

New Hope Creek Corridor Advisory Committee

Minutes of Meeting of March 10, 2011

(Present: Goebel, Kent, Healy, Welch, Brendan Moore)

- (1) There was considerable discussion of organizing for the March 19 Bird and Butterfly Festival at Sandy Creek Park. The attached folder gives details. Various additional tasks were parceled out. Electronic versions of flyer are attached to transmittal note to these minutes and NHCCAC members and supporters are encouraged to print some out and publicize the event widely.

- (2) The Committee discussed and passed the following resolution:

RESOLVED: The New Hope Creek Corridor Advisory Committee has over its 18 year existence resisted calls to become involved in development issues outside the area covered by the 1992 New Hope Plan. However, we believe that the "spite strip" provision of the UDO, as recently amended, reduces citizen rights in development processes throughout the city and county, including within our planning area. We are appalled at how this has been manipulated by the developer in the 751 Assembly case and how it may be picked up by those proposing future rezonings.

The NHCCAC therefore supports the "anti-spite strip" resolution as passed by the Durham Interneighborhood Council and urges city and county authorities to give its recommendations high priority.

INC resolution is below:

Appendix B

A RESOLUTION of the INTERNEIGHBORHOOD COUNCIL OF DURHAM on Spite Strips and Protest Petitions (Passed)

WHEREAS after several questionable deferrals, on May 24, 2010, Durham citizens filed a protest petition against Rezoning Case # Z0800003 (to rezone from 'Rural Residential' to 'Mixed Use Suburban' the ~167 acre parcel now removed from the protected watershed area); and

WHEREAS the NC General Assembly on July 9, 2010, passed Bill S1399 which changed Durham County's regulations for protest petitions in order to align them with the city's, but also removed the validity of signatures of landowners separated by more than 100 feet of road right-of-way from the parcel to be rezoned; and

WHEREAS on Jul 12, 2010, the current planning director ruled valid the Z0800003

protest petition; and

WHEREAS on July 13, 2010, in a highly unusual maneuver, NCDOT accepted a 40-foot strip of land along 751 (a "spite strip") as an easement for a future right-of-way, unknowingly bringing into question the interpreted validity of the Z0800003 protest petition, the learning of which caused NCDOT to subsequently reject this land 'donation' on July 26, 2010; and

WHEREAS on August 9, 2010, the Board of County Commissioners voted 3-2 to approve the Z0800003 rezoning, and the county attorney gave his opinion that the NCDOT revocation was not legal, thereby forcing the planning director to invalidate the protest petition; and

WHEREAS on September 9, 2010, protest petition signatories filed complaint with the Durham County Board of Adjustment (BOA) regarding the county's handling of the protest petition and its ruling in rezoning case #Z0800003, and on October 13, 2010, when the county deemed the case inappropriate for the BOA, the citizens filed complaint with Superior Court; and

WHEREAS it is unfair for citizens to be stripped of valid protest petition signatures, and therefore of their right to protect their interests from possible deleterious development immediately across the street/right-of-way, based solely on the width of that street/ right-of-way; and

WHEREAS there appears to be no reason for the exclusion of landowners from signing a protest petition based solely on the width of the street/right-of-way between his/her land and the parcel being considered for rezoning, except as a way to disenfranchise said landowners of the process by which to protect their interests;

NOW THEREFORE, BE IT RESOLVED that the InterNeighborhood Council of Durham, through its government and its members, requests Durham city and county government, to appeal to the NC General Assembly, as necessary and remove from the following quoted protest petition requirements the following phrase: "as long as that street right-of-way is 100 feet wide or less" (UDO 3.5.13B.1.b.2). "To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less" (UDO 3.5.13B.1).

- (3) The New Hope Audubon Society voted on March 7 to join with us in submitting a proposal (up to \$25,000) for bridge, walkway and other improvements in Sandy Creek Park to the Toyota Forevergreen program. This is a grant program open only to Audubon chapters, though they can partner with others. Deadline is May 31. Announcement of winners in August. City of Durham

will write proposal, with our input. Audubon wanted to make sure that project, if funded, would be done. We can provide letters from NHCCAC and other organizations promising our participation. Keeping track of funds should be simple as they will be almost entirely for materials.

Next NHCCAC meeting Thursday, April 14 5 pm at Cluhouse of Garrett Farms development