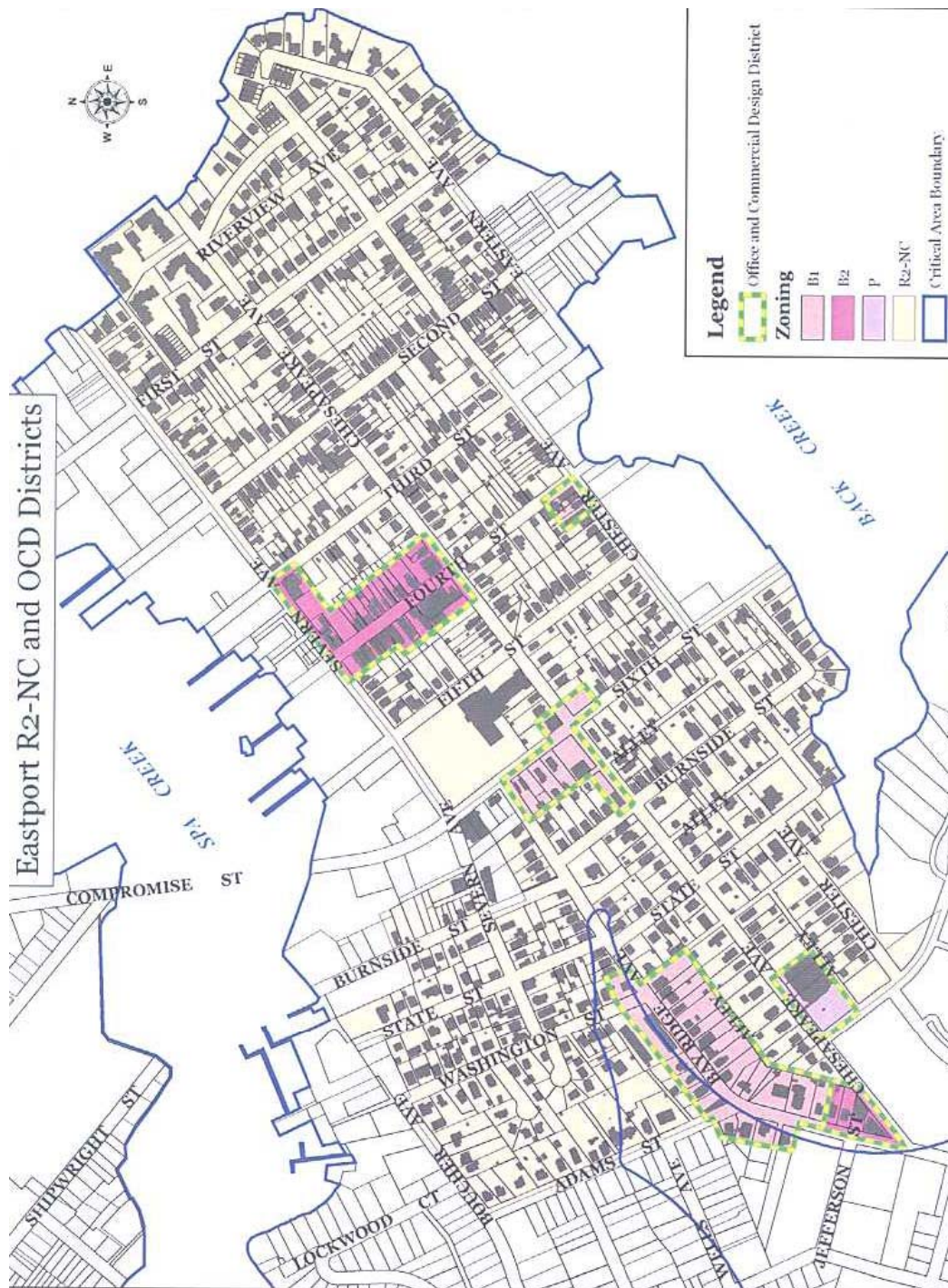


Figure 5.2: The Eastport neighborhood conservation district
(from “Eastport: A Guide to the Design Review Process”)

Overall, Annapolis's neighborhood conservation district program appears to be successful based upon the geographic constraints of the city and the historic, mixed use built environment in the city, but the program also raises some serious questions for historic preservation. The design standards for the Single-Family Residence Neighborhood Conservation district zone are thorough and focus on the historic buildings interspersed throughout Annapolis, however the designation of neighborhood conservation districts and the design review process could be improved. Remarkably, the public participation process that is so crucial to many neighborhood conservation district programs is missing from the local enabling legislation for Single-Family Residence Neighborhood Conservation districts. In the case of Eastport, it is clear that residents are involved and active in the implementation of the district, but future neighborhood conservation districts might not be designated if there are not specific conditions outlining designation and public participation. Amending the ordinance to include such measures would improve the effectiveness of the neighborhood conservation district purposes, design guidelines, and goals. Additionally, because Annapolis has so many historic buildings and areas, the local historic preservation commission or a board of qualified neighborhood residents could enhance the design review process if they were consulted by the Director of Planning and Zoning, or if the commission or neighborhood board actually made the application decisions.

Despite these potential weaknesses, Annapolis's neighborhood conservation district program is exceptional for several reasons. First, the land area of the city is relatively small, and so there is not the need for an overly detailed program because there is not a large number of neighborhood conservation districts. The fact that Annapolis has initiated only two neighborhood conservation districts, compared to seven in Chapel Hill, reveals how

neighborhood conservation district programs can be tailored to work in a variety of cities, as well as a variety of neighborhoods. Next, the Annapolis Single-Family Residence Neighborhood Conservation district is noteworthy because it is established and administered in the same manner as any other zoning district in the city would be. The Single-Family Residence Neighborhood Conservation district mandates some additional provisions, but in general the application procedures and review process follows the same guidelines of all zoning districts in the city. This is, to a degree, because of Maryland's broad enabling legislation that does not explicitly recognize or establish guidelines for neighborhood conservation districts. Finally, the Annapolis neighborhood conservation district program generally follows the neighborhood planning model. The tools and regulatory measures that are used to preserve neighborhood character and promote compatible design in Annapolis are planning and zoning guidelines—bulk, height, setback, and floor area ratio. While the Single-Family Residence Neighborhood Conservation district ordinance provides that other details may be considered in the decision making process, it is left up to a designated neighborhood conservation district and the judgment of the Director of Planning and Zoning to decide if architectural style and elements, in particular, are to be preserved.

