

Amy Harvey

From: Geoffrey Green
Sent: Tuesday, September 24, 2024 10:01 AM
To: Town Council
Subject: Major Subdivision application on Grand Alexander Court

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Mayor and council members —

I express no opinion on whether the major subdivision application for Grand Alexander Court should be approved, based on the standards in the LUMO. However, to the extent the Council is permitted to take into account past behavior of the applicant, I would urge you to look closely at the applicant's cavalier behavior and continued failure to comply with Town regulations intended to protect neighboring people and properties.

You've heard from neighbors about his alleged misleading comments about his intentions for the land and problems with stormwater retention. I would like to point out a different way in which John Mackowiak has failed to safely develop this land, and it involves his knowing continuance, for many years, of a dangerous condition at the intersection of Grand Alexander Court and Pinehurst Avenue. Even though the major subdivision was approved in 2006 and a final plat filed (to my knowledge), and no construction activity had taken place on the site for years, a final asphalt layer was not placed on Grand Alexander Court for more than a decade. Because of that, the curb gutter was located more than an inch about the road surface, causing a tripping hazard for people using the sidewalk along Pinehurst. In fall of 2019, while jogging, I tripped and bloodied myself at that intersection. I contacted Town staff who apparently tried to work with Mr. Mackowiak to find an asphalt contractor to remedy the dangerous condition. (I received some emails from Town staff to that effect.) However, nothing was done and COVID happened.

Four years passed. In 2023, my wife tripped at the exact same location where no remedial action had been taken. A trip to the ER and some stitches later, she was fine. This time, when we contacted staff, Town's risk management reached out, orange paint was quickly laid down to identify the hazard, and Mr. Mackowiak FINALLY finished the roadway, after more than a decade.

(I emailed Mr. Mackowiak several times, but he never deigned to respond.)

I have no confidence that, if authorized to move forward with a more dense development, Mr. Mackowiak will comply with the Town's regulations. I'm not sure he knows what he is doing (his narrative notes that "[n]o developer or designer is involved with this application," which is clear because developers and designers have some competency and professional pride), and I have every expectation that he will continue to do a half-assed job. This may not be relevant to your decision as to whether the major subdivision application should be approved, but I thought you would like to know.

Mr. Mackowiak has spent more than 20 years on this endeavor to develop this land, and it's clear he doesn't know what he's doing. If the Council approves this major subdivision application, I'd ask the Town to keep a close look on his conduct because there's a good likelihood he'll continue to fail to comply with the Town's rules around land development and place neighbors at danger.

- geoff

Amy Harvey

From: Geoffrey Green
Sent: Tuesday, September 24, 2024 12:14 PM
To: Town Council
Subject: Re: Major Subdivision application on Grand Alexander Court

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Mayor and council:

A quick follow-up. First, I got my dates wrong. The second tripping incident occurred in the fall of 2022, and the final asphalt layer was installed in early 2023.

Second, shortly after my fall in 2019, the road (which at the time was private) was turned over to the Town by deed. I am surprised that the road was turned over even though it had not been completed to the Town's specifications. I am not sure if the Town formally accepted it, or if this was an effort by Mr. Mackowiak to evade responsibility for his lack of diligence in doing what he was supposed to do. In any event, I suspect the Town is jointly responsible, as they apparently owned a substandard and dangerous road for three years without making improvements which were clearly necessary (and without changing the street sign, which continued to identify it as a private road).

I appreciate Town staff's efforts in eventually getting the problem fixed, although despite sending emails I never received an explanation as to why it took so long to implement a simple and obvious fix.

Thanks.

- geoff

> On Sep 24, 2024, at 10:00 AM, Geoffrey F. Green <geoff@stuebegreen.com> wrote:

>

> Mayor and council members —

>

> I express no opinion on whether the major subdivision application for Grand Alexander Court should be approved, based on the standards in the LUMO. However, to the extent the Council is permitted to take into account past behavior of the applicant, I would urge you to look closely at the applicant's cavalier behavior and continued failure to comply with Town regulations intended to protect neighboring people and properties.

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>

> - geoff

Amy Harvey

From: dkbwell@mac.com
Sent: Wednesday, September 25, 2024 2:26 PM
To: Town Council; All Agenda Materials
Cc: Charnika Harrell
Subject: Council Agenda Item Major Modification of Aquabella Subdivision, #25-0456 Comment 9-25-2024
Attachments: Comments Town Council 9 25 24 Aquabella subdiv revision.docx

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Dear Town Council,

This is a complicated matter and I hope someone will take a look at this before the meeting. This project needs to be delayed pending a more coherent stormwater plan from the applicant and a better evaluation.

Thanks for the opportunity to comment.

DK Broadwell
1024 Pinehurst

David K. Broadwell, M.D.
1024 Pinehurst Dr.
Chapel Hill, NC 27517
25 September 2024

RE: Major Modification of Aquabella Subdivision, #25-0456

To: Chapel Hill Town Council

I live across the street from Aquabella. This is indeed a major modification of an approved plan, and I have been very disturbed by the process the Town has employed to evaluate its merit and suitability. I understand the Town is committed to increasing housing density in Chapel Hill, but this plan is a bad precedent and if approved will lead to problems for the neighbors and the people who purchase the lots.

The Lerner's, Alexander's and the Bissig's have shared their comments with me, and they have both listed the violation by the applicant of his own HOA bylaws, leading to litigation. How the Town can condone unilateral withdrawal from HOA covenants is bewildering to me. HOAs are in the LUMO and permits to build are not issued without LUMO approval.

The Town's failure to provide requested public documents in a timely manner is also disappointing and continues to this very meeting. Where is the Rare and Specimen tree survey that is required for the application? Where is the Planning Commission addendum passed last week that states, **"it would be valuable for Town staff to evaluate the location of the rare and specimen trees in relation to the proposed sub-division to ensure that the act of dividing the parcel doesn't lead to future development constraints.** Minor modifications made early in the process is preferable to major conflict and costly restoration at a later stage of development." Emphasis from PC.

That last tenet- looking at the big picture now to avoid future problems- is where rejecting approval of this plat for now would be of great service to the citizens and set a rational precedent for future infill projects.

The problem is, and will be, stormwater if this is approved. This has been inadequately evaluated. This application raises major concerns about the effect of this revised subdivision's runoff on surrounding neighbors. Failure to address this is a serious gap in the Town's assessment of this project. There has been virtually no consideration of how this proposal's stormwater endangers the neighbors, particularly at the northwestern edge of the plat. The ephemeral stream that is shown quickly becomes an ephemeral lake with as little as 1-2" of rain. Currently there is a large natural catch basin that fills up and slowly discharges. The town has videos of this- you already know the volume of

water that goes through the area. There is a reason that this section is a Resource Conservation District in the current approved plan- the water of this watershed needs somewhere to be retained before flooding homes.

It is telling that the application states, "The applicant intends to use the existing SCM for the proposed additional lots." This is the existing failing SCM. Applicant also presents there is a ridge that divides the runoff in two different directions. Most of the runoff goes into the existing RCD western basin, which he ignores. There is no justification for the new culvert penciled in on the NW side. This culvert is inadequate for dealing with this volume of water and irresponsibly dumps the water downstream on the neighbors. It now channels all stormwater *south* of Grand Alexander *directly* to the neighbors. The plan ignores any stormwater north of Grand Alexander, which will continue to flow into the RCD and will increase as impervious area increases with development. This bizarre culvert scheme would be laughable were it not for the inevitable and dire consequences for stormwater control.

John's draft presentation mentions some sort of Stormwater Control Management structures *adjacent to the sidewalk* on Pinehurst Dr. The one SCM he already manages doesn't work, and it's only one house. Why would the Council consider him a reliable participant in stormwater planning? His application is inconsistent and incomplete.

If this project meets approval under current LUMO rules, then the rules are inadequate. The process should serve above all LUMO's overarching purpose – 1.6 "the basic and minimum requirements for the protection of public health, safety, and welfare." If the Town is committed to infill projects like this one, the Town needs to acknowledge that such projects are not traditional subdivisions where a developer controls a large area. There's no buffer zone- whatever's built affects the neighbors and that should be part of the approval process. This is a bad precedent for the increased density development the council desires.

The seller has clearly stated he is not the developer and will sell individual lots and be done and gone. Ms. Harrell misunderstands this- she wrote me "I think we could recommend the developer apply for a Zoning Compliance Permit for the stream work before development is proposed on the affected lots." **Waiting until individual lot zoning compliance approval to deal with subdivision stormwater is too late, and it's irrational.** Every neighbor and interested party disagrees with your staff recommendation to approve. The stormwater, tree canopy and other LUMO issues CANNOT be separately verified lot by lot.

I pity the new lot owner. He or she wants to build and asks where's my drainage? There's a stream in my living room, as well as a giant hickory tree. And I emphasize that this volume of water is not going away, as major precipitation events become more common it will get worse.

The town needs to require a professional unbiased stormwater solution that considers the big picture before approval. It's possible the only practical solution is to allow part of

the plat to remain as a the currently designated resource conservation area and permit development of part. Don't most new subdivisions have runoff issues that require building a stormwater retention pond? Retaining the RCD would also probably take care of the rare and specimen tree problem that was emphasized by the Planning Commission.

The Council has the power and responsibility to do the right thing. If the Council cannot look beyond the immediate profit motive of the applicant, angry and litigious lot owners and flooded neighbors will be asking why this was allowed to happen. Please delay this approval pending a better evaluation and coherent stormwater plan.

Thank you for the opportunity to provide input.

DK Broadwell

Amy Harvey

Subject: FW: video (Fused Flooding)

Amy Harvey

From: Dimi Bissig <dimibissig@gmail.com>

Sent: Wednesday, September 25, 2024 4:27 PM

To: Town Council <mayorandcouncil@townofchapelhill.org>

Cc: Adam Searing <asearing@townofchapelhill.org>; Amy Ryan <aryan@townofchapelhill.org>; Camille Berry <cberry@townofchapelhill.org>; Elizabeth Sharp <esharp@townofchapelhill.org>; Jeanne Brown <jbrown2@townofchapelhill.org>; Jess Anderson <janderson@townofchapelhill.org>; Karen Stegman <kstegman@townofchapelhill.org>; Melissa McCullough <mmccullough@townofchapelhill.org>; Paris Miller-Foushee <pmiller-foushee@townofchapelhill.org>; Theodore Nollert <tnollert@townofchapelhill.org>; Amy Harvey <aharvey@townofchapelhill.org>; Ann Anderson <aanderson@townofchapelhill.org>; Carolyn Worsley <cworsley@townofchapelhill.org>; CHRIS BLUE <CBLUE@townofchapelhill.org>; James Baker <jbaker@townofchapelhill.org>; Loryn Clark <lclark@townofchapelhill.org>; Mary Jane Nirdlinger <mnirdlinger@townofchapelhill.org>; Ross Tompkins <rtompkins@townofchapelhill.org>; Sabrina Oliver <soliver@townofchapelhill.org>; Susan Brown <sbrown2@townofchapelhill.org>; Brittany Waddell <bwaddell@townofchapelhill.org>; Charnika Harrell <charrell@townofchapelhill.org>

Subject: Re: video (Fused Flooding)

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Thank you, Shay. Here a short description:

Where: All videos taken from private driveway 1023 Pinehurst (our property), next to John Mackowiak property, 100 feet from Pinehurst drive

1st video: after normal summer rain, showing the river like structure end depth of the basin

2nd video: Wonderful day with sun after thunderstorm, basin completely full and open 12-inch pipe/drain under our drive way

3rd video: Heavy rain, a person could get washed away when walking on our driveway, we don't pass with the car, again open 12-inch pipe/drain

Thank you,
Karl-Dimiter Bissig and Beatrice Bissig-Choisat

From: Town Council <mayorandcouncil@townofchapelhill.org>

Date: Wednesday, September 25, 2024 at 4:20 PM

To: Dimi Bissig <dimibissig@gmail.com>

Cc: Adam Searing <asearing@townofchapelhill.org>, Amy Ryan <aryan@townofchapelhill.org>, Camille Berry <cberry@townofchapelhill.org>, Elizabeth Sharp <esharp@townofchapelhill.org>, Jeanne Brown <jbrown2@townofchapelhill.org>, Jess Anderson <janderson@townofchapelhill.org>, Karen Stegman

<kstegman@townofchapelhill.org>, Melissa McCullough <mmccullough@townofchapelhill.org>, Paris Miller-Foushee <pmiller-foushee@townofchapelhill.org>, Theodore Nollert <tnollert@townofchapelhill.org>, Amy Harvey <aharvey@townofchapelhill.org>, Ann Anderson <aanderson@townofchapelhill.org>, Carolyn Worsley <cworsley@townofchapelhill.org>, CHRIS BLUE <CBLUE@townofchapelhill.org>, James Baker <jbaker@townofchapelhill.org>, Loryn Clark <lclark@townofchapelhill.org>, Mary Jane Nirdlinger <mnirdlinger@townofchapelhill.org>, Ross Tompkins <rtompkins@townofchapelhill.org>, Sabrina Oliver <soliver@townofchapelhill.org>, Susan Brown <sbrown2@townofchapelhill.org>, Britany Waddell <bwaddell@townofchapelhill.org>, Charnika Harrell <charrell@townofchapelhill.org>

Subject: RE: video (Fused Flooding)

Hello Dimi,

Thanks for your email and video. I have shared it with the Town Clerk, Mayor, and Council.

