

February 12, 2019

Robert G. Healy for the New Hope Creek Corridor Advisory Committee

Testimony offered on environmental aspects of the Patterson Place Compact neighborhood plan and regulations.

The New Hope Creek Corridor Advisory Committee was established in 1992 to advise the governments of the City of Durham, Durham County, Orange County and the Town of Chapel Hill on the implementation of the newly adopted New Hope Creek Corridor Plan. We have met monthly since that time. With the generous and consistent support of the local jurisdictions, we have reviewed dozens of development proposals and have created four new parks along the New Hope, each 50-100 in size, as well as acquiring scores of acres of land and access easements.

One of our consistent concerns, supported by specific recommendations in the New Hope Plan, has been to maintain a wildlife (and where possible recreational) corridor along the New Hope and its major tributaries. Over the years, the governmental jurisdictions we advise have invested at least \$5 million in protecting the integrity of this corridor. This includes not only land acquisitions, but also zoning decisions and the raising of the 15-501 bridge to facilitate wildlife movement.

The steep slopes near 15-501 were specifically identified in the New Hope Plan as important to the functioning of the corridor. We also note that the land where 15-501 crosses New Hope Creek is a "pinch point" for wildlife movement, since the floodplain area is narrow, and is further constricted by a power line easement. As you know, the functions of a corridor are limited by its most narrow point.

In order to understand the impact of development near Patterson Place on New Hope corridor values, we sought the advice of six people with both significant professional qualifications and deep knowledge of the New Hope corridor in the vicinity of the property on the north side of 15-501 extending from SW Durham Drive and the creek floodplain and the 15-501 bridge.

Three of the people who gave us advice have Ph.D.'s in wildlife ecology/landscape ecology. The others have Master of Environmental Planning or Master of Regional Planning or similar graduate degrees. All have specific experience with the New Hope, in four cases amounting to 30 years or more per person. One was the author of the 1987 Durham Inventory of Natural Areas, which initially identified the importance of the New Hope Corridor.

Here is what we learned:

- (1) These experts confirmed our belief that the environmental value of this land does not lie in the presence of endangered species, but in its function as part of a regional wildlife corridor linking extensive lands, including four City of Durham/Durham County/Orange County parks, as well as Duke Forest and the Corps of Engineers land. Establishing these parks as well as acquiring other lands in the corridor involved millions of dollars in funding from the federal government, the state of North Carolina, the City and County of Durham, the town of Chapel Hill, Orange County and private sources. The 15-501 crossing is a major "pinch point" where the corridor narrows considerably, making the quality of land around the crossing of great regional importance.

(2) With regard to the area north of 15-501 and east of Mt. Moriah Rd., our experts unanimously told us the following:

--the west side of the property, including the area where the developer proposes to build a road/bridge across an ephemeral creek, makes relatively little contribution to the corridor. Our experts did not consider water quality/runoff in the creek, which even now drains a large impervious surface and likely carries polluted water into the New Hope drainage. We trust that this will be considered in planning for the property and storm water management for specific projects.

--the long stretch of property on the north side, parallel to 15-501 has a significant amount of mesic hardwood forest on steep northward facing slopes. It does contribute to the function of the corridor.

--the most important part of the property from a corridor standpoint is the steep slope on the eastern end, both the slope itself and the forest area on top of it. This land has been extensively degraded by the recent clearcut, but if left ungraded and unbuilt on, natural values will fairly quickly return.

---the placement of buildings on the site, including lighting and building massing, is important even when part of the land is left undeveloped. There is a spillover of effects, our experts said, from portions of the property used for buildings and roads to the undeveloped part of the site.

--Our experts' "bottom line," offered unanimously, was that the original staff recommendation of a 300 foot setback from the floodway fringe and strict protection of steep slopes would offer the best protection of the corridor functions.

(3) The New Hope Creek Corridor Advisory Committee is quite aware that environmental protection must be balanced with reasonable economic use of the site. We are therefore intrigued by the staff recommendation that there be (1) strict protection of slopes (2) a zone, measured from the edge of the compact neighborhood boundary in which any development would require a special use permit from Durham City Council. **The staff recommends that this zone be 200 feet from the boundary. Based on our experts' input regarding what lands are important to corridor functions, we believe that 300 feet would be preferable.**

What attracts us to the Special Use Permit idea is that it would allow debate over exactly what is proposed to be built on sensitive parts of the site, rather than a general rezoning. Specific tradeoffs could be discussed publicly between conservation and development, and creative design could be used to minimize impacts, while protecting economic values. The New Hope Advisory Committee has never been, nor we are now "density bashers." We recognize that in the Patterson Place area much higher densities are needed both to take advantage of (and support) transit and to provide funding for low and moderate income housing. **We want to emphasize that we are not asking for a 300 foot "no build" zone. Rather we are asking that special scrutiny be applied to developments within this area so that the important values of the New Hope Corridor are retained.**

While we support the staff recommendation for a Major Special Use Permit and City Council review, we are concerned that the general criteria for permit issuance do not deal with specific aspects needed to implement the New Hope Plan. We therefore request that, in this specific case, the criteria for issuance of a Special Use Permit (Section 3.9.8 B. Review Factors) be modified as follows:

In Section 3.9.8 B. 4 Lighting add “and impacts on wildlife use of the New Hope Corridor”

And In Section 3.9.8 B. 8 Environmental Protection add “consistency with the New Hope Corridor Plan”

And in Section 3.9.8 B. 10. Effect on Nearby Properties add “on wildlife and recreational use of the adjoining New Hope Creek Corridor”

The developer has requested that, given use of such a zone, there be provision for very small case by case exemptions from the steep slope part of the ordinance, where that is necessary to designs that further both conservation and development objectives. We have no objection to such a provision, provided that it is part of a general debate over how a specific development affects the overall corridor function of the property and adjacent land.

We are aware that the owner of large tracts of land north of 15-501 and bordering the New Hope and its Dry Creek tributary has, using weak environmental protections that pre-date the Compact Neighborhood plan, and the unfortunate absence of a moratorium during the long planning process, recently secured a grading permit. If this is exercised, it would greatly degrade the site, in violation of both proposed regulations and the provisions of the 1992 New Hope Plan. **We hope that this maneuver will not be rewarded when the site is rezoned.**

We hope that the Planning Commission, in its advisory capacity, and the City Council and County Commission will find a way to allow development compatible with the environmental values of this site and consistent with the functionality of a corridor that has to date benefitted from enormous financial and regulatory support since the multi-jurisdictional New Hope Corridor planning group was first established way back in 1989.