

**Via E-mail**

March 13, 2024

U.S. Fish & Wildlife Service  
Raleigh Ecological Services  
P.O. Box 33726  
Raleigh, NC 27636

Attention: Mr. Leigh Mann

Re: Request for Information and Comment  
Proposed Residential Development  
739 Hatley Road  
Pittsboro, North Carolina  
H&H Job No. EPK-001

Dear Leigh,

Hart & Hickman, PC (H&H) is requesting information concerning protected species and habitats on or near the above-referenced site (hereafter referred to as the “Site”). This request is submitted to satisfy property due diligence actions for land development, which could involve Section 404/401 wetland/stream impact permitting. This request is not being submitted due to the use of federal funds.

The Site is located at 739 Hatley Road in Pittsboro, Chatham County, North Carolina (Site or subject Site). The Site consists of one parcel (Chatham County Parcel ID Number 9772-00-79-6324) that comprises approximately 130 acres of land. The Site currently exists primarily as undeveloped land with an outbuilding associated with a former residential structure located in the southern portion of the Site. Parkers Creek flows through the northern portion of the Site, and unnamed tributaries of Parkers Creek are located throughout the Site. A Site location map is provided as Figure 1 and representative photographs are attached.

In order to investigate the potential presence of protected flora and fauna on the Site, H&H completed the following activities:

- utilized the US FWS Information for Planning and Consultation (IPaC) tool to generate and review a Site-specific list of federally-listed T&E species potentially present on the Site (<https://ipac.ecosphere.fws.gov>);
- reviewed the Natural Heritage Program (NHP) online database for records of federally-listed T&E species occurrences for Chatham County on the NHP website (<https://www.ncnhp.org/data/species-community-search>);
- utilized the NHP online Data Explorer tool to create a Project Review report for the subject Site;
- reviewed the Federal Registry and the US FWS Critical Habitat for T&E Species online mapping tool on the US FWS website (<http://crithab.fws.gov>); and
- conducted an on-Site visual survey in order to field screen the Site and peripheral areas for federally-protected species and/or their habitats.

#### NC WRC

H&H requested comment on the potential presence of protected flora and fauna on the Site from the NC WRC by a similar letter. A response from NC WRC is pending.

#### Federally-Listed Threatened and Endangered Species

H&H utilized the US FWS IPaC tool to generate a Site-specific list of federally-listed T&E species potentially present on the Site, which included the following protected species:

- Red-cockaded woodpecker (*Picoides borealis*) – Endangered
- Cape Fear Shiner (*Notropis mekistocholas*) - Endangered
- Atlantic Pigtoe (*Fusconaia masoni*) – Threatened
- Harperella (*Ptilimnium nodosum*) – Endangered

The monarch butterfly (*Danaus plexippus*) and the tricolored bat (*Perimyotis subflavus*) are also included as candidate species and a proposed endangered species on the IPaC report, respectively but are not yet federally protected under the Endangered Species Act. The IPaC Report indicates that there are no critical habitats located on the subject Site. The IPaC report is attached to this letter.

H&H also utilized the DEQ NHP online Data Explorer tool to create a Project Review report for the subject Site. The Project Review report indicates that there is one natural area, Big Woods Road Upland Forests, documented on the subject Site. The report does not indicate other records of rare species, important natural communities, natural areas, managed areas, or elemental occurrences of federally listed T&E species identified on the subject Site. Two natural areas and four managed areas are documented within one mile of the Site.

#### Critical Habitats

H&H completed a review of Federal Registry information pertaining to federally designated critical habitats for the T&E species listed above on the US FWS critical habitats online mapping tool. There are no federally designated critical habitats located on the Site or in the area surrounding the Site.

#### Visual Survey

On September 15, 2023, H&H conducted a visual survey of the Site to observe for individuals or stands of T&E species and areas of potential habitat that would support federally protected species known or believed to occur in Chatham County, North Carolina as listed above.

Although pine species were observed on the subject Site, H&H determined that suitable habitat does not exist for the Red-cockaded woodpecker (*Picoides borealis*). The majority of pine trees on-Site were not mature growth. Additionally, the understory consisted primarily of dense scrub-shrub growth. H&H did not observe resin cavities within mature pine trees indicative of Red-cockaded woodpecker roosting habitat. Therefore, H&H has determined that the potential for the Red-cockaded woodpecker to be present at the project Site appears low.