Thanks,

Shay Stevens



Shay C. Stevens | She/Her
Community Relations Manager
Manager's Office
[Town of Chapel Hill](http://TownofChapelHill.org)
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514-5705
Phone: (919) 968-2833

From: Dimi Bissig <dimibissig@gmail.com>

Sent: Wednesday, September 25, 2024 4:01 PM

To: Charnika Harrell <charrell@townofchapelhill.org>; Town Council <mayorandcouncil@townofchapelhill.org>

Subject: video

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Hi Charnika and Town Clerk

Please find attached the video (3:01 min) that I would like to show in full tonight.

Thank you,
Dimi & Bea Bissig

Amy Harvey

From: Town Council
Sent: Wednesday, September 25, 2024 4:15 PM
To: Reid Lerner
Cc: Adam Searing; Amy Ryan; Camille Berry; Elizabeth Sharp; Jeanne Brown; Jess Anderson; Karen Stegman; Melissa McCullough; Paris Miller-Foushee; Theodore Nollert; Amy Harvey; Ann Anderson; Carolyn Worsley; CHRIS BLUE; James Baker; Loryn Clark; Mary Jane Nirdlinger; Ross Tompkins; Sabrina Oliver; Susan Brown; Britany Waddell
Subject: FW: comments on Major Subdivision Application for 120, 121, and 130 Grand Alexander Court
Attachments: Reid Lerner Letter - September 2024.docx; Planning Commission Addendum from September 17th 2024.docx; Town SCM Inspection Report (July 2024).pdf; OWASA Utility As-Built.pdf; 29043 Grand Alexander Bioretention Report.pdf

Hello Reid,

Thanks for this email with your comments as well.

Best,

Shay



Shay C. Stevens | She/Her
Community Relations Manager
Manager's Office
[Town of Chapel Hill](https://www.townofchapelhill.org)
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514-5705
Phone: (919) 968-2833

From: Reid Lerner <reidlerner@gmail.com>
Sent: Monday, September 23, 2024 11:16 PM
To: Town Council <mayorandcouncil@townofchapelhill.org>
Cc: Reid Lerner <reidlerner@gmail.com>
Subject: comments on Major Subdivision Application for 120, 121, and 130 Grand Alexander Court

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Dear Chapel Hill Town Council,

Please find my comments attached regarding the Major Subdivision Application for 120, 121, and 130 Grand Alexander Court.

I have also attached supporting documents regarding my comments.

Regards,

September 22, 2024

Reid Lerner
121 Mulligan Drive
Chapel Hill, NC 27517

To Chapel Hill Town Council,

I oppose the proposal for the Grand Alexander Subdivision (Planning Project SUB-23-1). To be clear, I am not opposed to sustainable development that would minimize stormwater impact to neighboring properties and preserve the rare and specimen trees as required in the LUMO. There are, however, significant problems that have yet to be addressed by the developer.

- 1) Stormwater - the applicant has been in violation of Section "5.4.8 Stormwater Maintenance" in LUMO for past 17 consecutive years including as of September 22nd, 2024 in addition to other Stormwater violations

This land has significant stormwater issues. The developer has never been in compliance with Section 5.4.8 of the LUMO since the neighborhood was created in 2006. This is a violation of the resolution from the Chapel Hill Town Manager's office which created the neighborhood and a violation of the Homeowner's Association of Aquabella (please note that the Town Manager's office of Chapel Hill required the Stormwater maintenance requirements to be included in the Aquabella HOA to ensure compliance and maintenance). In addition, the developer has not responded to multiple requests from the town Stormwater Department to remedy this situation over the previous years. It was only after the June 2024 Planning Commission meeting that the developer submitted his first inspection report of the Bioretention Pond in Aquabella to the town in July 2024, claiming and attempting to certify compliance. The Chapel Hill Stormwater Division failed the submission with the word "FAIL" appearing 13 times in the July 2024 report from Chapel Hill Stormwater. In addition, there is an illegal 4 inch underground PVC pipe which is concentrating significant flow from the Aquabella neighborhood, dumping this onto our property and the Chapel Hill Country Club. This was not contained in the report but must be addressed by the town. These two violations are confirmed by two different employees of the Chapel Hill Stormwater Department (Jay Pereira and Zach Strickland) and by an independent stormwater consulting report from a stormwater engineering firm provided to the town of Chapel Hill in May 2022. Please note that this report also provided documentation from OWASA to the town's attention that the developer built 9 OWASA sewer connections prior to 2010 on the property without Chapel Hill Town approval to do so (the developer was approved for only four lots) as well as other Stormwater violations which have been confirmed by the Town of Chapel Hill Stormwater Department. Videos and pictures have been provided to the town. Both the Lerner family and the Chapel Hill Country Club are frustrated with the continued and long-standing lack of compliance and we have requested the Stormwater department in Chapel Hill to enforce the code since 2022. As suggested by the Town, both the Lerner and the Chapel Hill Country Club filed a Zoning Code Violation and Enforcement request with the Town of Chapel Hill on June 15th 2024. After over three months and at least 5 follow-up emails and meetings, we have not heard back from the town in writing. We request the Town of Chapel Hill to document these deficiencies in writing and require the developer to bring his current stormwater management into compliance and to modern-day current standards before even considering or approving additional development, which will only further increase the stormwater issues for the neighbors. Given 17 consecutive years of non-compliance and non-responsiveness of the developer to address existing concerns and given the recent failed attempt to demonstrate compliance, it would be irresponsible to assume this will be fixed by the developer in the future. Additionally, the town should be aware that there is no agreement in the Aquabells HOA for an annual fee to maintain the stormwater or common areas in the future so this risk of this situation re-occurring is high. A recent addendum from the Planning Commission agrees with our concerns as stated: "(1) the parcels in question are currently out of compliance with stormwater requirements (a fact conceded by the applicant); ... PC members understand that the applicant's obligation to remedy current non-compliance with

LUMO stormwater regulations exists regardless of the proposed subdivision, and neither the applicant nor any future owners of the parcels may obtain a zoning compliance permit to disturb land or erect structures without first establishing compliance with these requirements. PC members did not see fit to recommend to the Town Council a condition of approval restating what the applicant is already required to do, with or without further subdivision of the parcels. However, **this decision in no way minimizes the seriousness of the stormwater issues or the importance of timely and effective enforcement of stormwater regulations by the Town, about which neighbors have raised serious concerns.**” The bold language is from the Planning Commission and not from this letter. If the Town of Chapel Hill is not going to enforce the existing regulations of the LUMO and require LUMO compliance before additional approvals are provided, then what is the purpose of the LUMO rules?

2) Rare and Specimen Trees on the property should be preserved.

The town should be aware that there are rare and specimen trees on the property subject to subdivision. Because the developer provided a tree survey that is now 18 years old, the town may not have this information. According to the LUMO Section 5.7.6 Rare and Specimen Trees “no rare trees shall be removed unless the Town Manager determines there is no reasonable way the property can be otherwise developed, improved, or properly maintained, and the tree saved.” If the property were developed as it is currently plotted the rare and specimen trees could be saved. If the property is subdivided as proposed, the rare and specimen trees will not survive. This provision of the LUMO is intended to protect and preserve the environment, which cannot be achieved without accurate survey information. The Planning Commission of Chapel Hill has recently submitted the same request to the Town Council in the addendum to their recommendation stating (note the bold comes from the committee and not this letter: **“it would be valuable for Town staff to evaluate the location of the rare and specimen trees in relation to the proposed sub-division to ensure that the act of dividing the parcel doesn’t lead to future development constraints.** Minor modifications made early in the process is preferable to major conflict and costly restoration at a later stage of development.”

I urge the town to reject this application until the above issues can be rectified. Given the lack of remedy from the town for over 2 years, we have formally submitted a Board of Arbitration request. We believe this process should occur before any approval by the Town Council.

Sincerely,

Reid Lerner

The Planning Commission ("PC") received public comments from neighbors objecting to the proposed subdivision on that basis that, among other things: (1) the parcels in question are currently out of compliance with stormwater requirements (a fact conceded by the applicant); (2) it would violate HOA covenants; and (3) the proposed subdivision would effectively preclude saving certain "rare and specimen trees" currently present on the parcels.

The PC discussed the scope of its review under the LUMO and how the three objections described above tie to this remit. Under LUMO Section 4.6.5(a)(7), review of major subdivision applications focuses on "conformity with all applicable regulations listed in [the LUMO]."

Regarding the stormwater objection, PC members understand that the applicant's obligation to remedy current non-compliance with LUMO stormwater regulations exists regardless of the proposed subdivision, and neither the applicant nor any future owners of the parcels may obtain a zoning compliance permit to disturb land or erect structures without first establishing compliance with these requirements. PC members did not see fit to recommend to the Town Council a condition of approval restating what the applicant is already required to do, with or without further subdivision of the parcels. However, **this decision in no way minimizes the seriousness of the stormwater issues or the importance of timely and effective enforcement of stormwater regulations by the Town, about which neighbors have raised serious concerns.**

HOA covenants fall outside the scope of the LUMO.

Finally, staff advised PC members that LUMO requirements concerning rare and specimen trees (see LUMO section 5.7.6(b)) apply at the time of development (at which point landscape protection plans are required) and do not pertain to subdivision applications -- notwithstanding the possibility that the manner in which land is subdivided may impact the feasibility of saving rare and specimen trees. The PC's vote to recommend Draft Resolution A was based on this understanding of how the LUMO works. That said, **it would be valuable for Town staff to evaluate the location of the rare and specimen trees in relation to the proposed sub-division to ensure that the act of dividing the parcel doesn't lead to future development constraints.** Minor modifications made early in the process is preferable to major conflict and costly restoration at a later stage of development.