In terms of historic preservation, it seems that the Single-Family Residence Neighborhood Conservation district ordinance may equal “preservation lite.” Although the design standards and review process are regulatory, the scale, massing, and bulk of new constructions are the essential concerns, and the great number of historic resources within neighborhood conservation districts are not held to the same standards as if they were in a local historic district. This is a product of the long-term goals of Annapolis's residents, but it is especially worrisome in Annapolis because of the city's age and inherent historic character. To

be certain, historic character is one of the primary concentrations of the Single-Family Residence Neighborhood Conservation district ordinance, but the planning department, instead of the local historic preservation commission, makes decisions that affect historic buildings, integrity, and materials. A cooperative arrangement between the planning department and the local historic preservation commission, in which both entities contributed to the decision-making process for historic properties, could solve this potential problem

The Annapolis neighborhood conservation district program, also, is distinctive because the age of buildings and neighborhoods is not considered during the designation process or design review. For Eastport, this raises an interesting question because the age of the neighborhood could qualify it for local historic district status if it was deemed historically significant and supported by the residents. This makes it unclear what the difference between neighborhood conservation districts and local historic districts is in Annapolis. Although neighborhood conservation districts are not a substitute for local historic district designation, if the community support for an historic district is lacking, then a neighborhood conservation district may be the next best thing. Local historic preservation advocacy may be to blame for historic properties being overlooked in neighborhood conservation districts, and more effective advocacy and public outreach by local historic preservation non-profit organizations and the historic preservation commission could help to strengthen and distinguish the local historic district program from the neighborhood conservation district program. Finally, because Annapolis has only two neighborhood conservation districts, it is difficult to determine whether these districts may in the future gain local historic district status. In general, it appears that the Single-Family Residence Neighborhood Conservation district program is effective in Annapolis despite the fact that the line between historic preservation and neighborhood conservation is

blurred. Blurring the line between preservation and neighborhood conservation could, however, eventually compromise the values of historic preservation and local historic districts. Such a neighborhood conservation district program, for this reason, is most likely not an ideal model to be followed by other cities considering neighborhood conservation districts.

CHAPTER 6

CASE STUDY: NEIGHBORHOOD CONSERVATION DISTRICTS IN DALLAS, TEXAS

In the northeastern corner of Texas, the City of Dallas forms a virtual megalopolis with the nearby city of Fort Worth. Dallas is different from the case study cities of Chapel Hill and Annapolis because, on the one hand, Dallas is much larger, more complex, and more diverse and, on the other hand, Dallas is a city without the rich heritage found in Chapel Hill and Annapolis. In terms of population, the Dallas City Hall website classifies Dallas as the ninth largest city in the United States, the third largest in Texas, and one of the nation's "100 Most Ethnically Diverse Communities."¹⁶⁶ Faced with a growing economy and population, Dallas's diversity and relatively young age have shaped the way in which the city has approached development and urban planning. When Dallas was beginning its progressive city planning over thirty years ago, Weiming Lu stated in *The Journal of Architectural Education* that "Dallas is a youthful city that has always looked to the future. It does not possess the historic tradition of [other] cities."¹⁶⁷

The residents of Dallas have, nevertheless, always valued historic preservation and the distinctive character of residential neighborhoods and the urban landscape within the city. In the 1970s, "[h]istoric preservation, neighborhood conservation and downtown revitalization were among the ten major goals adopted by a privately sponsored, city-wide process...designed to

¹⁶⁶ Dallas City Hall, "Quick Facts," *All About Dallas: Quick Facts*, <http://www.dallascityhall.com/info/about.html> (accessed April 6, 2009).

¹⁶⁷ Weiming Lu, "Urban Design and Conservation: A Look at Dallas' Experiences," *JAE* 30, no. 2 (Nov., 1976): 29, <http://www.jstor.org/stable/1424423> (accessed March 31, 2009).

provide the direction for the city's future."¹⁶⁸ Indeed, it seems that Dallas has been proactively planning for the future since that time. Lu wrote in her 1976 article that "[h]istoric preservation in Dallas has been broadened in scope. It now includes...conserving urban neighborhoods."¹⁶⁹ The same issue discussed in Adam Lovelady's research on the modern practice of historic preservation, Dallas played an innovative role in expanding this scope and adapting the regulatory measures of historic preservation to conserve established neighborhood character and sense of place. Longtime resident Donna Lackey recently described the beginnings of this preservation and conservation ethic in a *Dallas Morning News* editorial:

By the 1970s, politics changed the face of much of southern Dallas...But something else began happening in the 1970s. People known back then as "urban pioneers" started to move into and restore large, older homes of Oak Cliff. Those same people took on City Hall, particularly in regard to stricter code enforcement...¹⁷⁰

Preservation and conservation of the urban environment are still foremost in the minds of Dallas residents, and the city's long-established neighborhood conservation district program has experienced much success. The program has grown even more relevant, especially in large cities such as Dallas, as teardowns and McMansions have swept across the country. Today, there are fifteen neighborhood conservation districts throughout Dallas¹⁷¹ (**Figure 6.1**), and residents of intown and established neighborhoods continue to utilize and consider neighborhood

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Donna Lackey, "Donna Lackey: One of many Oak Cliff success stories," *The Dallas Morning News*, sec. "Opinion," 4 October 2008, http://www.dallasnews.com/sharedcontent/dws/dn/opinion/viewpoints/stories/DN-lackey_04edi.ART.State.Edition1.26cc782.html (accessed April 2, 2009).

¹⁷¹ City of Dallas, "Conservation District Overview," *City of Dallas Department of Development Services: Long Range Planning*, 1, <http://www.dallascityhall.com/pdf/planning/ConservationTotalPacket.pdf> (accessed April 7, 2009).

conservation districts as a method of encouraging appropriate new construction *and* protecting neighborhood character.



- C.D. #1 - King's Highway
- C.D. #2 - Lakewood
- C.D. #3 - Page Avenue
- C.D. #4 - Greiner Area
- C.D. #5 – (was incorporated into the Lake Cliff Historic District)
- C.D. #6 - Hollywood/Santa Monica
- C.D. #7 - Bishop/8th
- C.D. #8 - North Cliff
- C.D. #9 - M-Streets
- C.D. #10 - Greenway Parks
- C.D. #11 - M Streets East
- C.D. #12 - Belmont Addition
- C.D. #13 - Kessler Park
- C.D. #14 - Edgemont Park
- C.D. #15 - Vickery Place
- C.D. #16 – Rawlins

Figure 6.1: Existing Dallas conservation districts
(Map and figures courtesy of Dallas Department of Development Services)

Because Dallas is significantly larger than Chapel Hill and Annapolis, the challenge of appropriately regulating new development is more complex. The total land area occupied by the city is 384.7 square miles, the nineteenth largest land area in the United States.¹⁷² In 2007, the Dallas Office of Economic Development estimated that the city population was 1,280,500 and projected that the population would grow 2.2% by 2012.¹⁷³ The estimated total employment is 1,059,173 within the city,¹⁷⁴ and the 2007 estimated per capita income was \$24,837.¹⁷⁵ In addition, the Office of Economic Development estimated that there were 456,955 Dallas households in 2007 and that the median income of these households was \$45,834.¹⁷⁶ These figures indicate that Dallas offers a relatively high quality of life, and notwithstanding the current economic downturn, the projected population and demographic figures for the next five years indicate that Dallas will continue to grow.