H&H did not observe evidence of the Atlantic pigtoe (*Fusconaia masoni*) or its habitat on the subject Site. Although the Site intersects portions of Parkers Creek and unnamed tributaries, the Atlantic pigtoe exists in stable, silt-free streams with excellent water quality, where flows are sufficient to maintain clean, silt free substrates, which was not observed within the on-Site water bodies. H&H observed evidence of excessive sedimentation from surrounding development as well as trash and woody debris within the stream channels. The surrounding area consists of residential development. Given that the Atlantic pigtoe is highly threatened by sedimentation and pollution from development, the on-Site streams are not considered potential habitat. Therefore, H&H has determined that the potential for the Atlantic pigtoe to be present at the Site is low.

H&H did not observe evidence of the Cape Fear shiner (*Notropis mekistocholas*) or its habitat on the subject Site. According to the Cape Fear shiner guidance on US FWS Raleigh Ecological Services Field Office website, the Cape Fear shiner is typically associated with shallow, rocky shoals within main river channels, which was not observed within the on-Site water bodies. H&H has determined that the potential for the Cape Fear shiner to be present at the project Site is low.

H&H did not observe evidence of Harperella (*Ptilimnium nodosum*) or its habitat on the subject Site. Harperella habitat consists of rocky or gravelly shoals of clear, swift-flowing streams, which was not observed within the on-Site water bodies. H&H has determined that the potential for the Harperella to be present at the project Site is low.

Mr. Leigh Mann  
March 13, 2024  
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Please review the above information and provide a written response as to the potential for this project to affect protected species. If possible, please respond to this request within 30 days.

If you have any questions, please do not hesitate to contact us.

Sincerely,

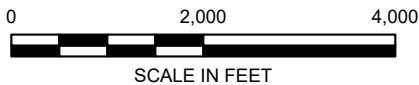
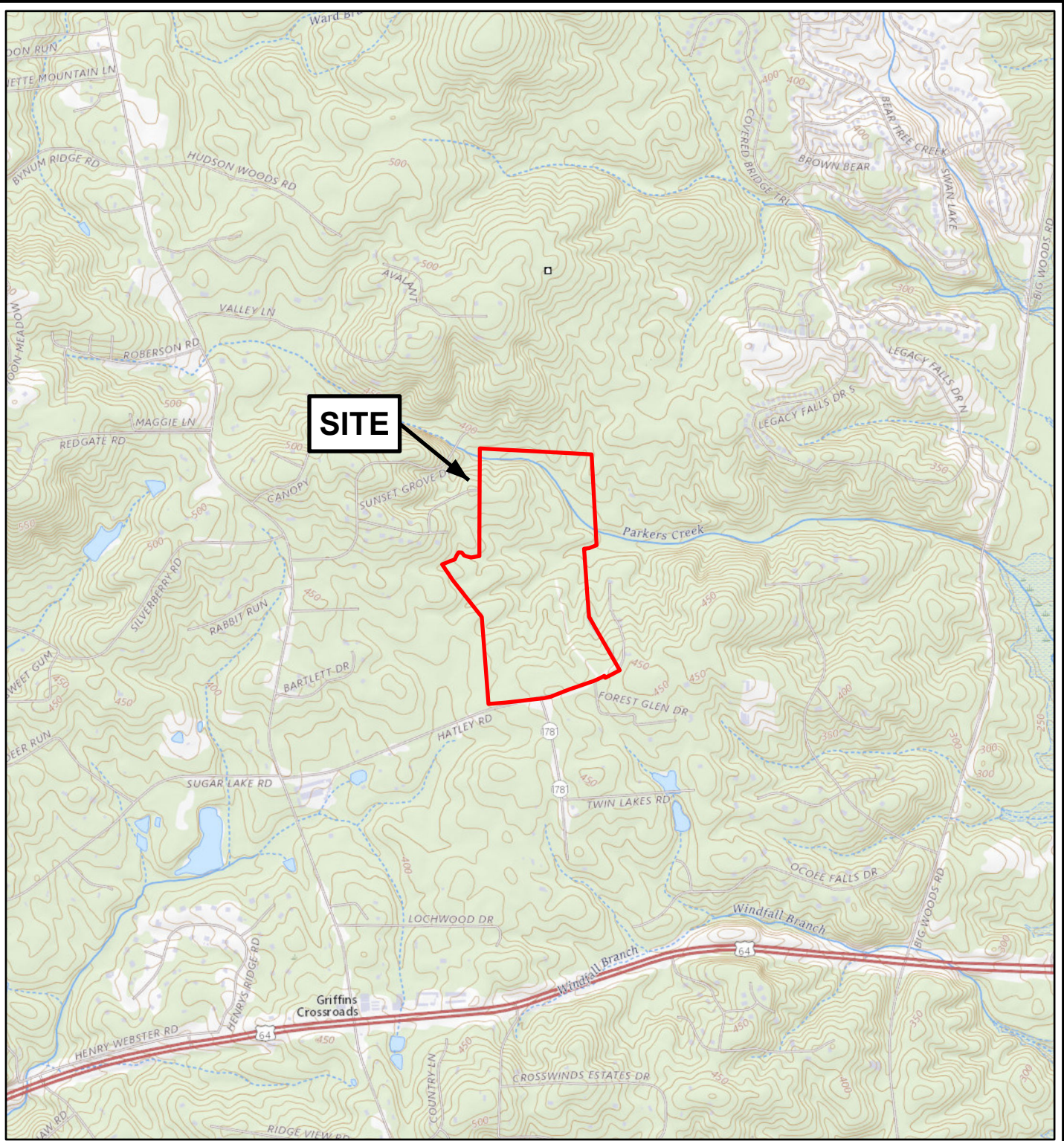
***Hart and Hickman, PC***