**Orange Water And Sewer Authority
Utility Notes for Aquabella Subdivision**

- Standards and Specifications - All construction shall be in accordance with OWASA Standards and Specifications dated August, 2003, latest revised version.
- Please be advised that OWASA approval of this project is for compliance with OWASA Policies, Standards, and Specifications only. All other matters pertaining to this project are the responsibility of the Design Engineer. The issuance of this letter does not preclude the Developer, Project Engineer, Contractor, or other Agents or Parties acting on their behalf from full compliance with OWASA current Standards, Specifications, and Procedures or from complying with any and all statutes, rules, regulations, and ordinances which may be imposed by other government agencies (local, state, and federal) which may have jurisdiction. Violations will result in the OWASA Project approval being rescinded.
- Preconstruction Conference - A preconstruction conference with the OWASA Construction Inspector is required before beginning any water or sewer utility construction.
- Contact the National "Call Before You Dig" 811 to have OWASA facilities located before beginning any excavation.
- Field Changes are not considered approved by OWASA unless revised plans have been submitted to OWASA for review and approval. Contractors that proceed with construction prior to this approval do so at their own risk.
- Sewer Statement - Sewer lines under construction shall be plugged with a mechanical plug at the first manhole upstream from the point of connection. Plug shall be placed in the outlet connection and secured with steel cable. Plug shall remain in place until acceptance of lines by OWASA. Before any construction is to begin on the site, Contractor shall protect all existing OWASA Sewer Manholes with iron fence post and orange tree protection fencing. Water, stone, dirt, or any other debris shall not be allowed to enter the OWASA Sanitary Sewer System during flushing operations or at any other time. Construction taking place in the vicinity of any existing OWASA sewer lines or manholes shall not cause any inflow of surface water or debris to enter the OWASA Sanitary Sewer System. Existing OWASA manholes located in construction sites are to be kept clear and accessible to OWASA personnel at all times. The Owner and/or Contractor shall be responsible for any damages incurred to the OWASA Sanitary Sewer System and any fines imposed by the State of North Carolina Division Of Water Quality due to sewer spills or overflows.
- Water Valves - Existing valves shall be operated by OWASA Personnel only. Valves that separate purified approved water and unapproved water are to remain closed at all times. Valves may be temporarily opened for loading and flushing by the OWASA Inspector only.
- Sewer Services - Each building connected to the sewer system shall be served by a separate building sewer of not less than 4" in diameter. Sewer services located within public right-of-ways or OWASA sewer easements must be constructed of ductile iron pipe from the tap up to and including the first clean-out. Except for dead end manholes, all 4" inch sewer services must be tapped into the sewer main. All 6" services must be connected to a manhole.
- Dechlorination Requirements - The Contractor shall be responsible for neutralization of chlorinated water at the point of discharge from the main being tested. This shall occur following chlorination to disinfect a main or any other time when elevated levels of chlorine could potentially be discharged into the environment by the Contractor. At the time the disinfection and purity testing procedures are discussed with the OWASA Construction Inspector, the procedure for dechlorination will be covered. Absolutely no flushing, disinfection, or purity sampling is to take place without prior approval of a sampling plan by the OWASA Inspector.
- Cross-Connection Control Ordinance - Backflow Prevention will be required in accordance with OWASA Cross-Connection Control Ordinance and Manual.
- Water Conservation Ordinance - All irrigation systems shall be equipped with automatic controllers that activate the system according to a desired frequency and duration, and shall also be equipped with rain or soil moisture sensors that will prevent irrigation during periods of rainfall or when there is sufficient moisture in the ground for plant health and survival in accordance with the local government Water Conservation Ordinances.

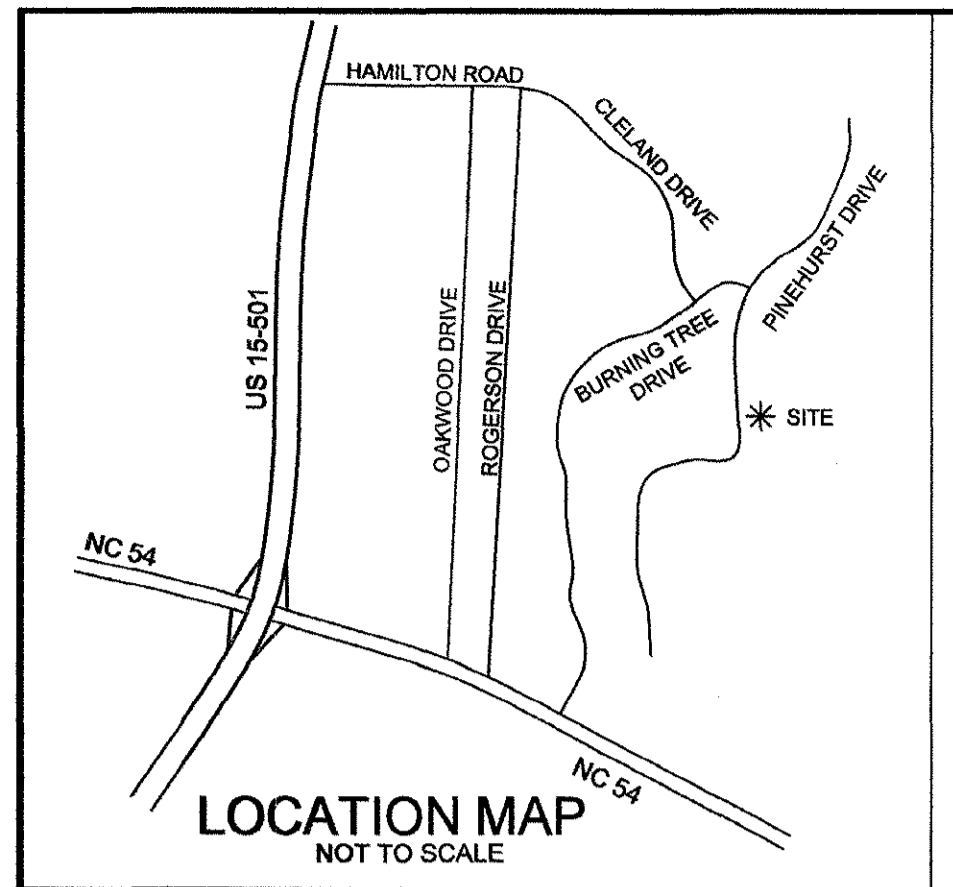
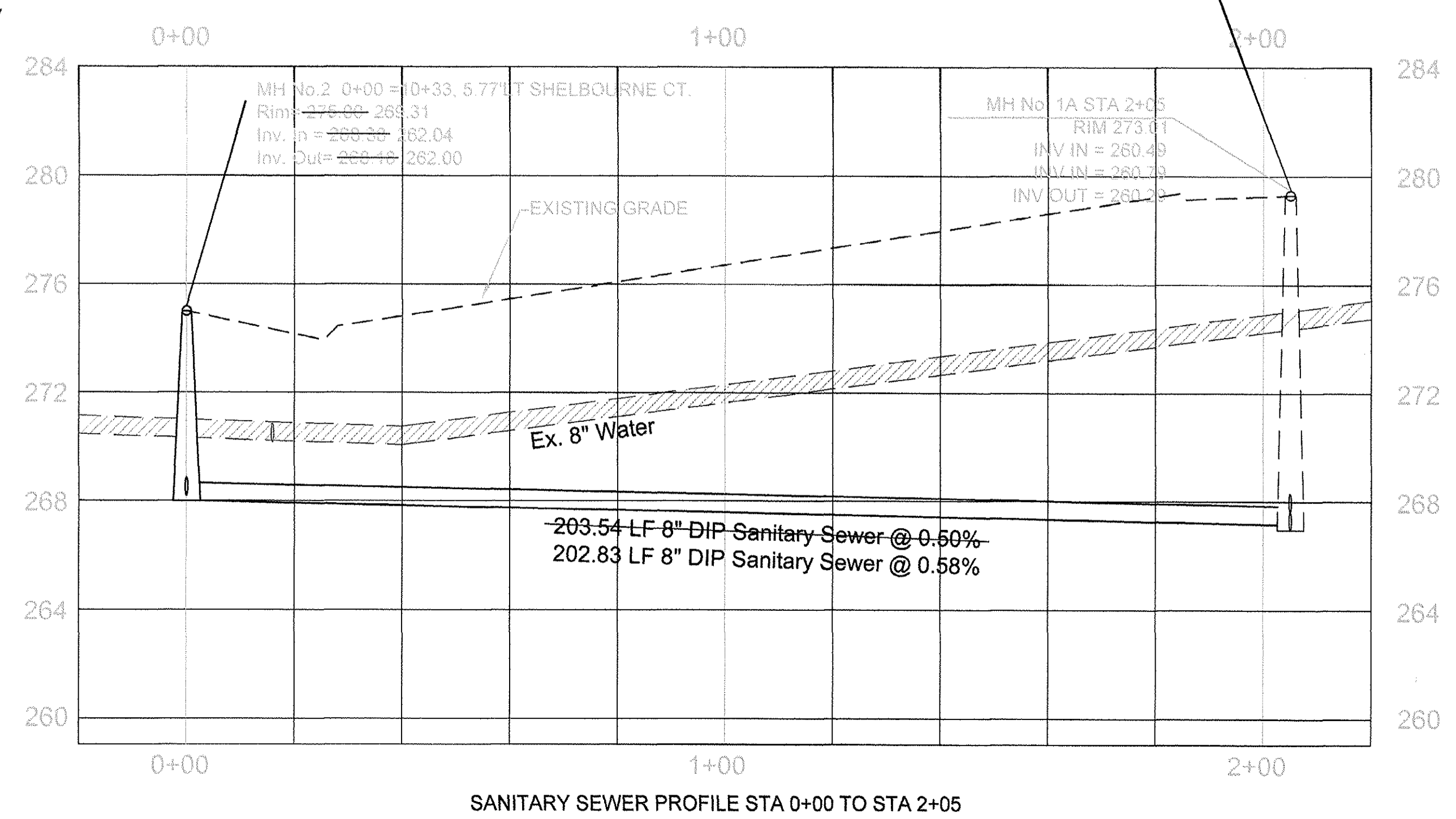
As-Built Notes:

- Sanitary Sewer Elevations have been converted to NAVD 88 and therefore do not match road design grades as shown.
- There is a difference of 6.28' between NAVD 88 and the design elevations.
- As-Built information supplied by Robinson & Plante, PC, Cary, N.C. dated: 4/15/10.

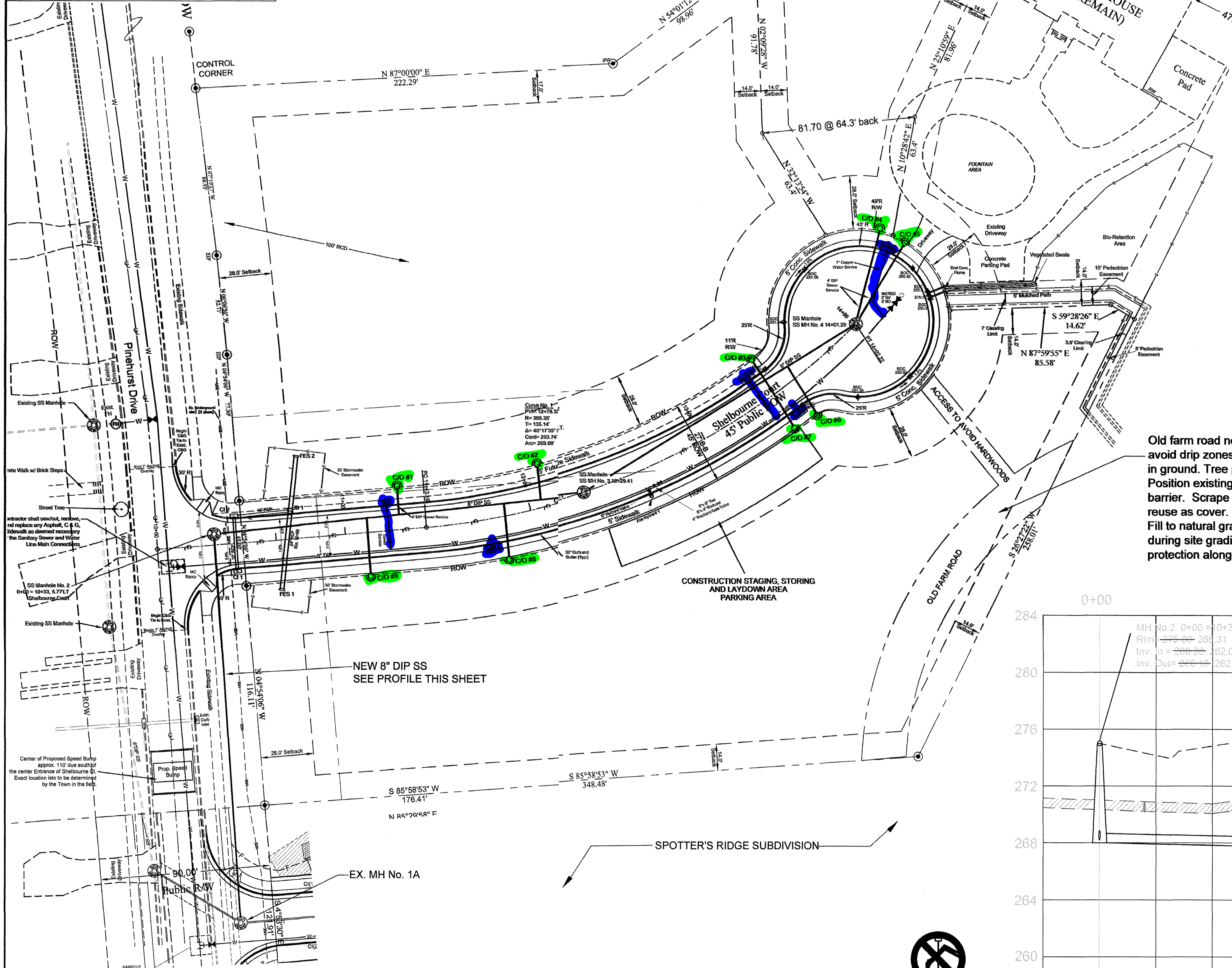
WATER, SEWER AND STORM DRAINAGE AS-BUILT 06/07/2010

Old farm road notes: 10' access route selected to avoid drip zones of hardwoods. Retain all stumps in ground. Tree protection along access only. Position existing brush pile as natural silt protection barrier. Scrape leaf mulch from logging road to reuse as cover. Remove impervious gravel base. Fill to natural grade with excess material created during site grading. Cover with leaf mulch. No tree protection along ridge of barrow site perimeter.