While Dallas has numerous colleges and universities, the city's major economic engines lie in other areas. Dallas has six public colleges and universities, seventeen private colleges and universities, and seventeen two-year and technical colleges,¹⁷⁷ and so Dallas residents have many opportunities to receive higher education and enrichment within their communities. For residents over twenty-five years of age, over 72 percent are high school graduates, 28.4 percent have a bachelor's degree, and 10 percent have either a graduate or professional degree.¹⁷⁸ This high level of education fuels the dominant industries in Dallas. According to the Office of

¹⁷² Dallas City Hall, "Quick Facts."

¹⁷³ Dallas Office of Economic Development, "Dallas City Demographics," *Dallas Office of Economic Development: Fact Sheets*, http://www.dallas-ecodev.org/images/dallas_data/oed_fact/OED_Demographics.pdf (accessed April 6, 2009).

¹⁷⁴ Dallas City Hall, "Quick Facts."

¹⁷⁵ Dallas Office of Economic Development, "Dallas City Demographics."

¹⁷⁶ Ibid.

¹⁷⁷ Dallas City Hall, "Quick Facts."

¹⁷⁸ Dallas Office of Economic Development, "Dallas City Demographics."

Economic Development, “Dallas has a higher concentration than the nation of high-end service occupations: professional services, finance and information.”¹⁷⁹ The majority of jobs are found in the trade, transportation, and utilities sectors, while professional and business services, government, and education and health services are the next highest industries for job opportunities in Dallas.¹⁸⁰ Unlike Chapel Hill and Annapolis, Dallas has a number of industries that offer a wide-range of economic, educational, and cultural opportunities for citizens and residents. On the whole, Dallas’s economy is strong and diverse, and residents of the city desire to maintain and improve their communities by preserving their neighborhoods and built environment.

The Dallas Development Code and Conservation District Ordinance

Dallas has operated a neighborhood conservation district program since 1986, with the first neighborhood conservation district designated in 1988, and the program continues to function well and encourage public participation in the twenty-first century. The residents of Dallas’s intown neighborhoods have, especially in recent years, seized upon neighborhood conservation districts as a means of protecting and preserving a wide range of distinctive features associated with a neighborhood’s character and built environment. Overall, the program has proved useful in regulating teardowns, curbing incompatible development, and preserving established neighborhood character and sense of place in a variety of communities throughout Dallas.

¹⁷⁹ Dallas Office of Economic Development, “Economic Development Profile,” *Dallas Office of Economic Development: Economic Development Profile*, 9, http://www.dallas-ecodev.org/images/dallas_data/strategic/economic_profile/2008_profile_trends.pdf (accessed May 22, 2009).

¹⁸⁰ Ibid.

In Texas, neighborhood conservation districts are provided for in the *Texas Local Government Code*. The enabling legislation is found in Section 211.003(b) of Chapter 211, Municipal Zoning Authority and states:

In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.¹⁸¹

The language in Texas's state enabling legislation is more specific than Maryland's enabling legislation but very similar to North Carolina's enabling legislation. Importantly, the legislation recognizes the significance of certain "cultural [and] architectural" areas and specifically grants that local governments "may regulate the construction, reconstruction, alteration, or razing of buildings."¹⁸² Neighborhood conservation districts generally employ measures that address all of these issues and guide neighborhood development. Section 211.003, Zoning Regulations Generally further states that local governments may regulate "the height, number of stories, and size of buildings," "the percentage of a lot that may be occupied," "the size of yards...and other open spaces," "population density," and "the location...of buildings...for...residential" neighborhoods.¹⁸³ This regulatory framework consists primarily of planning tools that do not take into account architectural style, however neighborhood conservation districts may address architectural details and features if preservation of these features is a primary concern of residents. Accordingly, the Texas enabling legislation grants a broad set of regulatory powers by which local governments may regulate architectural elements.

¹⁸¹ Chapter 211. Municipal Zoning Authority, "Zoning Regulations Generally," *Texas Local Government Code*, Chapter 211, Section 211.003, <http://tlo2.tlc.state.tx.us/statutes/lg.toc.htm> (accessed May 26, 2009).

¹⁸² *Ibid.*

¹⁸³ *Ibid.*

Conservation districts in Dallas are established as stand-alone zoning districts, and Part II of the Dallas Development Code houses the local enabling legislation by which residential neighborhoods can pursue designation as a neighborhood conservation district. Chapter 51A, Section 51A-4.505 of the *Dallas City Code* is entitled “Conservation Districts” and the purpose statement reads:

State law authorizes the city of Dallas to regulate the construction, alteration, reconstruction, or razing of buildings and other structures in “designated places and areas of historic cultural, or architectural importance and significance.” Whereas the city has historic districts containing such regulations and restrictions for historic places and areas, the conservation district is established to provide a means of conserving an area’s distinctive atmosphere or character by protecting or enhancing its significant architectural or cultural attributes.¹⁸⁴

Dallas’s neighborhood conservation district purpose statement is unique because it explicitly references the Texas enabling legislation. In addition, the purpose statement makes a valuable distinction between local historic districts and neighborhood conservation districts. The purpose statement, first, acknowledges that the city of Dallas has “historic districts containing such regulations and restrictions for historic places and areas” and then goes on to define conservation districts as “provid[ing] a means of conserving an area’s distinctive atmosphere or character by protecting...significant architectural or cultural attributes.”¹⁸⁵ Differentiating between historic preservation and neighborhood planning is important for indicating to residents that neighborhood conservation districts are not a substitute for local historic districts. Finally, the purpose statement uses broad terms, such as “architectural” and “cultural,”¹⁸⁶ that allow

¹⁸⁴ Section 51A-4.505, “Conservation Districts,” *The Dallas City Code*, Chapter 51A Part II, Section 51A-4.505, [http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:dallas_tx](http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates$fn=default.htm$3.0$vid=amlegal:dallas_tx) (accessed May 26, 2009).

