

New Hope Creek Corridor Advisory Committee

Minutes of Meeting of Nov. 8, 2007

Present: Jacobs, Welch, Healy

- (1) Hollow Rock Park. Wendy Jacobs is serving as chair of the planning committee, with Charlie Welch as NHCCAC representative. At the Hollow Rock committee's second meeting, several stakeholder groups and experts made presentations. Duke Forest and Triangle Land Conservancy expressed support for the planning effort. John Kent spoke on his long experience with monitoring water quality in the New Hope and said that the Hollow Rock area is the cleanest on the Creek. [Editorial comment: this raises the possibility of water quality testing as a park educational activity.] Tom Magnuson and David Southern spoke about the area's history. A Forest View teacher talked about educational use of the Hollow Rock area by the school. The committee discussed the possibility of closing Pickett Road to through traffic. It was reported that Legacy Group, an archeological consultant, will have its final archeological study of Hollow Rock ready by the end of November. They have identified at least 8 important Native American sites, most pre-European. The Hollow Rock committee will next meet in January. Jacobs asked Healy to send a New Hope representative.
- (2) Healy noted that Google Earth now has some impressive capabilities for producing annotated maps and we may want to explore its use in illustrating the New Hope.
- (3) Much has happened after this meeting. On Nov. 15, Healy received (not from the Corps) a note about a Corps of Engineers hearing on their new management plan for Jordan Lake, scheduled for Nov. 15 in Moncure and with a 30 day subsequent comment period. DOST had sent an indignant letter to the Corps the previous evening protesting the lack of notice and short comment period. Healy did the same on behalf of the NHCCAC and copied our mailing list. He invited the Corps to send a representative to our December meeting, and posted the Corps draft plan on our website. [The Corps has since extended its comment deadline to January 18.
- (4) On Nov. 19, Healy gave Durham City Council the NHCCAC letter of last July endorsing the Trammell Crow apartment development on Garrett Road. The project was also supported by the Garrett Farms Homeowners Association. Both groups had found this project far superior to the CENTEX proposal of two years ago. It had been unanimously recommended for approval by the Planning Commission. The project was opposed at Council by a number of citizens and the Durham Preservation Society (the latter concerned about the old Garrett house). The developer agreed to donate \$10,000 toward moving the house. The Council unanimously approved the development.

- (5) John Kent has been working tirelessly to follow up on NHCCAC concerns about the impact on the New Hope of replacement of the bridge at Turkey Farm Road. Our concerns, expressed in a letter to NCDOT in December 2006, are mainly with the lack of space for a trail under the bridge and impacts on several species (state-listed as threatened or endangered) of mussels found at the bridge site. They would be significantly disturbed by the planned placement of a bridge pier in the stream. Our goal is not to prevent repair or replacement of the bridge, but to address problems with its design, which we believe does not take sufficient account of the natural and recreational values involved.

On December 7, a permit for the bridge replacement was approved by the Corps of Engineers; approval is still pending from the state of North Carolina Division of Water Quality (project B-4218). NC Department of Transportation is proceeding under a claim of "categorical exemption" for the project. We believe that this is undeserved, given the impact on the endangered mussels and planned future recreational use of the site. (See John Kent's detailed comments, below). Our "case" has been accepted by the new Environmental Law Clinic at Duke University Law School, which is currently researching whether NCDOT violated state laws or regulations in the preparation of its application. Comments are due to the Division of Water Quality by December 29, 2007.

John Kent's comments on the application to the Corps of Engineers, which he provided on November 28, were as follows. They echo and amplify concerns expressed in the NHCCAC's letter to NCDOT of December 2, 2006..

"[The] proposed bridge design will have stream impacts due to the placement of an interior bent and its three associated 3.5 foot diameter drilled piers and a 55 foot long, streambed placed, rip rap composed causeway in a reach of New Hope Creek which is home to six NC state listed freshwater mussel species.

[T] hree of the six are state endangered, one is state threatened, another is state special concern and the last (under the NC Natural Heritage Program) is significantly rare. They are, in alpha order by scientific name:

Alasmidonta varicosa (Brook floater), State Endangered
Fusconaia masoni (Atlantic pigtoe), State Endangered
Strophitus undulatus (Creeper), State Threatened
Villosa constricta (Notched rainbow), State Special Concern
Villosa delumbis (Eastern creekshell), Significantly Rare
Villosa vaughaniana (Carolina creekshell), State Endangered

(See the following NCWRC link for more detail:

http://www.ncwildlife.org/pg07_WildlifeSpeciesCon/pg7b1a1.htm)

[A]n additional native mussel species, at this writing known as "Lampsilis sp.2," is considered as possibly new to science and that DNA work is currently

underway on this question with samples taken from the aquatic habitat in New Hope Creek in close vicinity of the proposed B-4218 bridge project.

[T]his reach of New Hope Creek...is considered by the NC Natural Heritage Program as " New Hope Creek Aquatic Habitat" a "Significant Natural Heritage Area" and extends 1 km up stream of I-40 and down stream to just below Erwin Road, fully enclosing the B-4218 project area.

The Corps' consideration that the Application is complete is also in spite of the fact that, while the Application claims that a Categorical Exclusion document is sufficient to meet NEPA and SEPA requirements, and while Categorical Exclusions in 23 CFR 771.117 are defined in part as actions which "do not have a significant impact on the natural, cultural, recreational, historic, or other resources,"

[T]here are several recreation and open space plans for the New Hope Creek Corridor where B-4218 is planned but with which its present design is at odds:

1) New Hope Corridor Open Space Master Plan, 1992, which has been approved by the City of Durham, Durham County, Town of Chapel Hill and Orange County and extends well up and down stream of the B-4218 project area, and includes the large open space lands of the Johnston Mill Nature Preserve which abuts the B-4218 site and the Duke Forest which is just down stream of the B-4218 project area. (Master Plan link is: www.newhopecreek.org For a map of the B-4218 part of it specifically, Orange County Wildlife Corridors:<http://www.newhopecreek.org/maps/c10map.htm>)

2) Orange County "Lands Legacy Annual Action Plan 2006-2008, adopted 9/12/06") which includes a plan for a "New Hope Rustic Trail" which would pass through the area between Mt. Sinai Rd. up stream and the Duke Forest down stream. [This document (file name: llaap_06_08.pdf) is available via the second of three links (listed at the bottom of the Lands Legacy link: http://www.co.orange.nc.us/ercd/lands_legacy.asp]

3) The trail, mentioned above in item 2, is also mentioned in the Orange Co. 1999 plan: "Report of the Master Recreation and Parks Work Group."

4) The New Hope Creek Corridor Advisory Committee, which oversees the implementation of the New Hope Corridor Open Space Master Plan requested that the proposed bridge facilitate dry land passage of wildlife and accommodate possible future pedestrian use. (A copy of this correspondence was emailed to you by the Co-Chair of the Committee, Dr. Robert Healy on 11/24/07.)

Of particular concern is the fact that the proposed bridge design will have a vertical clearance between the underside of the bridge deck and the top of bank surface of 3.5 feet on the south side and 5 feet on the north side, well below the clearance necessary for an adequate wildlife passage or for a recreational trail.”

Next Meeting December 13 5 pm Forest View Elementary School