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## COUNTY OF DURHAM

February 7, 2005

**MEMO TO:** Durham Chapel Hill Work Group

**FROM:** Michael M. Ruffin, County Manager

**SUBJECT:** Potential Regional Park at Erwin /Pickett Roads on property owned by Duke University

### **The Regional Park Concept**

At the Durham-Chapel Hill Work Group in December 2004, Commissioners from Durham County requested the input from the elected officials representing Orange County, Chapel Hill, and the City of Durham regarding the viability and desirability of a regional park located on the south side of Erwin Road at the Orange-Durham County line on property currently owned by Duke University. The 42.8-acre parcel is under option by Crosland Properties for a subdivision, and Durham County has placed a reservation in effect until April 8, 2005 to determine whether it wants to acquire the property. The Work Group requested that the staffs of the four jurisdictions meet to flesh out pros and cons of a joint park, and to present a report at the February 9<sup>th</sup> Durham Chapel Hill Work Group.

The intended functions of the proposed regional park were left to the staffs to define, with trail access and parking for the New Hope Creek corridor the only clearly defined uses. The staffs of the four jurisdictions met to review the merits of the park on January 21<sup>st</sup>, and the managers of the four jurisdictions met to review the staff findings on January 26<sup>th</sup>.

### **Background**

Duke University is selling 42.83 acres located on the south side of Erwin Road and east of Pickett/Randolph. This land is split by the County line, with 11.19 acres in Orange County and 31.63 acres within Durham County. The property was listed in a 1988 Duke University report as no longer integral to the Research Forest functions and thus available to sell for income.

Crosland Development has the entire 42.83 acres under option for purchase. They have an approved subdivision plan for the 31.6 acres within Durham County. The plan includes 41 lots based on County subdivision regulations, using a clustered design that includes 14.05 acres of open space and 17.6 acres in roads and lots. If the property were annexed by the City of Durham, the City rules (which vary slightly from the County) would permit 49 lots on 20.76 acres, with 10.87 acres of open space preserved. Under both scenarios, the Orange County portion of the property (11.19 acres) was proposed for a conservation easement to be dedicated to Orange County that will include public access. The Developer has also shown a conservation easement with public access granted to Durham County for a portion of the open space totaling approximately 3.5 acres, located on the open space north of the proposed entrance road and on

the south side of the road on the west side of the creek. The easement will allow public access for a trail through this portion of the development's open space for the Solterra community and others to the north. The trail would then connect to the Orange County portion of the property and eventually over to New Hope Creek.

The Durham City/County Subdivision Ordinance allows a public agency to reserve public facility sites for 120 days if they are shown in an adopted plan. The ordinance provides that a public agency may request a 120-day delay while it secures acquisition of the site by purchase contract, option to purchase, or by initiating condemnation. If at the end of the 120 day time period none of the actions has occurred, the subdivider may consider the land free from reservation and apply for revised preliminary plat approval for private use of the property. Durham County did request the time delay to provide time to review the merits of potential acquisition of the property. This reservation for Durham County would run until April 8, 2005. By that time Durham County needs to have reached agreement with Duke University regarding whether the County will acquire the property.

### **The New Hope Plan and Implementation**

The New Hope Creek Corridor Plan was adopted by all four jurisdictions in 1991. The Plan calls for a public access point and trail head on approximately 8 acres on the west side of Pickett Road within Orange County that is owned by Duke University but not under option by Crosland. Both parcels owned by Duke University are outlined in red on the attached map. The Plan proposes the Orange County portion of the Crosland tract to be protected as open space as well. The Plan does not specifically call for the acquisition of the Durham County portion of the Duke/Crosland site, although its preservation would support the goals and intent of the overall Plan. To the west, closer to New Hope Creek, the Plan further calls for the acquisition of the floodplain area from Erwin Road down into Durham County to south of NC 15-501 for open space and trail access. Orange County and Triangle Land Conservancy have been actively working on acquiring open space lands in this stretch between Erwin Road and the Orange/Durham County line. Trail access is still needed through two properties owned by Trinity School and the Penny's.