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*

neighborhoods to implement and consider a wide range of contributing factors in preserving the built environment of their neighborhood.

Along with the purpose of neighborhood conservation districts, the beginning of Section 51A-4.505 contains “Definitions” relevant for understanding the Dallas conservation district ordinance. This is a useful inclusion for residents, builders, laypeople, or planners living and working in Dallas. Several of the terms help communicate the purpose and long-term goals of the conservation district program. “Architectural Attributes” are defined as “physical features of buildings and structures that are generally identified and described as being important products...characteristic of a population or community,” and “Cultural Attributes” are the “physical features of an area that, either independently or by virtue of their interrelationship, are generally identified and described as being important products...characteristic of a population or community.”¹⁸⁷ These definitions form the basis of the conservation district purpose statement and are significant because of their emphasis on the interrelated physical characteristics of a built environment and because the definitions signify that a substantial portion of a segment of the population must identify certain physical features as “important” and worthy of protection.¹⁸⁸

Finally, because conservation districts relate to Dallas’s long-term neighborhood planning and preservation, the terms “Stable” and “Stabilizing” are defined. “Stable” refers to an area “expected to remain substantially the same over the next 20 years with continued maintenance of the property...[neighborhood] changes are expected to be *compatible* with surrounding development” (italics added); “Stabilizing” refers to an area “expected to become stable over the next 20-year period through continued reinvestment, maintenance, or

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

remodeling.”¹⁸⁹ Because neighborhood conservation districts have been identified to be effective in “areas where buildings are fairly well-maintained...but where demolition and incompatible new construction are threats,”¹⁹⁰ it is appropriate that these terms are included in the conservation district ordinance. In residential neighborhoods where such things as occupancy, investment, and maintenance are high, neighborhood conservation districts both assure and encourage residents, builders, and developers to continue compatible development.

General Provisions and Designation Procedures

For all future and present conservation districts in Dallas, the general provisions put forth the broad guidelines for the designation, procedures, and enforcement. The first provision states that every conservation district must be “established by a separate [conservation district] ordinance,” and the ordinance must be “consistent with the conceptual plan approved for the district by the city council.”¹⁹¹ The conceptual plan, which will govern development in the designated district, is undertaken and approved by the city council before the final ordinance is adopted.¹⁹² Much like the Chapel Hill neighborhood conservation district ordinance, the completed conceptual plan is the core of a given neighborhood conservation district, and the drafting of the conceptual plan works to involve interested citizens and residents. During the conceptual plan process, if “due to the sensitivity of the area, or due to the nature of the proposed regulations for the area, a special administrative procedure should be established for the review of proposed work in a conservation district,” then the planning director may recommend that the

¹⁸⁹ Ibid.

¹⁹⁰ Miller, *Protecting Older Neighborhoods*, 2.

¹⁹¹ Ibid., “Conservation Districts,” Section 51A-4.505.

¹⁹² Ibid.

“special administrative procedure” be included in the completed conceptual plan.¹⁹³ If the procedure is not recommended to and approved by the city council, “there shall be no administrative review of proposed work in a conservation district other than the customary review for compliance with all applicable city codes, ordinances, rules, and regulations.”¹⁹⁴ Incorporating such an administrative procedure into the plan is crucial for creating an administrative review process that oversees new construction, modifications, and demolition. The absence of a special administrative procedure for a neighborhood conservation district, in the case of an older or possibly historic neighborhood, could equal “preservation lite” since the adopted regulations are only advisory in nature. To solve this, an amendment that mandated a special administrative procedure for neighborhood conservation districts with older or historic properties of a certain age could protect historic resources with compulsory regulations.

Guidelines for “initiation” of the designation process and conceptual plan are described next within Section 51A-4.505. To undertake a conservation district “feasibility study,” a group of individuals collectively owning “more than 50 percent of the land...within the area of request” or “more than 50 percent of the building sites within the area of request” may file an application with the planning director, with all group members signing the application.¹⁹⁵ This majority requirement promotes a sense of community ownership and pride in the proposed neighborhood conservation district and conceptual plan. Alternatively, the planning commission or city council may initiate the process by requesting a feasibility study for a given neighborhood.¹⁹⁶ Among other things, the application must be completed on the designated form provided by the city, include relevant zoning and land use maps, have a list of all names and addresses of property

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

owners and residents in the proposed district, and a list of all neighborhood associations and representative organizations in the neighborhood.¹⁹⁷ Additionally, the application must incorporate a “statement of justification” that “point[s] out the factors which render the area of request eligible for [conservation district] eligibility” and “explain[s] in detail how and why such a classification would be in the interest of the city as a whole,” as well as a detailed description of the “prevalent architecture and cultural attributes” of the neighborhood.¹⁹⁸ The initiation process, although the first step, is influential in identifying the key assets and goals of the community seeking neighborhood conservation district designation.

Neighborhood Eligibility and the Conceptual Plan

Like the Chapel Hill neighborhood conservation district ordinance, the Dallas ordinance establishes standards for determining if a neighborhood meets certain conservation district criteria. The planning director “shall determine the eligibility of the area for [conservation district] classification” based on whether it meets the following criteria: the proposed district must contain “at least one blockface;” the proposed district must be “stable” or “stabilizing;” there must be “significant architectural or cultural attributes” in the area; and “[t]he area must have a distinctive atmosphere or character which can be conserved by protecting or enhancing its architectural or cultural attributes.”¹⁹⁹ These criteria are similar to those in Chapel Hill and Annapolis, and the last criteria demonstrates that neighborhood conservation district status is intended to halt the teardown trend and promote compatible development. Upon making a

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

decision of eligibility, the planning director will notify the applicant in writing of the decision.²⁰⁰ If the area is eligible for conservation district status, the decision is final and the planning director “shall proceed to formulate a conceptual plan for the area.”²⁰¹ However, if the area is deemed ineligible for conservation district status, the applicant may appeal to the planning commission, who will make a final decision of “whether or not the director erred in [the] determination of eligibility” based on the eligibility criteria.²⁰²

The conceptual plan process begins a series of public meetings, hearing, and community work sessions. The first public meeting held by the planning director simply informs “property owners in the proposed district of the nature of the pending [conservation district] request.”²⁰³ Next, the planning director schedules a public hearing with the planning commission, at which the conceptual plan will be presented “to receive public comment regarding the plan.”²⁰⁴ All “real property” owners within the proposed district, as well as those owners within 200 feet of the proposed boundaries, will be notified of the public hearing.²⁰⁵ This is a crucial step for the proposed neighborhood conservation district because the planning commission will hear public goals, ideas, and opinions about the conceptual plan, and the various design and regulatory suggestions of the public will shape and be included in the conceptual plan. After making recommendations about the conceptual plan, the planning commission will send the conceptual plan to the city council; the city council will hold another public hearing prior to rendering a decision.²⁰⁶ While minor changes to the plan can be made by the city council, “if the changes

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

are substantial, the council shall send the plan back to the commission for another public hearing.”²⁰⁷ Although this process can be timely, the public exchange provides an important system of checks and balances to ensure that the proposed conservation district meets the needs of the residents, property owners, community, and larger Dallas area.