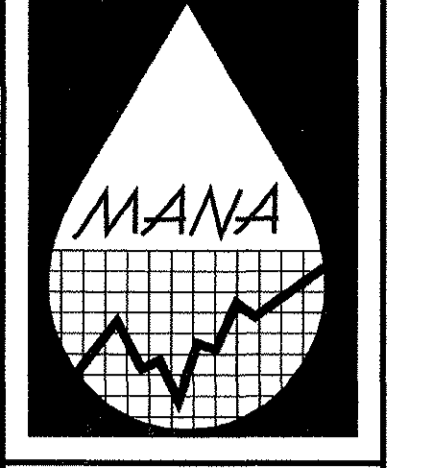
EX. FIELD/STAKEOUT DATA FROM BUDDY PLANTE DATED 4/30/09
MH NO. 1A
EX. RIM 279.28
EX. INV. IN 267.16
EX. INV. OUT 266.96
NEW INV. IN 267.16



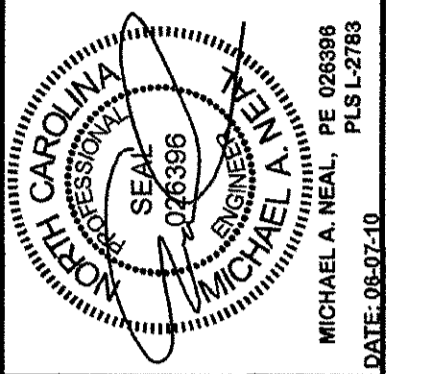
N/F
Michael C. Sheppa
PIN 9798670770
TMPL 7.54B.D.4
DB 1258/215



Scale: 1"=30'
BEFORE YOU DIG! CONTACT ONE-CALL CENTER 1-800-832-4949 ALL CONSTRUCTION MUST CONFORM TO THE UNDERGROUND UTILITY PROTECTION ACT



MICHAEL A. NEAL & ASSOCIATES, PLLC
ENGINEERS, SURVEYORS, and PLANNERS
105 WEST CORBIN ST.
SUITE 201
HILLSBOROUGH, NC 27278
(919) 644-1277
(919) 644-1347 FAX
mna@mana-intl.com



MICHAEL A. NEAL, P.E. 026396
DATE: 08/21/10

Aquabella Subdivision
1025 Pinehurst Drive, Chapel Hill, NC

Street and Utility Plan

Date: 06/07/10
Revisions:

Drawn By: TCL
Checked By: MAN
Project No: 124

Sheet 3 of 10

THESE DRAWINGS AND ACCOMPANYING SPECIFICATIONS ARE INSTRUMENTS OF SERVICE AND AS SUCH SHALL REMAIN THE PROPERTY OF THE ENGINEER AND/OR SURVEYOR. THESE DRAWINGS HAVE BEEN PREPARED FOR A SPECIFIC PROJECT AND SHALL NOT BE USED IN CONNECTION WITH ANY OTHER PROJECT WITHOUT PRIOR WRITTEN PERMISSION OF THE ENGINEER AND/OR SURVEYOR. MICHAEL A. NEAL, P.E. (MICHAEL.A.NEAL@MANA-INTL.COM)

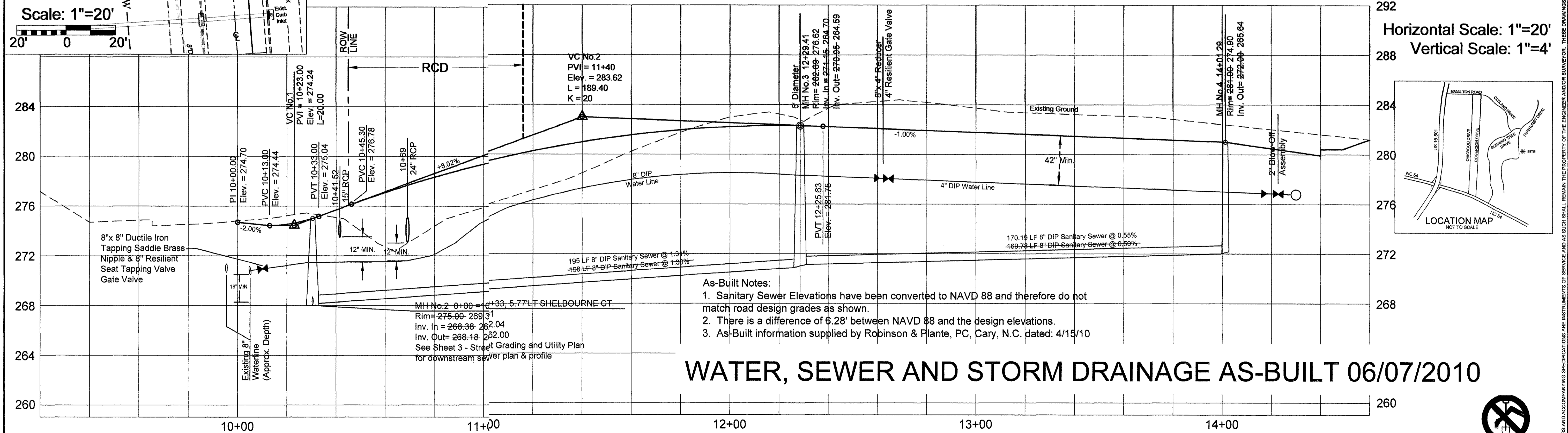
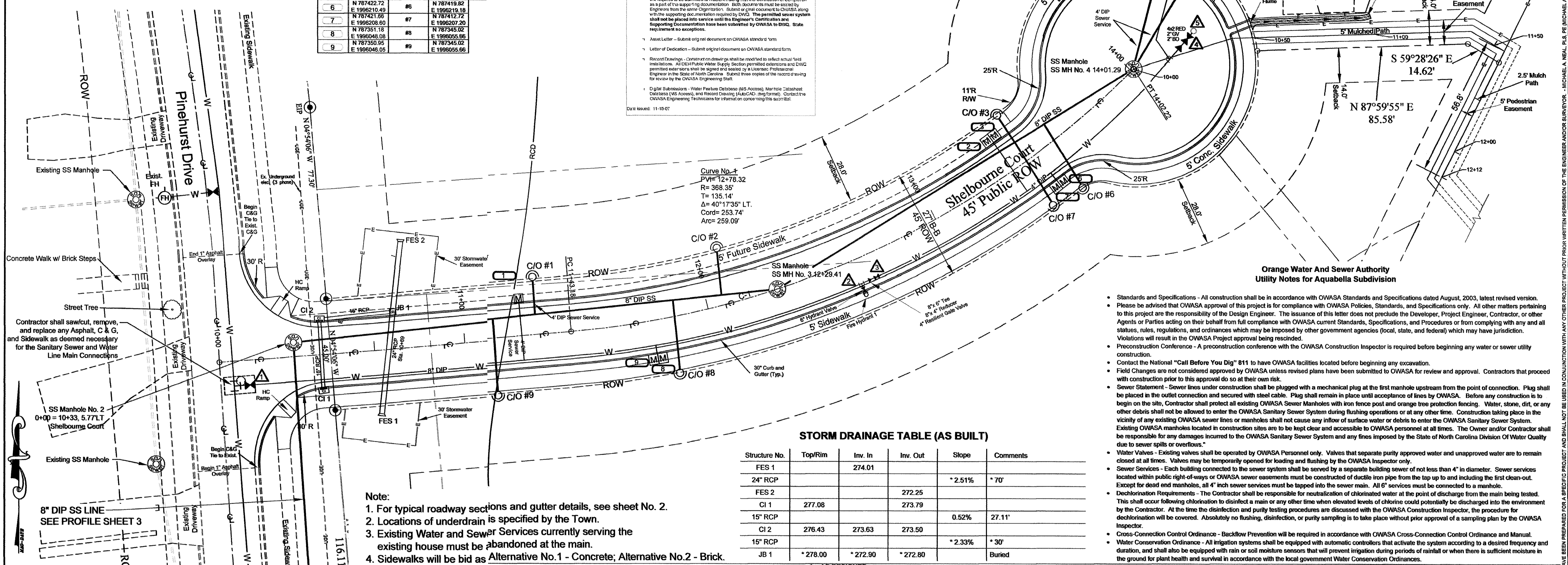
WATER METERS	COORDINATES	CLEAN OUTS	COORDINATES	COORDINATES	COORDINATES	COORDINATES
1	N 787374.96 E 1995990.19	#1	N 787383.55 E 1995995.60	1	N 787342.59 E 1995877.34	N 787376.86 E 1996132.01
2	N 787438.91 E 1996181.55	#2	N 787355.31 E 1996070.36	2	N 787382.62 E 1996129.53	
3	N 787440.18 E 1996183.16	#3	N 787448.80 E 1996184.36	3	N 787386.76 E 1996139.39	
4	N 787506.01 E 1996256.25	#4	N 787518.22 E 1996252.47	4	N 787479.81 E 1996265.02	
5	N 787507.34 E 1996256.10	#5	N 787510.78 E 1996255.87	5	N 787480.89 E 1996265.02	
6	N 787422.72 E 1996219.49	#6	N 787418.42 E 1996219.18			
7	N 787421.96 E 1996208.60	#7	N 787412.75 E 1996207.20			
8	N 787351.18 E 1996046.05	#8	N 787345.02 E 1996055.66			
9	N 787350.55 E 1996046.05	#9	N 787345.02 E 1996055.66			

Orange Water and Sewer Authority
Close-out Documentation Check-List
 Project: Aquabella Subdivision

In addition to a Field Inspection approved by the OWASA Construction Inspector, the following documents must be received and approved by OWASA before acceptance of the project and the closing of the project. The following shall be submitted as a complete package to the OWASA Engineering Associates for Third Party Review. Partial submissions are considered incomplete. All incomplete submissions will be returned.

- Engineer's Certification for DDI Public Water Supply Section permitted water meter installation - Submit or grant document to OWASA for submission to NCCES. Receipt of the DDI Public Water Supply Section Final Approval Letter is required before the permitted water system is placed into service. State requirements are exceptions.
- Engineer's Certification for DDI permitted sewer extension - Engineer must use the certification from attached to the sewer permit from NCCES. Project drawings are required to be submitted to NCCES along with this Certification of Completion as a part of the supporting documentation. All documents must be signed by Engineers from the same Organization. Submit or grant document to OWASA along with the supporting documentation required by DDI. The permitted sewer system shall not be placed into service until the Engineer's Certification and Supporting Documentation have been submitted by OWASA to DDI. State requirements are exceptions.
- Asse Letter - Submit original document on OWASA standard form.
- Letter of Dedication - Submit original document on OWASA standard form.
- Recent Drawings - Consider on drawing set shall be modified to reflect actual field installations. All DDI Public Water Supply Section permitted extensions and DDI permitted sewer lines shall be signed and sealed by a Licensed Professional Engineer in the State of North Carolina. Submit three copies of the record drawing for review by the OWASA Engineering Staff.
- Digital Submissions - Water Feature Database (MS Access), Manhole Database (MS Access), and Record Drawing (AutoCAD) (if any) - Contact the OWASA Engineering Technicians for information concerning this section.