A handwritten signature in black ink, appearing to read "Dan McCauley". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan McCauley, PWS  
Sr. Project Environmental Scientist

Attachments:






U.S.G.S. QUADRANGLE MAP

**FARRINGTON, NORTH CAROLINA 2022**  
**MERRY OAKS, NORTH CAROLINA 2022**

QUADRANGLE  
 7.5 MINUTE SERIES (TOPOGRAPHIC)

TITLE		<b>SITE LOCATION MAP</b>	
PROJECT		<b>UNDEVELOPED PROPERTY</b> <b>739 HATLEY ROAD</b> <b>PITTSBORO, NORTH CAROLINA</b>	
 <b>SMARTER ENVIRONMENTAL SOLUTIONS</b>		3921 Sunset Ridge Suite 301 Raleigh, North Carolina 27607 919-847-4241 (p) 919-847-4261 (f) License # C-1269 / # C-245 Geology	
DATE: 9-6-23		REVISION NO: 0	
JOB NO: EPK.001		FIGURE NO: 1	





Photograph 1: General view of the northern portion of the site.



Photograph 2: General view of the eastern portion of the site.





Photograph 3: General view of the southern portion of the site.



Photograph 4: General view of the western portion of the site.





Photograph 5: General view of the central portion of the site.



Photograph 6: General view of Parkers Creek in the northern portion of the site.





## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Raleigh Ecological Services Field Office  
3916 Sunset Ridge Rd  
Raleigh, NC 27607-3726  
Phone: (919) 856-4520 Fax: (919) 856-4556

In Reply Refer To:  
Project Code: 2024-0058137  
Project Name: EPK.001

March 05, 2024

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological



evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Raleigh Ecological Services Field Office**

3916 Sunset Ridge Rd

Raleigh, NC 27607-3726

(919) 856-4520



## PROJECT SUMMARY

Project Code: 2024-0058137

Project Name: EPK.001

Project Type: Residential Construction

Project Description: The site is located at 739 Hatley Road in Pittsboro, Chatham County, North Carolina. The site consists of one parcel (Chatham County Parcel ID Number 9772-00-79-6324) that comprises approximately 130 acres of land. The project proposed to construct single family residences on the site.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.7539098,-79.07547589460586,14z>



Counties: Chatham County, North Carolina

## ENDANGERED SPECIES ACT SPECIES

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### MAMMALS

NAME	STATUS
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/10515">https://ecos.fws.gov/ecp/species/10515</a>	Proposed Endangered

### BIRDS

NAME	STATUS
Red-cockaded Woodpecker <i>Picoides borealis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7614">https://ecos.fws.gov/ecp/species/7614</a>	Endangered

### FISHES

NAME	STATUS
Cape Fear Shiner <i>Notropis mekistocholas</i> There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/6063">https://ecos.fws.gov/ecp/species/6063</a>	Endangered

### CLAMS

NAME	STATUS
Atlantic Pigtoe <i>Fusconaia masoni</i> There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5164">https://ecos.fws.gov/ecp/species/5164</a>	Threatened



## INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

## FLOWERING PLANTS

NAME	STATUS
Harperella <i>Ptilimnium nodosum</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/3739">https://ecos.fws.gov/ecp/species/3739</a>	Endangered

## CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

## **IPAC USER CONTACT INFORMATION**

Agency: Hart & Hickman, PC  
Name: Danielle Clark  
Address: 3921 Sunset Ridge Road  
Address Line 2: Suite 301  
City: Raleigh  
State: NC  
Zip: 27604  
Email: dclark@harthickman.com  
Phone: 5185982862



Roy Cooper, Governor

D. Reid Wilson, Secretary

Misty Buchanan  
Deputy Director, Natural Heritage Program

NCNHDE-25190

March 5, 2024

Dan McCauley  
Hart & Hickman, PC  
3921 Sunset Ridge Road  
Raleigh, NC 27607  
RE: Hatley Road Residential ; EPK.001

Dear Dan McCauley:

The North Carolina Natural Heritage Program (NCNHP) appreciates the opportunity to provide information about natural heritage resources for the project referenced above.