Drafting and Enacting the Conservation District Ordinance

The next section is entitled “[Conservation District] ordinance preparation and review.” After the city council approves the conceptual plan, the planning director will hold additional public meetings “for the purpose of receiving input from property owners regarding the content of the [conservation district] ordinance,” and the city attorney will begin drafting the new neighborhood conservation district ordinance.²⁰⁸ Information from the public meetings conceptual plan, as well as recommendations of the city staff, will be included in the proposed ordinance.²⁰⁹ Section 51A-4.505 next mandates what development regulations must be included in the proposed ordinance:

...must contain regulations governing permitted uses, heights of buildings and structures, lot size, floor area ratio, density, setbacks, off-street parking and loading, environmental performance, signs, landscaping, and nonconforming uses and structures, and *may further contain any additional regulations, special exceptions, or procedures* that the city council considers necessary to conserve the distinctive atmosphere or character of the area...²¹⁰ (italics added)

This list of mandatory regulations in the neighborhood conservation district ordinance, like the Annapolis neighborhood conservation district ordinance, consists of primarily of planning and zoning measures, but the language allows that the scope of the proposed ordinance be expanded

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Ibid.

if so desired by the residents and planning commission. Taking this into account, neighborhood conservation districts in Dallas can take a variety of forms and adopt a broad range of regulatory design guidelines and administrative procedures. This flexibility in creating the ordinance is both a virtue and a threat because the built environment and historic resources could be compromised if a given neighborhood conservation district ordinance does not include compulsory design guidelines and procedures.

To complete the neighborhood conservation district designation process, the planning commission “shall hold a public hearing to allow all citizens to present their views regarding the proposed ordinance.”²¹¹ The planning commission considers comments made at the public hearing and “shall not recommend approval of the ordinance unless it determines that the ordinance is consistent with the conceptual plan.”²¹² Finally, the city council will review the proposed neighborhood conservation district ordinance, and the ordinance must pass a rigorous approval process before being adopted. The city council will hold a last “public hearing before taking any action on the ordinance,” and in order for the ordinance to be approved there must be “the affirmative vote of a majority of city council members present.”²¹³ In the case that the planning commission recommends “against adoption of the ordinance” or “a written protest against adoption of the ordinance [signed] by the owners of 20 percent or more of either the land area of request or land within 200 feet...has been filed with the [planning] director,” *three-fourths* of the complete city council must vote in favor the ordinance.²¹⁴ Although tedious, the Dallas conceptual plan and neighborhood conservation district designation process attempts to

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

safeguard against the passage of inadequate neighborhood conservation ordinances that are not desirable for the city or are not supported by a large majority of affected residents and citizens.

The “Conservation District Overview”

The Long Range Planning Division of the Dallas Department of Development Services publishes and distributes the “Conservation District Overview” so that citizens and residents can learn about and explore the neighborhood conservation district process. In the first paragraph, the “Conservation District Overview” states “[a] conservation district is a change in zoning that preserves an area’s sense of place through architectural guidelines, development standards, and special zoning procedures...[which] can be as rigorous as preserving specific elements such as stained glass windows, or...simply defin[ing] the setbacks and height for new construction.”²¹⁵ Although the conservation district ordinance does not mandate that architectural guidelines and special review procedures be implemented, it is positive that this informational document points out the usefulness of these regulatory tools while also emphasizing that neighborhood conservation districts can be tailored to be effective in a specific neighborhood. The text also describes that “[residents] must submit a review form for change to the exterior of their home, demolition, and new construction.”²¹⁶ The document includes various guidelines, maps, frequently asked questions, a summary of the planning process, and a copy of the Conservation District Feasibility Study Application.

In many ways, the “Conservation District Overview” is similar to Annapolis’s “Eastport: A Guide to the Design Review Process,” but because Dallas has 15 neighborhood conservation district districts the Dallas publication gives a broader view of the neighborhood conservation

²¹⁵ City of Dallas, “Conservation District Overview,” 1.

²¹⁶ Ibid.

district program and intent. One of the most convenient tables in the document is “Comparing Conservation Districts, Neighborhood Stabilization Overlays, and Historic Districts.” By including this, the Dallas Long Range Planning Division helps residents understand and realize the differences between neighborhood conservation districts and local historic districts. It is important to communicate this because, as Carole Zellie pointed out in her national study of neighborhood conservation districts, “the historic districts in Dallas generally use the Secretary of the Interior’s Standards for Rehabilitation [but] the conservation districts write their own.”²¹⁷ While this lack of standards may pose a threat to the built environment in older neighborhoods, the “Conservation District Overview” at least educates citizens about the relationship between neighborhood conservation districts and local historic districts.

The Conservation District Process in Little Forest Hills

While the Dallas neighborhood conservation district program has to a large extent been successful, the experience of the Little Forest Hills neighborhood in east Dallas illustrates the controversy and debate that can surround the conceptual plan and neighborhood conservation district designation process. The Little Forest Hills Neighborhood consists primarily of small-scale “World War II-era bungalows,” but the neighborhood is also well known for its “artistic cool.”²¹⁸ Monika Diaz wrote in *The Dallas Morning News* that the “city’s chief planner says the area meets the criteria for a conservation district but that this is not the right ordinance to

²¹⁷ Zellie, 10.