Drawn: 11-15-07



WATER, SEWER AND STORM DRAINAGE AS-BUILT 06/07/2010

MICHAEL A. NEAL & ASSOCIATES, PLLC
 ENGINEERS, SURVEYORS, AND PLANNERS
 105 WEST CORBIN ST.
 SUITE 201
 HILLSBOROUGH, NC 27278
 (919) 644-1277
 (919) 644-1347 FAX
 mneal@mana-engineers.com

REGISTERED PROFESSIONAL ENGINEER
 STATE OF NORTH CAROLINA
 LICENSE NO. 36046
 MICHAEL A. NEAL, P.E. 028388
 DATE: 06/07/10

Aquabella Subdivision
 1025 Pinehurst Drive, Chapel Hill, NC

Date: 06/07/10
 Revisions:

Drawn By: KSW
 Checked By: MAN
 Project No: 124

Sheet 4 of 10





Town of Chapel Hill Inspection and Maintenance Report for
Stormwater Control Measures (SCMs) --- *Office Use Only*

COVER SHEET

Section 5.4.8 (c) of the Chapel Hill Land Use Management Ordinance requires that "All stormwater management facilities must be inspected by the responsible party, in accordance with the approved schedule in the stormwater operation and maintenance plan, to identify maintenance and repair needs, and to ensure compliance with the requirement of the recorded operation and maintenance plan."

GENERAL INFORMATION

Please use one Cover Sheet per site and one Inspection Report Form for each SCM on the site. Please include captioned color photographs of each main component of the SCM at the end of the Inspection Report Form.

SITE		INSPECTOR	
Site / Owner Name:	John Mackowiak/Aquabella HOA	Staff Name(s):	Zach Strickland and Joao Pereira
Site Street Address:	Between 100 and 121 Grand Alexander Court		Town of Chapel Hill
Site PIN:	9798673561	Mailing Address:	
Owner Mailing Address:	186 Bluff Road	Phone Number:	
	Cedar Point, NC 28584	Email Address:	zstrickland@townofchapelhill.org jpereira@townofchapelhill.org
Owner Email Address:	John.mackowiak@gmail.com		

INSPECTION REPORT FORMS

Indicate the quantity of each SCM on the site in the table below. Please use one form for each SCM and submit all forms together with photographs as a single PDF report with this Cover Sheet as the first page.

SCM	QUANTITY	SCM	QUANTITY
Bioretention Cell	1	Permeable Pavement	
Constructed Wetlands		Sand Filter	
Dry Pond		Storm Filter	
Grassed Swale		Underground Detention	
Hydrodynamic Separator		Wet Pond	
Level Spreader		Other (Describe)	

INSPECTION RESULTS

PASS *Attached relevant pictures to document inspections*

FAIL *If any of the components of the SCM Inspection is coded FAIL, the entire SCM and the entire site fails inspection. Attach pictures of maintenance issues that need to be addressed.*

INSPECTION NOTES FOR MAINTENANCE RECOMMENDATION IF ANY

See attached inspection report. Action items to be addressed are **in bold**.

Date: 7/24/2024



Annual Inspection and Maintenance Reports for Stormwater Control Measures (SCMs)

BIORETENTION

Important: Please note that this inspection checklist is not an exhaustive list of inspection items for any particular SCM. It is the responsibility of the professional inspecting the facility to perform a comprehensive inspection and to note additional items as necessary.

GENERAL INFORMATION

Site Name:	Aquabella Bioretention	Date:	7/24/2024
SCM Location:	Between 100 & 121 Grand Alexander Court	SCM ID Number: (if applicable, per approved plans)	

CODE KEY

N/A = Not Applicable	M = Monitor; Minor Maintenance Needed (SCM is Functioning as Designed)
PASS = No Maintenance Needed; Functioning as Designed	FAIL = Maintenance Required; SCM <i>not</i> Functioning as Designed

INLET DEVICES

ASSESSMENT	CODE	COMMENTS
Obstruction: Vegetation, Debris, Sediment, Other	FAIL	Vegetation, debris, and sediment are present in the concrete flume (near where the flume enters the bioretention area). Remove vegetation, debris, and sediment from flume and inlet area.
Velocity Dissipator Pad Condition	FAIL	Approved plans and calculations show a vegetated swale, which was intended to reduce entry velocity. Install a velocity dissipator pad (such as rip rap area) where the concrete flume enters the bioretention cell.
Structural Condition	Monitor	OK from what is visible. Monitor condition after debris removal.
Erosion or Undercutting	Monitor	Potential erosion. Monitor condition after installation of velocity dissipator pad.
Other (describe)		

BIORETENTION CELL

ASSESSMENT	CODE	COMMENTS
Overgrown Vegetation	Monitor	Screening trees can remain if they are not interfering with the function of the SCM.
Standing Water for > 12 Hours Post Rain Event	Monitor	No standing water at time of site visit. Monitor after other repairs are made.
Plants are Dead, Diseased or Dying	FAIL	<p>Majority of plants that are shown on planting plan have either died or were never planted.</p> <p>Add plants per the original approved planting plan. An alternative planting plan may be submitted to the Town for consideration. This plan would need to meet either the 2006-2016 NCDENR Stormwater BMP Manual or the current NCDEQ Stormwater Design Manual.</p> <p>Existing plants within the cell can remain if they are non-invasive and are not causing issues. Native existing plants within the cell are encouraged to remain.</p>
Soils and/or Mulch Clogged with Sediment	PASS	Minimal signs of sediment clogging in soil.
Invasive Vegetation (Estimate %)	Monitor	<p>Existing plants do not seem to match the planting plan. Some may be weeds/intruding. Unsure if any are invasive species.</p> <p>Plants on the embankment (other than trees and shrubs) should be removed.</p>
Mulch Depth and Condition	FAIL	<p>No mulch observed. Leaves and pine straw have accumulated in its place.</p> <p>Remove leaves/pine straw and replace with 3" of triple-shredded hardwood mulch (as per the approved plans).</p>
Erosion or Gullies Present	Monitor	<p>Flow paths/gullies observed inside bioretention cell. Addressing other items may remedy this. Monitor after repairs are complete.</p> <p>Rills/gullies observed on outside portion of embankment (see "OUTLET DEVICE - Erosion or Undercutting")</p>
Underdrain System	Monitor	See "OUTLET DEVICE – Pipe Condition" below
Ponding Depth	FAIL	<p>There should be 9" between the top of the mulch layer and bottom of the weir; embankment should be at 280' elevation around the entirety of the bioretention area.</p>
		<p>Design Ponding Depth: 9" (above 3" mulch layer)</p> <p>Existing Ponding Depth: Unable to determine due to irregular embankment height and lack of weir.</p>
Other (describe)	FAIL	Per the approved plans, the inner surface of the bioretention area is at 278' elevation and the top of the surrounding embankment is at 280' elev. Town staff observed that portions of the west side of the SCM appear to have less than

		<p>1' in difference between the top of embankment and inner surface, rather than the required 2'.</p> <p>Re-grade as needed to achieve the elevations shown on the approved plans. The inner surface and top of embankment elevations should both be level and consistent across the entire perimeter of the SCM. The top of embankment elevation should be 2' higher than the inner surface elevation across the entire SCM.</p>
--	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

OUTLET DEVICE

ASSESSMENT	CODE	COMMENTS
Obstruction: Vegetation, Debris, Sediment, Other	FAIL	<p>If there is an existing weir, it is potentially being obstructed by vegetation and/or sediment.</p> <p>See "Structural Condition" and "Velocity Dissipator Pad Condition" below</p>
Structural Condition	FAIL	<p>No visible weir. Per the approved plans, there should be a 1' by 4' rectangular weir on the northeast corner of the bioretention area.</p> <p>If there is an existing weir as shown on the approved plans, remove debris and perform maintenance as needed. If there is no discernable weir, install the weir as per the approved plans. Screening trees on the berm and other debris may need to be removed in the weir area to maintain or install the weir.</p>
Velocity Dissipator Pad Condition	FAIL	<p>The approved plans show that the weir discharges to a trapezoidal Turf Reinforcement Mats (TRM) lined channel. This channel was designed to provide velocity dissipation. This channel was not observed by Town staff. The approximate area that the channel should be in was thick with vegetation. The trapezoidal channel should lead to a vegetated swale area, per the plans.</p> <p>Install the trapezoidal TRM lined outlet channel and vegetated swale area as per the approved plans.</p>
Pipe Condition	Monitor	<p>Evaluate if a vertical riser pipe (as was previously installed) can be installed on the underdrain outlet to achieve Internal Water Storage (IWS). The 2006-2016 NCDENR manual states that creating IWS with an upturned pipe elbow is optional.</p>
Erosion or Undercutting	FAIL	<p>Rills/gullies have formed on the east side of the outer embankment due to water overtopping the berm.</p> <p>Perform maintenance as needed to remove rills/gullies and restore the embankment. Addressing the other required items may remedy this issue (need to monitor after repairs are complete).</p>

High-flow Bypass	FAIL	The rectangular weir serves as the high-flow bypass. See "Structural Condition" above.
Other (Describe)		

MISCELLANEOUS

ASSESSMENT	CODE	COMMENTS
Trash or Debris	Monitor	Trash (i.e. a string of Christmas or decorative lights) observed within bioretention cell. Remove trash and monitor going forward.
Access	FAIL	Access path is overgrown. Maintain access path vegetation.
Vandalism	Pass	
Signage	N/A	
Other (Describe)		
Other (Describe)		
Other (Describe)		

PHOTOGRAPHS

Please attach digital photographs of the site and each main component of the SCM with descriptive captions.

INLET DEVICES



BIORETENTION CELL





OUTLET DEVICE

Rills/gullies on outer portion of embankment:



Approximate/general area of where the weir should be, per the approved plans:



Approximate/general area of where the trapezoidal channel outlet should be, per the plans:



MISCELLANEOUS

Approximate location of access path/easement:





civilconsultants

LAND DEVELOPMENT CONSULTANTS

Bioretention Observation Report

For

**Reid Lerner
121 Mulligan Drive
Chapel Hill, NC**

May 31, 2022

Project # 29043

Background

Mr. Reid Lerner requested drainage consulting regarding a major subdivision application submitted for the Grand Alexander Subdivision as well as ongoing maintenance concerns surrounding an existing bioretention area adjacent to his property located at 121 Mulligan Drive in Chapel Hill, NC. This inspection report describes the observations made during a field visit on May 24, 2022 and provides a request to the Town staff based on those field observations and a review of available documents.

Review of Publicly Available Data

The Town of Chapel Hill requires Stormwater Control Measures (SCMs) such as the existing bioretention to treat stormwater from most new development. The Town requires that SCMs be contained in a maintenance easement and that the regular inspection and maintenance requirements be described in detail in a formal Stormwater Operations and Maintenance Covenant. A search of the Orange County Property records shows that the SCM is contained in a stormwater maintenance easement shown on the Aquabella Subdivision Plat. The Declaration of Covenants associated with Aquabella Subdivision acknowledges the Aquabella HOA's responsibility for all costs and expenses of maintaining the SCM according to the stormwater management plan associated with that device, but no stormwater management plan is referenced or described.

A request was made to the Town of Chapel Hill stormwater staff for the stormwater management plan or an operations manual for this device. The Town staff was only able to provide a planting plan for the device and did not have a stormwater management plan or operations and maintenance manual for this device on file.

Field Observations

The property at 121 Mulligan Drive was visited on May 24, 2022. The state rain gage (NC-DH-33) noted 1.78 inches of rainfall in the previous 24-hours.



The bioretention did not appear to have any standing water above the surface, indicating it did infiltrate a rain event exceeding 1" in 12 or fewer hours. The bioretention did not appear to have any of the plantings shown on the Aquabella Subdivision Bioretention Area Planting Plan provided by Town staff. One ductile iron capped cleanout is visible above the surface of the bioretention area.



A 1" upturned ductile iron pipe located beyond the berm of the bioretention area was open and flowing at the time of the field visit. This may be the underdrain for the bioretention area. A small sinkhole (not pictured here) also beyond the berm of the bioretention area exposed what appeared to be a broken ~4" PVC pipe appearing to come from the direction of the bioretention area.

The bioretention appears to have been designed to overflow onto the neighboring 121 Mulligan Drive property without an easement. There is a small berm creating a swale on the neighboring property that directs the water from the bioretention around the backyard of 121 Mulligan Drive towards the golf course.

This swale appeared to be stable at the time of the visit.



At the time of the field visit, there was standing water on the golf course property in the low area behind 121 Mulligan Drive. The low area appears to be receiving drainage flowing from the bioretention area, from the 121 Mulligan Drive property, from the Mulligan Drive stormwater system, and from adjacent soccer fields.