The Penny family owns a total of 59 acres in this area, highlighted in purple on the attached map. This includes 20 acres of floodplain land within Orange County that the New Hope Plan proposes to be preserved with trail access along New Hope Creek. They also own an additional 39 acres of uplands on both sides of Pickett Road within Durham County. The property on the west side of Pickett Road includes their personal home. The property on the eastern side of Pickett Road consists of approximately 15 acres that includes a historically significant home; the tract borders the southern boundary of the Duke University owned land. The Penny's have indicated their interest in potentially preserving both their floodplain and upland as additional open space if the Duke University property was also preserved. The Penny's proposal would involve public acquisition of the floodplain, and potential sale or donation of conservation easements on the upland portion. The Penny's indicated their preference that an easement for the 15 acres on the east side would retain the Patterson historic home, with the reserved rights for either two additional home sites or one additional home site plus one athletic field.

Members of several of the surrounding neighborhoods, called the Erwin Area Neighborhood Group (EANG), would like the Duke University property to be publicly acquired and preserved for permanent open space. They advocate its preservation as a key implementation measure of the New Hope Creek Plan, and believe it would provide important public open space in this rapidly developing area. The EANG mentions the number of new subdivisions that have been approved by the City of Durham in this general vicinity, while there are no public parks in close proximity. The EANG has also supported the desirability of preserving the Penny property as part of an overall open space effort in this location. The New Hope Creek Advisory Committee has recommended the preservation of both sites as well.

**Acquisition Costs/ Funding**

Duke University has indicated their willingness to sell the 42.8-acre parcel to Durham County for \$1,500,000, which is considerably more than Crosland’s \$1,050,000 contract price. The additional money would be compensation for Crosland’s sunk costs and to compensate Crosland so they would forego their current valid option to purchase. Duke indicates that this purchase price is not negotiable. Duke representatives have indicated there could be some flexibility on the actual closing date, but that the purchase contract could not include contingencies to allow for fund raising from outside sources. This purchase price equates to \$35,022 per acre for the entire 42.83 acres or \$47,423 per acre for the Durham County portion of the property (since the Orange County portion was proposed for open space). The County will continue to work with Duke University to negotiate a purchase price more closely tied to Crosland’s original contract price.

The property may have potential for several environmental or recreational grants including CWMTF, NCEEP, PARTF or LWCF. Most of these programs have a favorable funding history for multi-jurisdictional projects. However, most of these also have submittal and approval cycles that last considerably beyond the April 8th acquisition deadline. This means that Durham County and other entities would have to contract to purchase the property without certainty regarding whether grant funds would be awarded or not.

The EANG held a fund raising campaign kick-off on January 25<sup>th</sup>, 2005, to help raise private funds to assist with the acquisition. They have received \$40,000 in pledges to date. Their goal is to raise \$100,000 in pledges that could offset the public acquisition cost for the property.

**Summary of Potential Parcels**

<b>Acreages</b>	<b>Total</b>	<b>Durham Co</b>	<b>Orange Co</b>
Duke University - Crosland tract	42.8	31.6	11.2
Duke University - west of Pickett Rd	8	0	8
Penny owned lands –	59	23	36
<b>Potential Regional Park Total</b>	<b>109.8</b>	<b>54.6</b>	<b>55.2</b>

**Staff Review of the Regional Park Concept**

Open Space and Parks staffs from the four jurisdictions met to discuss the joint park concept and what uses and functions a regional or multi-jurisdictional park could take at this location. Trail access through the site was considered desirable, whether the site was publicly

acquired or not. The proposed trail would ideally provide access for the neighborhoods to the north and east of this property over towards Pickett Road and to the lands proposed for a trail along New Hope Creek. The New Hope Plan calls for a public access point/ parking area within Orange County in this general location, which could be provided on a portion of the Duke / Crosland tract, or on additional land owned by Duke University located on the west side of Pickett Road. Providing the major access and parking on the west side of Pickett Road has the advantage of not requiring the crossing of Pickett Road to access the New Hope Creek lands. The staffs believe the Plan's original location for the parking lot on the west side of Pickett Road is preferable if the land can be obtained from Duke University for that purpose.