A query of the NCNHP database indicates that there are records for rare species, important natural communities, natural areas, and/or conservation/managed areas within the proposed project boundary. These results are presented in the attached 'Documented Occurrences' tables and map.

The attached 'Potential Occurrences' table summarizes rare species and natural communities that have been documented within a one-mile radius of the property boundary. The proximity of these records suggests that these natural heritage elements may potentially be present in the project area if suitable habitat exists. Tables of natural areas and conservation/managed areas within a one-mile radius of the project area, if any, are also included in this report.

If a Federally-listed species is documented within the project area or indicated within a one-mile radius of the project area, the NCNHP recommends contacting the US Fish and Wildlife Service (USFWS) for guidance. Contact information for USFWS offices in North Carolina is found here: <https://www.fws.gov/offices/Directory/ListOffices.cfm?statecode=37>.

Please note that natural heritage element data are maintained for the purposes of conservation planning, project review, and scientific research, and are not intended for use as the primary criteria for regulatory decisions. Information provided by the NCNHP database may not be published without prior written notification to the NCNHP, and the NCNHP must be credited as an information source in these publications. Maps of NCNHP data may not be redistributed without permission.

Also please note that the NC Natural Heritage Program may follow this letter with additional correspondence if a Dedicated Nature Preserve, Registered Heritage Area, Land and Water Fund easement, or an occurrence of a Federally-listed species is documented near the project area.

If you have questions regarding the information provided in this letter or need additional assistance, please contact the NCNHP at [natural.heritage@dncr.nc.gov](mailto:natural.heritage@dncr.nc.gov).

Sincerely,  
NC Natural Heritage Program



Natural Heritage Element Occurrences, Natural Areas, and Managed Areas Intersecting the Project Area  
 Hatley Road Residential  
 Project No. EPK.001  
 March 5, 2024  
 NCNHDE-25190

Element Occurrences Documented Within Project Area

Taxonomic Group	EO ID	Scientific Name	Common Name	Last Observation Date	Element Occurrence Rank	Accuracy	Federal Status	State Status	Global Rank	State Rank
Crustacean	25541	Cambarus davidi	Carolina Ladle Crayfish	2007-03-14	E	3-Medium	---	Significantly Rare	G3	S3

Natural Areas Documented Within Project Area

Site Name	Representational Rating	Collective Rating
Big Woods Road Upland Forests	R5 (General)	C5 (General)

No Managed Areas Documented within the Project Area

Definitions and an explanation of status designations and codes can be found at <https://ncnhde.natureserve.org/help>. Data query generated on March 5, 2024; source: NCNHP, Winter (January) 2024. Please resubmit your information request if more than one year elapses before project initiation as new information is continually added to the NCNHP database.

Natural Heritage Element Occurrences, Natural Areas, and Managed Areas Within a One-mile Radius of the Project Area  
 Hatley Road Residential  
 Project No. EPK.001  
 March 5, 2024  
 NCNHDE-25190

Element Occurrences Documented Within a One-mile Radius of the Project Area

Taxonomic Group	EO ID	Scientific Name	Common Name	Last Observation Date	Element Occurrence Rank	Accuracy	Federal Status	State Status	Global Rank	State Rank
Crustacean	25541	Cambarus davidi	Carolina Ladle Crayfish	2007-03-14	E	3-Medium	---	Significantly Rare	G3	S3
Natural Community	25720	Dry-Mesic Basic Oak--Hickory Forest (Piedmont Subtype)	---	2010	CD	2-High	---	---	G3G4	S3