Attachments:

1. Request for Maintenance Letter
2. Aquabella Subdivision Plat
3. Aquabella Subdivision Declaration of Covenants
4. Aquabella Subdivision Bioretention Area Planting Plan

Request for maintenance

To the Town of Chapel Hill Stormwater staff,

This letter is to inform the Town of some observed deficiencies and to request maintenance for the bioretention located off Grand Alexander Court. The subdivision covenants, conditions, and restrictions (book 6192 page 491) indicate the Aquabella Homeowners Association is subject to a Stormwater Management Plan for the bioretention area. This Stormwater Management Plan is not described or referenced as part of the subdivision documents. The bioretention device is presumably required to meet the Town's minimum standards for the regular inspections and maintenance of a bioretention area.

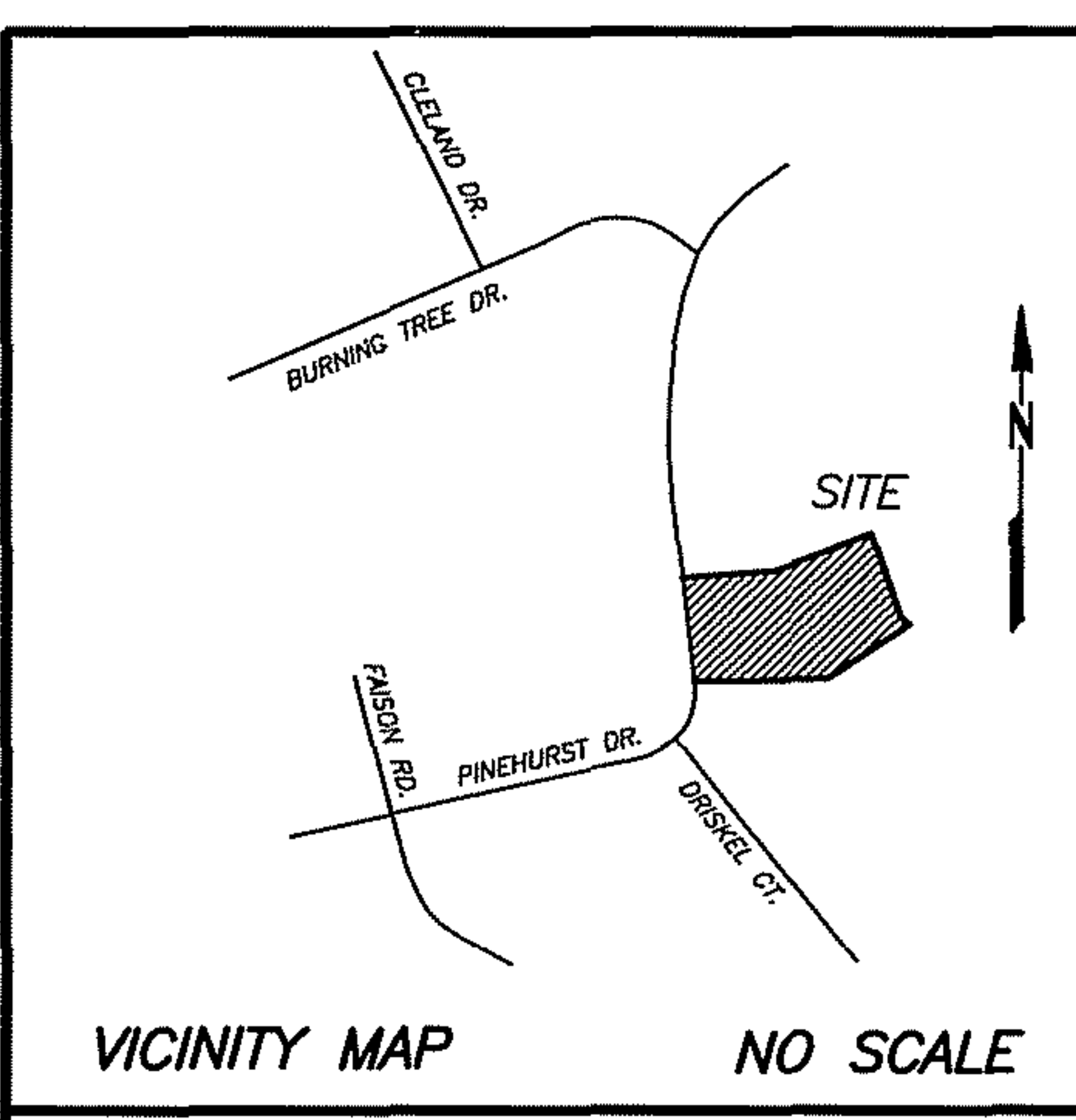
A brief field visit of the bioretention area revealed the following observations suggesting the bioretention area is in need of the required inspection and maintenance:

- The bioretention did not appear to have any of the plantings shown on the approved Aquabella Subdivision Bioretention Area Planting Plan.
- The bioretention area surface did not appear to have plant cover or mulch.
- The inlet flume appeared to contain accumulated sediment and had plants growing in the sediment.
- The Aquabella Subdivision Bioretention Area Planting Plan appears to show an overflow weir that was not observed in the field.
- The bioretention area appears to have no overflow infrastructure and appears to simply overflow onto the adjacent property at 121 Mulligan Drive.
- What appears to be an upturned underdrain from the bioretention area is directed to flow onto an adjacent property at 121 Mulligan Drive without a stormwater easement.

We respectfully request that the Town provide for the required inspection and maintenance of the bioretention area. We also request that the Aquabella Homeowners Association provide sufficient drainage infrastructure to convey the drainage from the bioretention area within the property owned by the Association.

Sincerely,

Reid Lerner
121 Mulligan Drive
Chapel Hill, NC



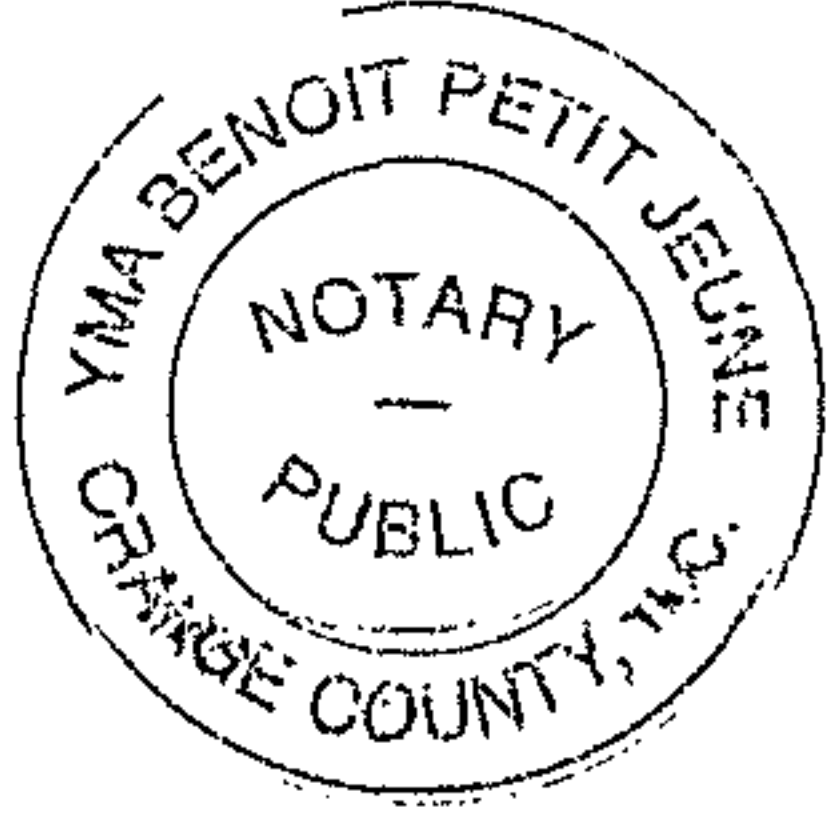
- NOTES:
1. PROPERTY IS NOT IN THE 100 YR. FLOOD BY FIRM MAP NO. 371097800K PANEL 9798, EFFECTIVE DATE MAY 2, 2006, LAST REVISED ON FEBRUARY 2, 2007, 100 YR. FLOOD LINE TAKEN FROM FIRM MAP NO. 371097800K PANEL 9798, EFFECTIVE DATE MAY 2, 2006 AND LAST REVISED 2-2-07
 2. TO THE BEST OF MY KNOWLEDGE THIS PROPERTY IS NOT LOCATED WITHIN 2000' OF A N.C. GRID MONUMENT.
 3. REBAR SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
 4. RESOURCE CONSERVATION DISTRICT AND LIVING TREES TO BE PROTECTED TAKEN FROM A SITE PLAN ENTITLED "AQUABELLA SUBDIVISION" PREPARED BY MICHAEL A. NEAL & ASSOCIATES, PLLC AND DATED 6-28-07 AND LAST REVISED ON 11-06-07.
 5. LOTS ON THIS PLAT ARE GOVERNED BY THE "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ROAD MAINTENANCE AGREEMENT" AND "BY-LAWS OF AQUABELLA HOA" AS RECORDED IN ORANGE COUNTY D.B. _____ PG. _____
 6. ANY RESOURCE CONSERVATION DISTRICT SHOWN ON THIS PLAT SHALL HAVE DEVELOPMENT RESTRICTED IN ACCORDANCE WITH THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE.
 7. RESIDENTIAL STORMWATER FACILITIES ON INDIVIDUAL LOTS WITHIN THIS SUBDIVISION MUST BE WITHIN A STORMWATER EASEMENT AND COVENANTS SHALL BE PROVIDED FOR THE MAINTENANCE OF THE FACILITIES.
 8. NO CERTIFICATE OF OCCUPANCY SHALL BE ISSUED FOR CONSTRUCTION OF DWELLING UNITS ON A LOT CREATED BY THIS SUBDIVISION UNTIL ALL REQUIRED PUBLIC IMPROVEMENTS IN THE RIGHT OF WAY ARE COMPLETED.
 9. NO BUILDING PERMITS FOR ANY PHASE SHALL BE ISSUED UNTIL ALL PUBLIC IMPROVEMENTS REQUIRED IN PREVIOUS PHASES ARE COMPLETED TO A POINT ADJACENT TO THE NEW PHASE.
 10. THE STORMWATER AREA AND THE PEDESTRIAN ACCESS EASEMENT TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
 11. THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, AGREEMENTS, AND RIGHTS OF WAY OF RECORD PRIOR TO THE DATE OF THIS PLAT.
 12. 100 YR. FLOOD LINE TAKEN FROM FIRM MAP NO. 371097800K PANEL 9798, EFFECTIVE DATE MAY 2, 2006 AND LAST REVISED 2-2-07.
 13. 14' STORMWATER MAINTENANCE AREA AND ACCESS EASEMENT IS 14' FROM EXISTING CONCRETE DRIVEWAY.
 14. THE INFILTRATION BASIN IN THE NORTHEAST CORNER OF LOT 3 IS TO BE OWNED BY THE OWNERS OF LOT 3 AND MAINTAINED BY THE HOA BECAUSE IT PROVIDES IMPERVIOUS SURFACE CREDITS FOR OTHER LOTS IN AQUABELLA.
 15. IF THE MAXIMUM IMPERVIOUS AREA AMOUNT FOR ANY LOT, AS SHOWN ON THE PLAT, IS EXCEEDED THEN A STORMWATER MANAGEMENT PLAN, AND STRUCTURE(S) SHALL BE PROVIDED ON THE LOT FOR THE INCREASED IMPERVIOUS AREA.
 16. RESIDENTIAL DRIVEWAYS SHALL ACCESS GRAND ALEXANDER COURT AND SHALL BE PROVIDED ON THE LOT FOR THE INCREASED IMPERVIOUS AREA.
 17. THAT FOR EACH LOT, A STORMWATER IMPACT STATEMENT ADDRESSING STORMWATER MANAGEMENT ON A LOT BY LOT BASIS MUST BE REVIEWED AND APPROVED BY THE TOWN MANAGER PRIOR TO ISSUANCE OF A ZONING COMPLIANCE PERMIT FOR SAID LOT.
 18. ALL ENGINEERED STORMWATER MANAGEMENT CONTROL, TREATMENT, AND CONVEYANCE STRUCTURES LOCATED ON OR BELOW THE GROUND SHALL BE WHOLLY CONTAINED WITHIN AN EASEMENT ENTITLED: "RESERVED STORMWATER FACILITY EASEMENT HEREBY DEDICATED" AND SHALL BE RESERVED FROM ANY DEVELOPMENT WHICH WOULD OBSTRUCT OR CONSTRICT THE EFFECTIVE MANAGEMENT, CONTROL, AND CONVEYANCE OF STORMWATER FROM OR ACROSS THE PROPERTY, OTHER THAN THE APPROVED DESIGN AND OPERATION FUNCTIONS.
 19. THE RESERVED STORMWATER FACILITY EASEMENT(S) AND THE FACILITIES IT THEY PROTECT ARE CONSIDERED TO BE PRIVATE, WITH THE SOLE RESPONSIBILITY OF THE OWNER TO PROVIDE FOR ALL REQUIRED MAINTENANCE AND OPERATIONS AS APPROVED BY THE TOWN MANAGER.
 20. THE RESERVED STORMWATER FACILITY EASEMENT AND THE OPERATIONS AND MAINTENANCE PLAN ARE BINDING ON THE OWNER, HEIRS, SUCCESSORS, AND ASSIGNS.
 21. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR LOTS 1, 2, OR 4 THE FOLLOWING CONDITIONS MUST BE MET:
PERVIOUS SURFACE BI-CYCLE/PEDESTRIAN PATH MUST BE BUILT AND AS-BUILT PLANS OF PUBLIC IMPROVEMENTS AND ALL EXISTING OR PROPOSED IMPROVEMENTS MUST BE PROVIDED TO THE TOWN OF CHAPEL HILL IN DXF BINARY FORMAT USING STATE PLANE COORDINATES.
 22. AT SUCH TIME THAT THE PEDESTRIAN PATH CONNECTS TO AN APPROVED AND CONSTRUCTED BI-CYCLE/PEDESTRIAN PATH IN SPOTTERS RIDGE THE HOA SHALL POST AND MAINTAIN A SIGN STATING "PUBLIC ACCESS" AT THE ENTRANCE TO THE PATH, DESIGN AND LOCATION OF THE SIGN SHALL BE REVIEWED AND APPROVED BY THE TOWN MANAGER