The staffs also discussed any proposed recreation uses. The City of Durham cited a need for an active recreation park in this general location, one that had sufficient developable acreage for several athletic fields, ball fields, parking and restrooms. The Town of Chapel Hill also indicated a need for more playing fields, although any funding potentially available from the Town was only for open space purchases. The site's relatively small size was an issue here, with only about 20 acres suitable for development purposes. Overall, the staff felt the proposed acquisition was better suited for an open space park with trails, picnicking etc. It was noted that even if the property was developed, at least 22 acres of the overall 42.8 acre property is proposed to be retained for open space; the public acquisition of the property only preserves an additional 20 acres of open space at a very high cost compared to open space opportunities in other locations.

The neighborhood had also proposed the development of the site for a "Folklore Center" as one option, and this possibility was discussed. The City of Durham expressed concern that they were in the processing of finalizing plans for the development of Leigh Farm, a historic park site along New Hope Creek in southern Durham that was considered an "anchor" in the adopted New Hope Plan. There is only a limited amount of funding for park sites that do not feature active recreation and any funding by the City would be prioritized for Leigh Farm, which has been on the City's priority list for a decade. Each jurisdiction brought up the issue that the development costs for the proposed park site were additional costs over and above the acquisition cost for the property, resulting in very high total project cost.

The staffs also thought the portion of the Penny acreage within the floodplain proposed for public acquisition and trail access was still integral to the Plan's implementation and a high priority. The additional upland acreage proposed for conservation easements was not included in the Plan, and was felt to be a low priority for use of public funds given other protection priorities. This upland acreage would potentially increase the project's total acreage, however, it may also add to the overall project cost since it is not clear whether the additional acreage proposed for the conservation easement would be donated or sold.

**Each Jurisdiction's Position on the Joint Park concept is outlined below:**

**Durham County**

Durham County has approximately \$200,000 available for open space protection this fiscal year that could be allocated towards this purchase. To date, the County has targeted its open space protection efforts within New Hope Creek south of this area within an adopted 530-acre acquisition area that targeted lands of high priority for protection in the New Hope Plan.

Since 1994, the County has acquired 270 acres in eleven parcels from willing sellers within this focus area. Approximately 260 acres remain to acquire within the area from 13 owners. In April 2004, the County also adopted open space protection priorities for the Little River corridor, based on the adopted Little River Open Space Plan. Within that watershed, the Board of County Commissioners has adopted a set of priority preservation parcels for 24 properties that could total in excess of 1000 acres. While these are long-term preservation goals, they must be balanced against new preservation opportunities. Because of the County's limited funds and existing set of priorities, the staff recommends that the proposed acquisition of the Duke University tract be undertaken only in conjunction with a joint financial effort with other jurisdictions.

The County will also work with Duke University in an attempt to negotiate a lower purchase price more closely tied to Crosland's original contract price. A lower purchase price is critical to making this potential acquisition more feasible for Durham County and the other jurisdictions potentially interested in participating. The discussions with Duke University will also focus on the importance of securing for public ownership the smaller 8 acre triangle on the west side of Pickett Road that is the preferred location for the main public access point in this area in the New Hope Plan.

#### **City of Durham**

The City administration is supportive of any efforts to provide an open space park in this location and felt it could be a very nice amenity for the area. However, the City's financial participation in the project is not possible at this time due to the long list of adopted priorities for use of park funds that far exceed the existing funding available, and for the following reasons:

1. The City is currently developing Leigh Farm Park as a historical site in SW Durham – it is investing \$200,000 this year in final property acquisition and first stages of development. Protection and development of this site for a park was a direct implementation measure of the New Hope Plan.
2. The City is currently developing the Old Chapel Hill Rd. Park site for (a) active recreation and an (b) environmental education site jointly with Githens Middle School
3. No funds are available now for new parkland acquisition without taking funding from either Leigh Farm or Old Chapel Hill Rd. Park.
4. The City's Master Plan for parks does call for a new park in this area - but it says that the park needs to include active recreation uses, i.e. athletic fields. Several athletic fields would need to be planned as part of any joint park before any participation on the part of the City would make sense given their finances and existing active recreation needs.
5. The City of Durham has not paid more than \$25,000 / acre for recreation land to date; and while they recognize that they may have to do so in the future, no funds are presently budgeted for acquisition at the proposed purchase price for the Duke University tract.

