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Subj: Mountans to Sea Trail discussion as part of our meeting about OWASA

Hey Bernadette and Pam:

Thank you for meeting with Terri Buckner and myself the week before last. As a follow-up to our discussion about the Forestry Management program, Rich Shaw and I joined others on a conference call on November 1st with Darrell McBane and the team at NC DENR who's responsible for the trail and land conservation. During the telephone conversation Darrell and his team made it clear that the state's responsibility for the MST is limited to the concept plan and the management of the trail on state property (such as the Eno River State Park).

Darrell went on to say that Orange County government is responsible for determining the routing, as well as the development and maintenance of the trail in Orange County - except on state parklands. County responsibilities include working with homeowners to secure easements and inform them of their responsibilities and liabilities if they allow the trail to run on their property. In my mind, this is a daunting task since Darrell clarified that any of the maps that have been generated thus far are concept plans and the alignment is entirely dependent on the willingness of property owners to allow it on their parcel(s). The final alignment of the trail could be much different from that on the concept plan.

The DENR team is available to help, only if invited by the county. The state does have templates for easements and information about liability insurance and other issues that are of interest to homeowners. They also said the law authorizing the MST does not permit the use of eminent domain to take land.

The DENR team explained that the Friends of the MST (FMST) is a marketing organization with no authority to commit or represent the legal issues to the public. DENR holds FMST in high regard and values the work and commitment of 300 volunteers - but FMST holds no legal standing in a discussion of rights, responsibilities or liabilities. That role falls to the county.

Having heard that the alignment of the trail is up in the air until codified by a series of contiguous easement agreements with property owners, I would offer the suggestion that further work on OWASA's Cane Creek properties is not where the energies and focus of the Orange County staff need to be expended. There are many, many different routes that the trail could take across OWASA's Cane Creek properties and the focus of the Orange County staff has been to identify a singular route based on assumed locations for ingress and egress.

This focus has caused property owners in the vicinity of the assumed locations for ingress and egress to become concerned because of the paucity of (or complete lack of) details regarding the overall alignment, permissible uses, access, parking, security, etc. The OWASA Board communicated several years that OWASA will entertain allowing an easement for the trail pending not only the ability to work out concerns about watershed protection and safety, but also that the trail across OWASA's property be a part of the contiguous system.

It would seem to me that with the commitment from OWASA in-hand, that the Orange County staff charged with codifying the alignment and acquiring the easements should change their focus very broadly and transparently, to an almost door-to-door campaign, along a very wide swath northerly from Bradshaw Quarry Road between Mebane Oaks Road and Orange Grove Road all the way to Hillsborough, to ascertain what the property owners are inclined to allow the trail on their land.

In a like manner, the alignment of the portion of the trail south of the Cane Creek reservoir will need to be determined. As that work progresses there will need to be some mechanism for answering the questions about permissible uses, access, parking, security, etc. This in turn will define the points of ingress and egress across the Cane Creek properties upon which the alignment around the reservoir can be finalized; by that time, the public will have been well-notified, the willing property owners identified and many of the issues will have been worked out.

I hope that the conversation we had with Darrell McBane and the team at NC DENR clarifies the process and County's role.

Warm regards, Michael

P.S. Another point worth noting - the DENR team is now working to coordinate proposed trails with their proposed bikeways (I don't recall the name of the project). I think that we heard that the plan is to ask NCDOT to make provision for an additional 5 foot shoulder area on state roads and highways for bicycles and hikers. For Orange County - Bingham in particular - this might be a way route the trail through some areas where easements on private land might not be feasible, and that is to co-locate it along the NCDOT roads with ample shoulder area or a path on the right-of-way behind the ditch; we are constructing some sidewalks in Durham using this method..