"THE UNDERSIGNED OWNER HEREBY FREELY DEDICATES ALL RIGHTS-OF-WAY, EASEMENTS, STREETS, RECREATION AREA, OPEN SPACE, COMMON AREA, UTILITIES AND OTHER IMPROVEMENTS TO PUBLIC OR PRIVATE COMMON USE AS NOTED ON THIS PLAT, AND FURTHER ASSUMES FULL RESPONSIBILITY FOR THE MAINTENANCE AND CONTROL OF SAID IMPROVEMENTS UNTIL THEY ARE ACCEPTED FOR MAINTENANCE AND CONTROL BY AN APPROPRIATE PUBLIC BODY OR BY AN INCORPORATED NEIGHBORHOOD OR HOMEOWNER'S ASSOCIATION OR SIMILAR LEGAL ENTITY."

John Mackowiak DATE: 9/10/2016
Leslie R. Mackowiak DATE: 9/10/2016
John Mackowiak DATE: 9/10/2016

NORTH CAROLINA
 COUNTY OF ORANGE
 I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT I PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL SEAL THIS 10th DAY OF September 2016.

NOTARY PUBLIC *Yma Benoit Petit Jeanne*
 MY COMMISSION EXPIRES 12/11/2020
 State of North Carolina



I, *Lori K. Berry*, Review Officer of Orange County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording for which the Review Officer has responsibility as provided by law.

Lori K. Berry
 Review Officer
 Orange County Land Records/GIS
 Date of Certification: 9/22/2016

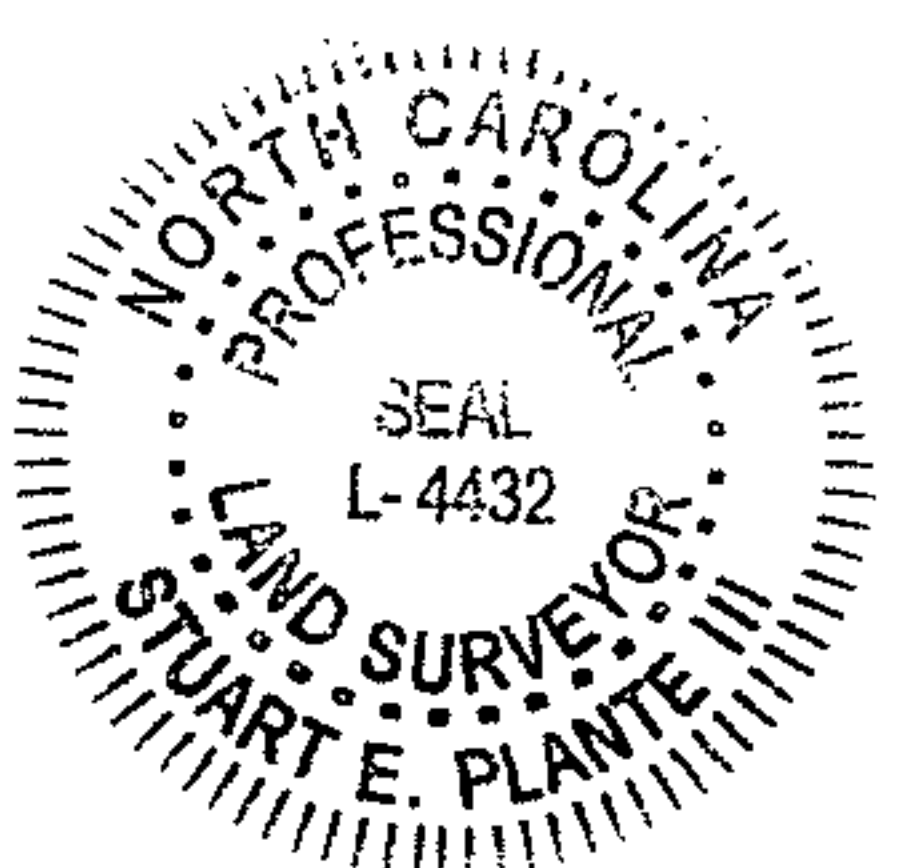
"THE TOWN MANAGER HEREBY CERTIFIES THAT A SURETY BOND OF A SATISFACTORY AMOUNT HAS BEEN POSTED WITH THE TOWN OF CHAPEL HILL WHICH SURETY GUARANTEES THAT ALL PUBLIC IMPROVEMENTS WILL BE COMPLETED BY THE APPROVED PRELIMINARY PLAT FOR AQUABELLA SUBDIVISION WITHIN 365 DAYS UNLESS AFFIRMATIVELY EXTENDED BY THE TOWN MANAGER. NOTICE WILL BE DULY RECORDED WITH THE REGISTER OF DEEDS IF AND WHEN SAID SURETY IS AMENDED OR EXTENDED PRIOR TO COMPLETION OF ALL PUBLIC IMPROVEMENTS FOR WHICH IT WAS POSTED."

Stuart E. Plante III DATE: 09/12/16
 TOWN MANAGER

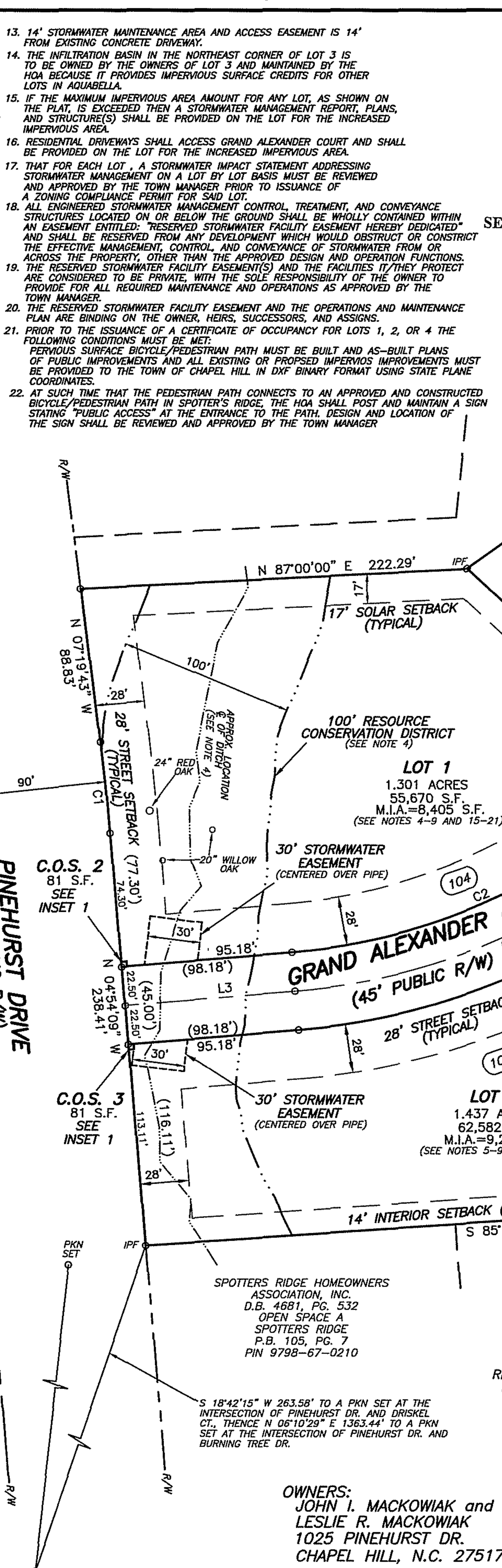
PROVIDED THAT THIS PLAT BE RECORDED WITHIN 30 DAYS OF FINAL APPROVAL BY
Stuart E. Plante III
 TOWN MANAGER

A. THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;
Stuart E. Plante III 9/9/16
 PROFESSIONAL LAND SURVEYOR DATE

NORTH CAROLINA
 WAKE COUNTY
 I, *Stuart E. Plante III*, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DESCRIPTION RECORDED IN DEED BOOK 1565, PAGE 442, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK _____ PAGE _____; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:116,690; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 42-30 AS AMENDED, WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 9th DAY OF September, 2016 A.D.,
Stuart E. Plante III PROFESSIONAL LAND SURVEYOR
 LICENSE NO. L-4432



NOTE: MIS-CLOSURE WAS DISTRIBUTED BY THE COMPASS METHOD. THE DISTANCES ON THIS MAP ARE ADJUSTED HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED. ALL AREA CALCULATED BY COORDINATE COMPUTATION.



FOR MULTIPLE PIN SHEET
 SEE BOOK 6192 PAGE 490

C. MICHAEL SHEPPA
 H. JUNE STEVENS
 D.B. 1258, PG. 215
 LOT A
 P.B. 61, PG. 25
 PIN 9798-67-0770

4.135 ACRES (AREA IN LOTS)
 0.146 ACRES (AREA IN COMMON OPEN SPACE)
 0.494 ACRES (AREA IN R/W DEDICATION)
 4.775 ACRES (TOTAL AREA)

SPOTTERS RIDGE, LLC
 D.B. 4558, PG. 440
 LOT 4
 SPOTTERS RIDGE
 P.B. 105, PG. 7
 PIN 9798-67-2294

- LEGEND
- (IPF)—IRON PIPE FOUND
 - (IPS)—IRON PIPE SET
 - (PKN)—PK NAIL
 - (RW)—RETAINING WALL
 - (RCD)—RESOURCE CONSERVATION DISTRICT
 - (P.A.E.)—PEDESTRIAN ACCESS EASEMENT
 - (M.I.A.)—MAXIMUM IMPERVIOUS AREA
 - (R/W)—RIGHT OF WAY
 - (IB)—INFILTRATION BASIN
 - (NPS)—NO POINT SET
 - (NS)—NAIL SET
 - (F)—FOUNTAIN
 - (BPSW)—BRICK PAVER SIDEWALK
 - STREET ADDRESS

REFERENCES:
 JOHN I. MACKOWIAK and wife
 LESLIE R. MACKOWIAK
 D.B. 1565, PG. 442
 LOT B
 P.B. 61, PG. 25
 PIN 9798-67-1484

OWNERS:
 JOHN I. MACKOWIAK and wife
 LESLIE R. MACKOWIAK
 1025 PINEHURST DR.
 CHAPEL HILL, N.C. 27517

STATE OF NORTH CAROLINA
 COUNTY OF ORANGE
 I, _____, REVIEW OFFICER OF _____ COUNTY,
 CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

THE CHAPEL HILL COUNTRY CLUB, INC.
 D.B. 234, PG. 1613
 CHAPEL HILL COUNTRY CLUB
 P.B. 43, PG. 20-21
 P.B. 19, PG. 92
 PIN 9798-68-9751