#### **Orange County**

Orange County is and has been supportive of efforts to provide additional open space in the New Hope Creek area; noting that its preservation would complement the acquisitions called for in the New Hope Plan. Orange County has funding available to purchase and protect open space within Orange County, and has worked in conjunction in the past few years with the Triangle Land Conservancy (TLC) to help protect lands along the New Hope Corridor. The

County holds a conservation easement on the former Hollow Rock Store site at Erwin Road and New Hope Creek, which is adjacent to land owned by TLC.

Orange County has an adopted set of priorities for acquisition through its Lands Legacy Program, which guides the decisions on where to use these funds. For the New Hope Creek area, the priorities include the 8-acre parcel owned by Duke that is proposed for the Hollow Rock Access Area (New Hope Plan), as well as other floodplain lands that would provide open space connections and trail access along New Hope Creek from Erwin Road south to the Durham County line. The 11-acre portion of the Duke/Crosland tract is not in the County's Lands Legacy Action Plan priority list, and while preservation of this site is consistent with the long-range plans, it is not envisioned to be as integral to the Plan as the other parcels targeted in the Lands Legacy Program. In this spirit, the County is prepared to accept the proposed donated conservation easement that retains the 11 acres largely in open space and permits public access for future trail development.

Orange County is willing to work with other jurisdictions on this potential project. Contemplation of an alternative scenario that requires Orange County to buy the 11 acres currently included in the Erwin Trace proposal would necessitate weighing the importance of the purchase against other, already articulated land acquisition goals.

**Town of Chapel Hill:**

The Town of Chapel Hill staff was also supportive of the idea of additional open space being preserved in this area. However, the staffs did not recommend the use of any town funds towards the acquisition for the following reasons:

1. The Town has a total of \$539,000 in open space funding remaining through at least the fall of 2006. For these funds, there is an adopted list of targeted "Properties of Interest" that would total at least several million dollars to acquire.
2. The Town recently received state authority to purchase open space lands outside of the town limits. Any such acquisitions would have to be within Orange County and only for fair market value. Therefore the town's potential participation is probably limited to the 11-acre portion of the Duke/Crosland land located within Orange County
3. The staff also felt the cost/benefit ratio for the Duke acquisition was very high for the additional open space benefits gained from the property's preservation.
4. However, the Chapel Hill Town Manager believes that the Chapel Hill Town Council might be willing to participate in the purchase of the property if Durham County and the City of Durham took leadership positions in the form of substantial contributions. More specifically, he believes that the Chapel Hill portion of the cost in such a partnership purchase might be a maximum of \$100,000 paid over a three-year period, with the remainder of the costs being paid by Durham County, the City of Durham and Orange County.

**Summary**

The managers and staffs of the four jurisdictions reviewed the potential desirability of a multi-jurisdictional park for the 42.8-acre Duke-Crosland tract. Due to site constraints, if the property was acquired, the park's best use is for open space and not active recreation. The managers reviewed the merits of a \$1,500,000 open space acquisition in this location and the

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potential benefits gained from the purchase. In summary, each jurisdiction has limited funds available, and a long list of adopted open space and recreation priorities that far exceed the funding available. Given the competition for limited funds from a wide range of open space and recreation projects, each jurisdiction has reservations regarding their potential funding and participation for the proposed regional park unless the purchase price can be lowered substantially.