²¹⁸ Rudolph Bush, “Dallas City Council to consider Little Forest Hills preservation proposal,” *The Dallas Morning News*, sec. “Local News,” 14 January 2009, <http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/011408dnmetlittleforesthills.4b2c762.html> (accessed April 2, 2009).

preserve [the Little Forest Hills] neighborhood.”²¹⁹ Nevertheless, some residents undertook a movement, over three years ago, to “keep Little Forest Hills funky,”²²⁰ and the process was just recently concluded. The fact that the neighborhood conservation district process in Little Forest Hills progressed over three years exhibits how time consuming Dallas’s program can be. Throughout the process, the “fight to keep it funky...sparked plenty of controversy...Homeowners [were] divided...[and] [t]he battle signs [were] on every block.”²²¹

Ultimately, the controversy over Little Forest Hills ended without the neighborhood being designated as a neighborhood conservation district. The “[city] council unanimously denied [the] request by a group of Little Hills residents to declare the...neighborhood a conservation district.”²²² Although the proposed ordinance was “an effort to prevent so-called McMansions from being built on lots where bungalows of about 2,000 square feet or less once stood,” the city planning staff “declined to support the district [ordinance], in part because it [did] nothing to preserve the existing homes [and] [i]t only prevent[ed] new construction from being out of scale with older homes.”²²³ Resident Gary McCoy, who was in favor of the ordinance, explained his view, “Someone living in a smaller home, if a large ‘McMansion’ is built next to them, whose property rights are being infringed at this point?”²²⁴ The proposed ordinance, however, apparently did not go far enough or adopt guidelines to protect the existing

²¹⁹ Monika Diaz, “City to vote on conservation-area status for Little Forest Hills neighborhood,” *The Dallas Morning News*, sec. “Local News,” 10 January 2009, <http://www.dallasnews.com/sharedcontent/dws/news/city/dallas/stories/011109dnmetlittleforest.111663b3.html> (accessed April 2, 2009).

²²⁰ Bush, “Dallas City Council.”

²²¹ Diaz.

²²² Rudolph Bush and David Leventhal, “Conservation denied,” *The Dallas Morning News*, sec. “Local News,” 15 January 2009, http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DN-dalcouncil_15met.ART.Central.Edition1.4ae034e.html (accessed April 2, 2009).

²²³ Bush, “Dallas City Council.”

²²⁴ Diaz.

homes in Little Forest Hills, an example of how the flexibility of neighborhood conservation districts can be a detriment. Throughout the process, opponents of the proposed ordinance used the same arguments that are cited as disadvantages of local historic districts—lower property values,²²⁵ the imposition of “their neighbors’ tastes,”²²⁶ and restricted “development rights”²²⁷ as the key disadvantages of a conservation district in Little Forest Hills. Public participation was, obviously, a large part of the Little Forest Hills neighborhood conservation district process, but the community was certainly not strengthened or united through the process. In the end, because the proposed ordinance lacked standards to preserve the existing housing stock, the planning commission, staff, and Dallas city council appeared to make a preservation-minded judgment by deciding against the ordinance.

Taken alone, the fact that the Dallas neighborhood conservation district program has been in place for over 20 years indicates that some aspects of the program have been a success, evidenced by the vigorous public debate that occurred in the Little Forest Hills neighborhood. However, evaluating the success of the Dallas program is somewhat more difficult than in Chapel Hill and Annapolis because Dallas faces different challenges as a result of its size, diversity, and lack of a centuries-old heritage. The Dallas neighborhood conservation district program was drafted to deal with these issues, though, and the purpose statement of the program clearly identifies preserving significant architectural features and distinctive cultural attributes as the main goals of neighborhood conservation districts.

The strongest point of the Dallas program seems to be the emphasis on a thorough and inclusive public participation process. After almost every step of the drafting and designation

²²⁵ Ibid.

²²⁶ Bush, “Dallas City Council.”

²²⁷ Bush and Leventhal, “Conservation denied.”

process for a neighborhood conservation district, Dallas city planning officials send out notices and conduct open public forums to hear comments from the public and amend the proposed ordinance accordingly. By doing this, city planning officials and local representatives seek to assure that the proposed ordinance is well suited to a given neighborhood and understood by the vast majority of residents, and if these two conditions are not met then the proposed ordinance most likely will not be adopted. Another benefit of the Dallas program is the focus on stabilizing and conserving the character of established neighborhoods into the foreseeable future. The neighborhood conservation district program aims to maintain and improve the notable characteristics of Dallas's built environment, which is potentially an advantage for historic preservation if fledgling neighborhoods may one day be designated as local historic districts.

Unlike the neighborhood conservation district programs in Chapel Hill and Annapolis, the Dallas program is not explicitly concentrated on historic resources and structures that may be surrounded by more contemporary architecture or located within a neighborhood conservation district, nor do the general guidelines address historic character or fabric. These omissions could partially be attributed to Dallas's youth and lack of historic structures, but even young cities have heritage and culture that influence the character of the built environment and sense of place. The "Conservation District Overview" does have a thorough chart that distinguishes the different regulatory standards of neighborhood conservation districts and local historic districts, and educating residents about this distinction is an important and positive aspect of the publication. By including a description of local historic districts and neighborhood conservation districts, residents and stakeholders will hopefully realize that neighborhood conservation districts are not a substitute for local historic districts. Overall, the Dallas program could be improved if it was amended to include provisions that would protect historic resources and character in established

neighborhoods, which is a nearly universal recommendation for neighborhood conservation district programs.

As in Chapel Hill and Annapolis, a single person makes building permit decisions, in Dallas's case the planning director. This can be a danger to historic or potentially historic resources because a planning director might not have the knowledge of architecture and historic context necessary to make an informed decision, although the planning director and city council defied this assumption in the Little Forest Hills neighborhood decision. Nonetheless, the opinion of the historic preservation commission or neighborhood board would be valuable in certain instances. In regard to design guidelines and standards, as in the other two case studies, the Dallas provisions are flexible in that "special administrative procedures" have to be specifically adopted in order to be mandatory for a designated neighborhood conservation district. It is essential that the planning director and neighborhood residents adopt carefully considered design guidelines that mandate a review process and achieve compatible outcomes in neighborhood conservation districts. As the Dallas program currently functions, it does not equate to "preservation lite," but advisory guidelines in a neighborhood conservation district would put the built environment at risk if homeowners and builders could simply go through the review process and then proceed with an incompatible design.

For historic preservation, the Dallas neighborhood conservation district program is not especially threatening because, for better or worse, it is not designed to protect historic architecture and character, and the difference between neighborhood conservation and historic preservation is clearly delineated. It is certainly feasible that neighborhood conservation districts can serve to protect neighborhoods until there is either the historic significance or the community support to warrant local historic district designation, and well-drafted neighborhood conservation

districts may actually increase the likelihood of this happening by revitalizing home maintenance practices and raising public support within a given neighborhood. Furthermore, the Dallas program does not seem to compromise the value of historic preservation because it *does not* blur the line between what is a local historic district and what is a neighborhood conservation district. Although the Dallas program could use more stringent regulations in some areas, it is a good neighborhood conservation district model for other communities because it successfully involves residents and stakeholders in the creation, understanding, and implementation of neighborhood conservation districts in their own neighborhoods.