Natural Areas Documented Within a One-mile Radius of the Project Area

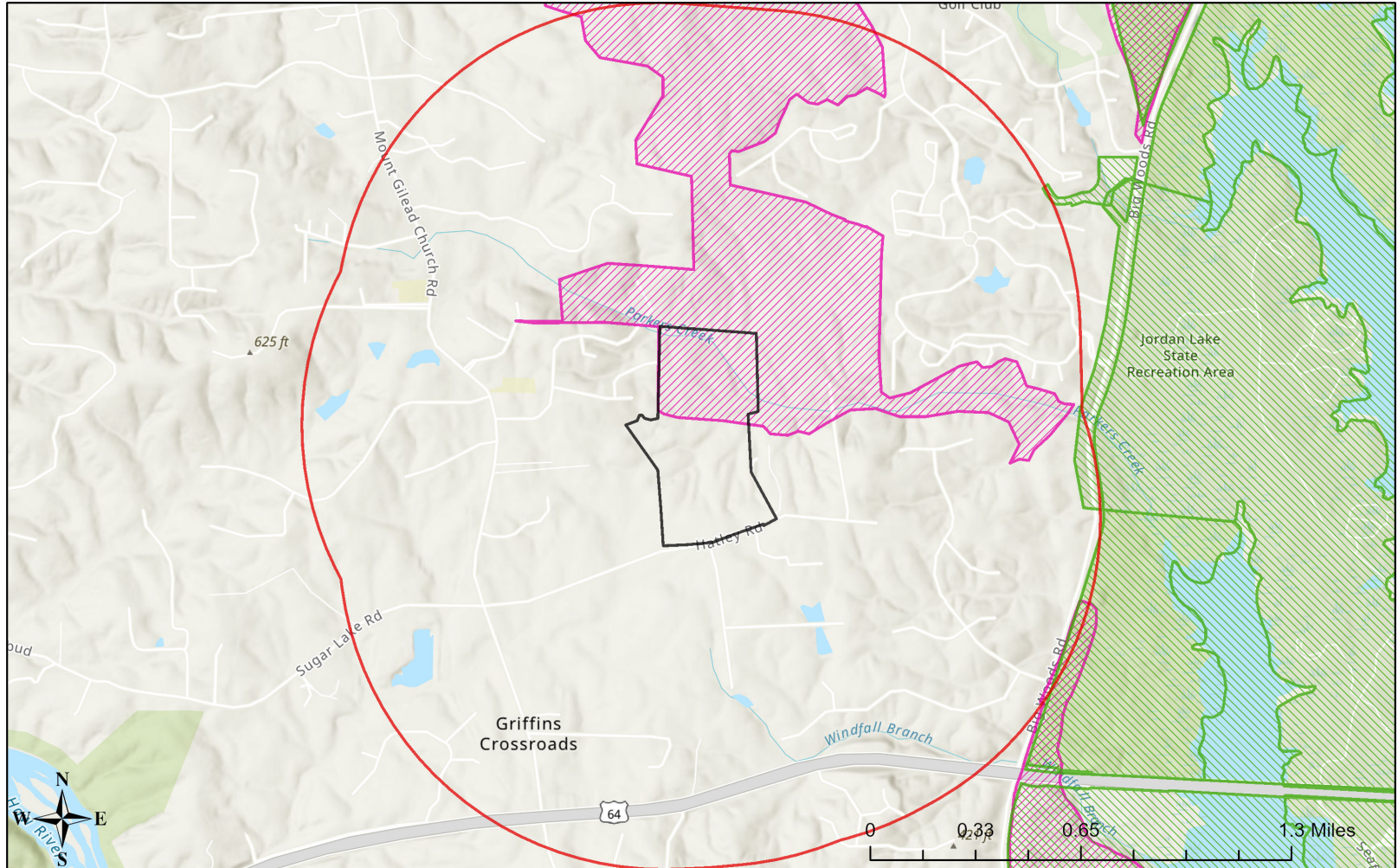
Site Name	Representational Rating	Collective Rating
Big Woods Road Upland Forests	R5 (General)	C5 (General)
Parkers Creek Ridges	R5 (General)	C5 (General)

Managed Areas Documented Within a One-mile Radius of the Project Area





Managed Area Name	Owner	Owner Type
B. Everett Jordan Dam and Lake	US Army Corps of Engineers	Federal
Jordan Lake Educational State Forest	US Army Corps of Engineers	Federal
North Carolina Agricultural Foundation Preserve	The North Carolina Agricultural Foundation, Inc.	Private
Jordan Lake State Recreation Area	NC DNCR, Division of Parks and Recreation	State

Definitions and an explanation of status designations and codes can be found at <https://ncnhde.natureserve.org/help>. Data query generated on March 5, 2024; source: NCNHP, Winter (January) 2024. Please resubmit your information request if more than one year elapses before project initiation as new information is continually added to the NCNHP database.

# NCNHDE-25190: Hatley Road Residential



March 5, 2024

-  NHP Natural Area (NHNA)
-  Managed Area (MAREA)
-  Buffered Project Boundary
-  Project Boundary

Esri, NASA, NGA, USGS, FEMA  
UNC, Chatham County, NC, State of North Carolina DOT, Esri, TomTom, Garmin,  
SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, NPS, US Census  
Bureau, USDA, USFWS