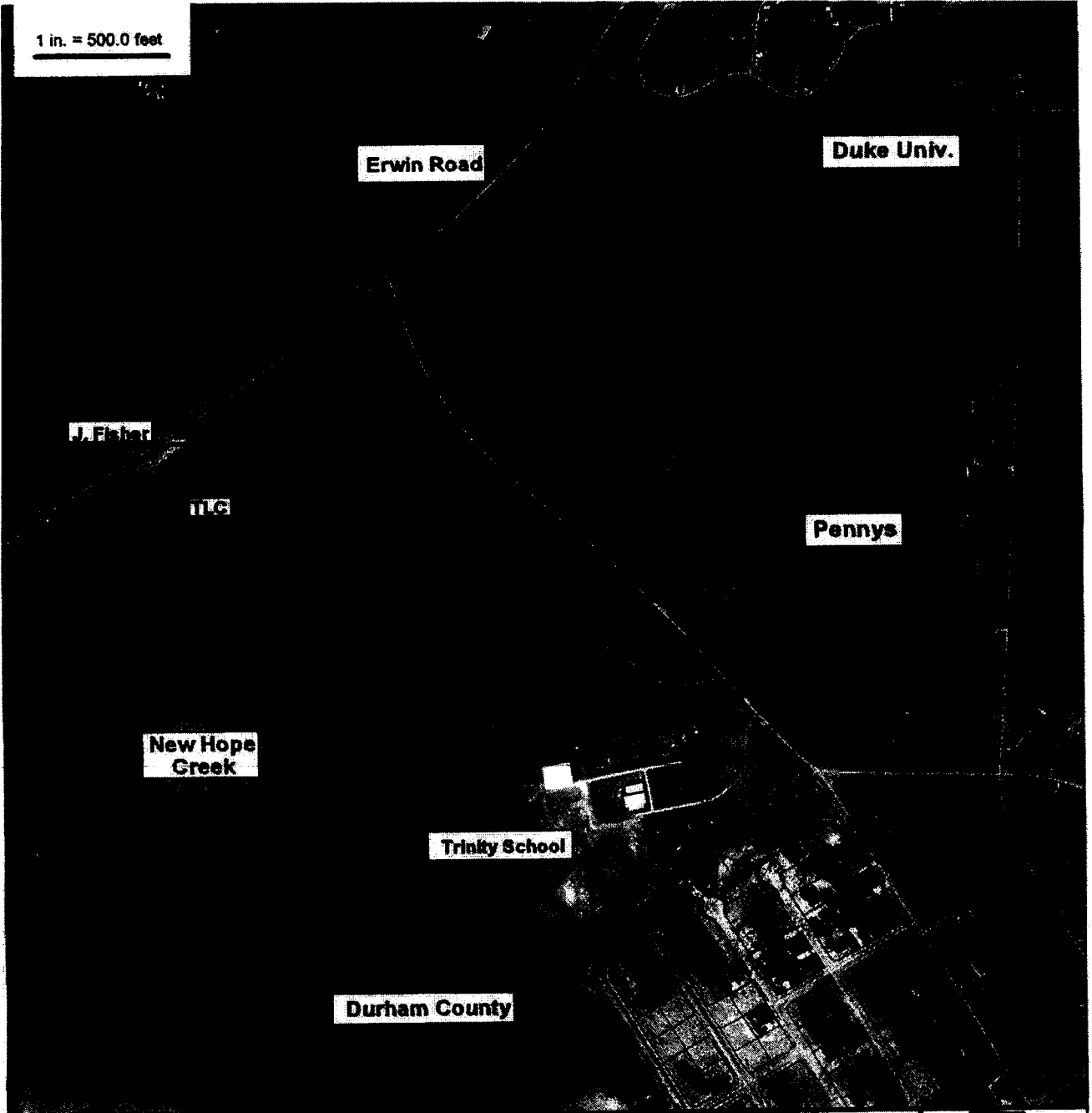
The jurisdiction's review also concurred that the better location for an access point and major trail head for the New Hope corridor was on the west side of Pickett Road, as proposed in the adopted New Hope Plan. Trail access through the Duke-Crosland tract was considered desirable, and can be provided if the property is privately developed without any additional expenditure, through the proposed easement that includes public access that is shown on the plan to be dedicated to Durham County. There was some mutual recognition of the need for additional athletic fields in the general vicinity, but this site did not appear to be appropriately configured to accommodate more active recreation development.

Durham County will continue to assess the interest of local governments and stakeholders and negotiate with Duke University regarding the purchase price and potential to acquire the additional 8 acre triangular tract.

Attachment: aerial map of vicinity

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1 in. = 500.0 feet



Duke Univ. / Potential Regional Park Site