CHAPTER 7

SUMMARY AND CONCLUSION

This thesis, through the case study of three neighborhood conservation district programs, aimed to answer two overarching questions: 1) Are neighborhood conservation districts effective at protecting the character and built environment of established, older neighborhoods? and 2) What do neighborhood conservation districts mean for historic preservation in terms of the core values and regulatory measures of the larger historic preservation movement? By and large, it seems that neighborhood conservation districts are effective at protecting neighborhood character and promoting compatible development, but the effect on historic preservation remains unclear. Exploring these questions is pertinent for several reasons. As more and more post-World War II and late-twentieth century neighborhoods gain the patina of age and a unique sense of place, the protection and preservation of these neighborhoods represent a formidable challenge for historic preservationists and the American society at large because of the sheer number of these neighborhoods. Neighborhood conservation districts are one promising method of approaching this challenge.

Neighborhood conservation districts have become more prevalent as a means of deterring teardowns, McMansions, and incompatible development over the last decade, in step with the real estate and building boom of the 1990s and 2000s. *At a minimum*, basic neighborhood conservation districts include height, setback, and massing requirements as development tools that enmesh new construction with the existing built environment; many basic neighborhood conservation districts will also include architectural design guidelines that may preserve the

character and style of the neighborhood. Moderating mcmansions is difficult, but from the case study programs it seems that bulk requirements addressing building height and front- and side-yard setbacks will be the most effective method of limiting out-of-scale construction. Additionally, a stringent demolition review provision will preempt the mcmansion process by stopping teardowns. Effective height and setback requirements will maintain the two major viewsheds that residents see from the public right-of-way, as well as protect adjacent homes from the negative impacts of incompatible new construction.

If neighborhood conservation districts are in fact the new preservation, there are a number of issues that must be resolved, but it is too early to offer solid conclusions about these issues. Put most basically, Lovelady asks, “[w]hen it comes to preservation goals, how much compromise is too much?”²²⁸ Neighborhood conservation districts will not be effective stewards of “pre-natal” local historic districts if architectural and historic integrity is allowed to degrade, and answering the question of compromise is a delicate balance. In line with this worry, Miller points out that neighborhood conservation districts “[r]arely [insist] on the preservation of historic fabric, per se and may place design-based decision making with officials or committees that lack the necessary qualifications” for these decisions.²²⁹ In Dallas, this is exactly the case—the emphasis is not on preservation of historic fabric, and the planning director renders conservation district decisions—but the program nonetheless takes into account some level of preservation of the built environment in its decision-making. Stephen A. Morris, in considering the larger historic context, also questions how effectively the zoning “immediately surrounding a historic district [can provide] an adequate buffer against development that would have a negative

²²⁸ Lovelady, 148.

²²⁹ Miller, *Protecting Older Neighborhoods*, 5

impact on the historic area.”²³⁰ While the primary goal of neighborhood conservation districts is not to preserve historic integrity and fabric, historic preservationists and planners alike must explore how neighborhood conservation districts affect historic resources within and around neighborhood conservation districts.

Neighborhood conservation districts, additionally, pose a problem for broader city planning efforts. Neighborhood conservation districts, for instance, may complicate the effective implementation of local historic districts. Zellie found that “[m]any of the conservation districts appear to be eligible as historic districts but have used the conservation district *as an alternative*”²³¹ (italics added) and that “some public as well as planner confusion seemed to prevail in cities with [conservation] and [local historic] districts.”²³² *These are two of the most fundamental challenges that neighborhood conservation and historic preservation must face, and neighborhood conservation districts should not be represented as an alternative to local historic districts.* Finally, Fine and Lindberg speculate that “[the neighborhood conservation district] approach may lead to calls for loosening of design review in nearby [local] historic districts.”²³³ The loosening of local historic district standards is a valid concern, and future research should be undertaken to see if this occurs in municipalities with neighborhood conservation district programs.

Ironically, many of the challenges associated with neighborhood conservation districts are also their virtues. The case studies of Chapel Hill, Annapolis, and Dallas plainly exhibit how neighborhood conservation districts can be tailored to fit the needs of a wide variety of neighborhoods, whether it be a thirty-year-old neighborhood of suburban houses or an early-

²³⁰ Morris, 6.

²³¹ Zellie, 10.

²³² Ibid., 11.

²³³ Fine, 14.

twentieth century neighborhood of modest cottages. Although most local neighborhood conservation district enabling ordinances provide for either an advisory *or* a mandatory review process, the majority of case study neighborhood conservation districts did adopt compulsory bulk requirements and design review for individual neighborhood conservation districts. Neighborhood conservation districts may not be ideal in all residential neighborhoods, but they are a best-case scenario in communities that are fervently anti-historic preservation or anti-design review. This is an issue of distinction, and the choice of local historic district or neighborhood conservation district designation is a complicated decision that preservationists and planning department officials must aid residents in making for their neighborhoods. Finally, neighborhood conservation district programs can be drafted and adopted relatively quickly to prevent teardowns and incompatible development, as in the case of Chapel Hill which has established seven neighborhood conservation districts in just five years.

Additional research of neighborhood conservation districts that has been undertaken in recent years supports these findings. In particular, property values both in neighborhood conservation districts *and* local historic districts are 10 to 20 percent higher than in neighborhoods not designated, and in general in neighborhood conservation districts “new construction has been compatible and demolition has been brought under control.”²³⁴ This last finding is significant since one of the primary motivations for neighborhood conservation district status is stopping teardowns. Miller describes neighborhood conservation districts as “a comprehensive solution through the adoption of both development and design-related controls”²³⁵ and concludes:

²³⁴ Cassity, 13.

²³⁵ Miller, *Protecting Older Neighborhoods*, 5.

The initial reports [on neighborhood conservation districts], however, look promising. What most experts agree on at this point is that good neighborhood conservation district programs don't just happen. They require ample research on the problems and solutions faced by a neighborhood, effective communication and consensus, and the development controls, whether preservation or planning-based, that respond to the needs of the neighborhood seeking protect[ion].²³⁶

This summary demonstrates that neighborhood conservation districts are having success in preserving neighborhood character and the built environment but also that it is essential to have well-researched and tailored neighborhood conservation district ordinances that respond to the conditions in a given community. Hopefully, if neighborhood conservation districts continue to grow in popularity, planning-based programs will become more effective by adopting the values of historic preservation, and historic preservation will gain credibility in terms of neighborhood and urban planning.

Opportunities for Future Research

Since the field of neighborhood conservation districting is still emerging, numerous research opportunities exist particularly related to how neighborhood conservation districts affect historic resources. There is a need for hard data indicating the age of buildings and neighborhoods that become neighborhood conservation districts, so that it may be determined whether or not neighborhood conservation district status is becoming a substitute to local historic district status. Also, there is a need for statistical evidence on the number of demolitions and irreversible modifications completed on historic buildings located in neighborhood conservation districts in order to indicate the tangible impact of neighborhood conservation districts on historic integrity and fabric. It would be useful to analyze how many neighborhood conservation districts simply use advisory guidelines, equaling "preservation lite," and how many adopt

²³⁶ Miller, "Neighborhood Conservation Districts," 26.

compulsory design guidelines. Lastly, over the coming decades, a survey of the core values and perceptions of historic preservation in relation to neighborhood conservation districts would illustrate whether or not neighborhood conservation districts have compromised the broader historic preservation movement.

Recommendations

After analyzing the strengths and weaknesses of three successful neighborhood conservation district programs, several key characteristics can be identified that will aid other communities. Local governments and communities establishing a neighborhood conservation district should consider several points in drafting the local enabling legislation. Throughout the process, it would be beneficial to have an experienced professional aid in the research and writing of the design guidelines and review process.

1. First and foremost, a neighborhood conservation district program should not be presented as an alternative or substitute for a local historic district program, and specific language that provides for the protection of historic resources within local historic districts should be included in the local neighborhood conservation district enabling legislation. While the two types of districts share similarities, their stated goals and purposes vary widely, and for historic preservation it is absolutely essential that neighborhood conservation districts do not become the de facto “preservation lite” in historic communities and neighborhoods. By clearly distinguishing where and how both neighborhood conservation districts and local historic districts are appropriate, planning officials can not only improve how the neighborhood conservation district program will operate but also strengthen the local historic preservation commission and district program.

2. It is important that the public be involved in the creation of the neighborhood conservation district enabling ordinance so that, from the outset, residents and stakeholders understand and support the intent and basic principles of the neighborhood conservation district program. In line with this, the completed neighborhood conservation district ordinance should have explicit processes for conducting public hearings, meetings, information sessions, and design charettes during the establishment of an individual neighborhood conservation district. Dallas's program shows that a thorough public participation process will help planning and local officials determine whether or not the proposed ordinance is appropriate and if there is public support for the district.

3. Neighborhood conservation district ordinances should include mandatory design guidelines and review within designated neighborhood conservation districts, and most ordinances should include both planning- and preservation-based design guidelines. Most residents welcome design guidelines as a measure of protecting their neighborhood's character and sense of place, but it is not enough to assume that mandatory design guidelines will be adopted. For these reasons, the local neighborhood conservation district enabling legislation should specify that design guidelines and review are a required element of designated neighborhood conservation districts. In addition, an experienced professional, such as a land-use attorney, seasoned historic preservation professional, planner, or landscape architect skilled in the drafting of residential design guidelines, should assist in the preparation of the proposed design guidelines so that they are in accordance with the needs of a given neighborhood and will not have loopholes that allow incompatible development.

4. The neighborhood conservation district enabling legislation should designate a qualified review body to assist in the decision-making process. Members of the review body should have

knowledge of architecture, planning, historic preservation, or design in order to make informed judgments. Sharing this power with other entities outside of the planning department will increase the quality and precision of decisions regarding architectural details, integrity, and character. This is especially important in those neighborhood conservation districts that are more preservation-oriented and have a high level of historic architecture and fabric. A potential modification would entail residents being able to appeal planning department decisions to the local historic preservation commission or architectural review board.

5. Finally, public education about neighborhood conservation districts and historic preservation is crucial in order for a program to experience success. The planning department or administrative body of the neighborhood conservation district program should create and distribute information guides about the basics of neighborhood conservation districts. Both Annapolis and Dallas published information guides of this type, which are useful to residents, interested citizens, builders and developers, real estate professionals, and all stakeholders within a community. Additionally, local non-profit organizations can play an important role in advocating for and raising awareness about historic preservation and neighborhood conservation districts in a community. Having an informed citizen base will facilitate the successful operation of a neighborhood conservation district program, and a user-friendly document to which residents can turn with questions and for information will accomplish this goal.

LIST OF RECOMMENDATIONS

1. Neighborhood conservation districts are not a substitute for local historic districts, and the public should be educated about the respective goals, purpose, and regulatory measures of the programs. Specific measures to protect historic resources within neighborhood conservation districts should be adopted.
2. Public participation is essential for every step of the neighborhood conservation district process, and the local enabling ordinance should explicitly mandate schedules and requirements for public hearings and information meetings.
3. Neighborhood conservation districts should include *mandatory* design guidelines and processes for review, and an experienced professional should be consulted to ensure that design standards and processes are both legal and comprehensive.
4. A qualified review body should be selected to oversee the neighborhood conservation district process and design guidelines. Especially in those neighborhood conservation districts with a large number of historic resources, the local historic preservation commission could collaborate with the planning department in making decisions regarding design and new construction.
5. Effective public education, outreach, and awareness efforts will aid both neighborhood conservation districts and local historic districts, and the planning department, along with local non-profit organizations and preservation commissions, should distribute informational handbooks and carry out meetings to inform the general public about the details of these programs.

Figure 7.1: List of Recommendations

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**APPENDIX – SELECTED LIST OF CITIES WITH NEIGHBORHOOD
CONSERVATION DISTRICT PROGRAMS**

Annapolis, Maryland*
Atlanta, Georgia*
Austin, Texas*
Boise, Idaho*
Boston, Massachusetts*
Boulder County, Colorado*
Cambridge, Maryland*
Chapel Hill, North Carolina*
Dallas, Texas*
Davis, California*
Huntington Beach, California
Indianapolis, Indiana*
Iowa City, Iowa*
Jackson, Tennessee*
Jefferson, Louisiana*
Knoxville, Tennessee*
Memphis, Tennessee*
Miami, Florida*
Napa, California*
Nashville, Tennessee*
Oklahoma City, Oklahoma*
Oregon City, Oregon*
Philadelphia, Pennsylvania*
Phoenix, Arizona*
Portland, Oregon*
Raleigh, North Carolina*

San Antonio, Texas*

Springfield, Missouri

Wilmington, Delaware*

*indicates cities that also have local historic district programs