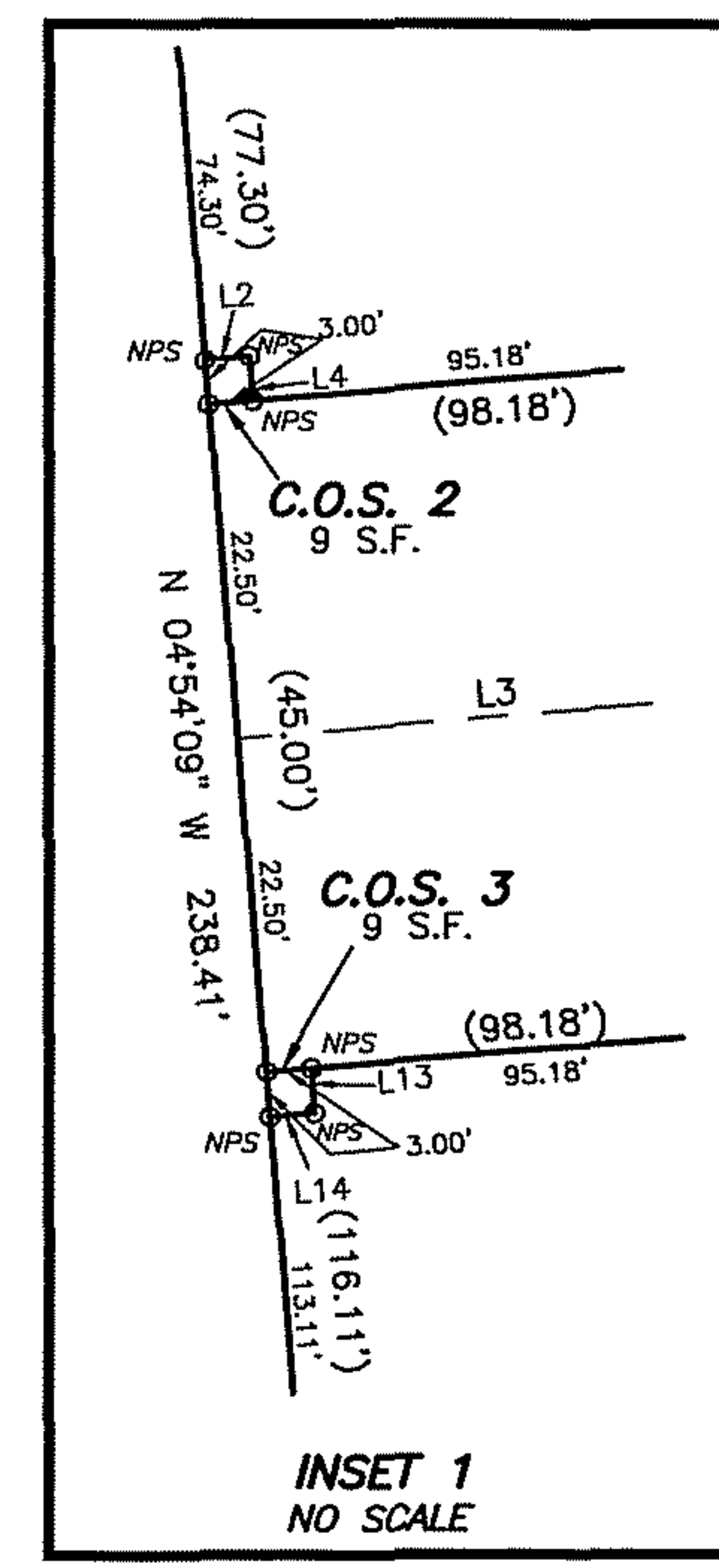
100 YR. FLOOD (SEE NOTE 12)
 PRIVATE 14' STORMWATER AREA MAINTENANCE EASEMENT HEREBY DEDICATED (FROM EDGE OF STRUCTURES)

PRIVATE STORMWATER EASEMENT HEREBY DEDICATED (CENTERED OVER PIPE)

C.O.S. 1
 0.146 ACRES
 6,336 S.F. (SEE NOTE 10)

PRIVATE 14' STORMWATER AREA MAINTENANCE EASEMENT HEREBY DEDICATED

CATHERINE LUDEN BENTON LERNER
 D.B. 5339, PG. 466
 LOT 3
 SPOTTERS RIDGE
 P.B. 105, PG. 7
 PIN 9798-67-5534



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 83°59'13" E	25.25'
L2	N 85°05'51" E	3.00'
L3	N 85°05'51" E	98.18'
L4	S 04°54'09" E	3.00'
L5	N 00°00'00" W	13.68'
L6	N 33°00'00" E	60.19'
L7	S 87°24'35" E	43.11'
L8	N 02°02'02" E	22.00'
L9	N 44°12'25" E	44.75'
L10	N 62°03'47" E	45.93'
L11	S 80°27'58" E	29.90'
L12	S 87°24'35" E	98.22'
L13	S 04°54'09" E	3.00'
L14	S 85°05'51" W	3.00'
L15	S 47°37'05" E	82.51'
L16	S 56°36'12" E	62.72'
L17	N 13°04'16" W	38.77'

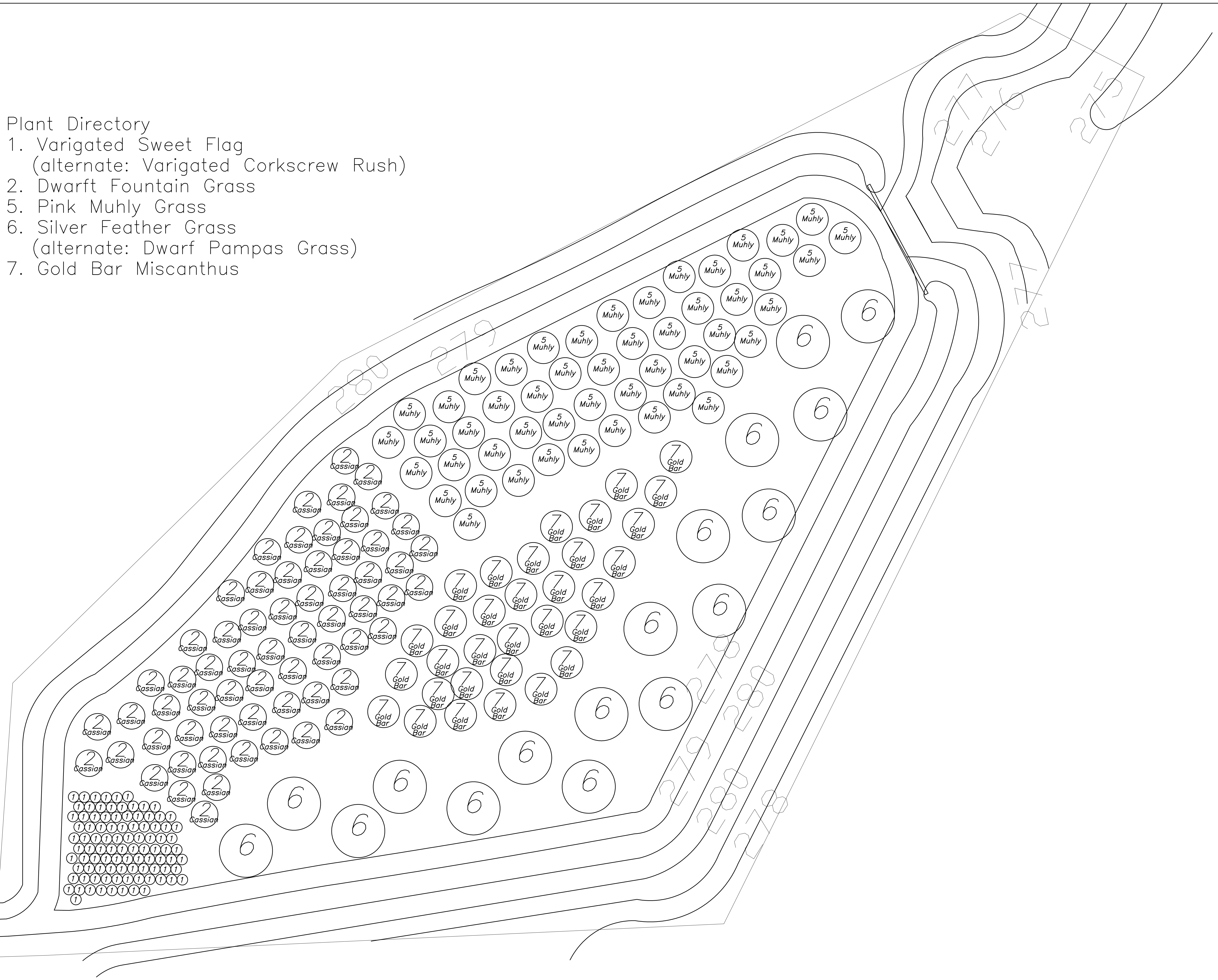
CURVE TABLE

CURVE	DELTA	RADIUS	ARC	CHORD	TANGENT	CHORD BRG
C1	02°25'34"	1245.00'	52.72'	52.71'	26.36'	N 06°06'56" W
C2	32°09'57"	345.86'	194.17'	191.63'	99.72'	S 69°00'53" W
C3	60°13'12"	11.00'	11.56'	11.04'	6.38'	S 22°49'19" W
C4	75°53'19"	49.00'	64.90'	60.26'	38.21'	S 30°39'22" W
C5	42°58'05"	49.00'	36.75'	35.89'	19.29'	N 89°54'56" W
C6	42°54'39"	49.00'	36.70'	35.85'	19.26'	N 46°58'34" W
C7	18°36'38"	49.00'	15.92'	15.85'	8.03'	N 16°12'55" W
C9	11°33'49"	49.00'	95.41'	81.04'	72.05'	N 48°52'18" E
C10	52°25'52"	11.00'	10.07'	9.72'	5.42'	N 78°26'17" E
C11	32°52'31"	390.86'	224.27'	221.20'	115.32'	N 68°39'36" E
C12	40°17'35"	368.36'	259.05'	253.74'	135.14'	N 64°57'04" E

REVISIONS	SUBDIVISION MAP OF AQUABELLA SUBDIVISION		ROBINSON & PLANTE, P.C. LAND SURVEYING 1320 SE MAYNARD ROAD, SUITE 102 CARY NC, 27511 PHONE: (919)481-1245 FAX: (919)481-1213	
TOWNSHIP: CHAPEL HILL	COUNTY: ORANGE	SURVEY DATE: 8-30-07	SURVEYED BY: GJ	
STATE: NORTH CAROLINA	ZONE: R-1	SCALE: 1"=60'	DRAWN BY: KW	
	P.I.N.: 9798-67-1484	CHECKED & CLOSURE BY: SEP	FILE: MACKOWIAKSUB3	

Plant Directory

1. Varigated Sweet Flag
(alternate: Varigated Corkscrew Rush)
2. Dwarfft Fountain Grass
5. Pink Muhly Grass
6. Silver Feather Grass
(alternate: Dwarf Pampas Grass)
7. Gold Bar Miscanthus



Daniel K. Schaefer, P.E.
 707 Oxfordshire Lane
 Chapel Hill NC 27517
 (919) 422-7890
 NC Registration No. 17212

Aquabella Subdivision
 1025 Pinehurst Drive, Chapel Hill NC 27517
 Bioretention Area Planting Plan Scale 1" = 4'

DATE 6/26/2008

SWIS SHEET
 5 of 5



DMK / RC

20160922000200300 DECL
Bk:RB6192 Pg:492
09/22/2016 01:16:18 PM 1/11

FOR MULTIPLE PIN SHEET

SEE BOOK 6192 PAGE 491

FILED mark Gilton
Register of Deeds, Orange Co, NC
Recording Fee: \$26.00
NC Real Estate TX: \$.00

MB

Prepared by: Stephen B. Miller
Return to: 186 Bluff Road
Cedar Point, NC 28584

3/4

NORTH CAROLINA

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR AQUABELLA SUBDIVISION

ORANGE COUNTY

THIS DECLARATION, (sometimes hereinafter referred to as the "Covenants" or the "Declarations") made and entered into this the 21st day of September, 2016 by John and Leslie Mackowiak, hereinafter referred to as "Declarant," whose address is 186 Bluff Road, Cedar Point, NC 28584.

WITNESSETH:

WHEREAS Declarant is the owner of Aquabella Subdivision, ^{MD 9/22/16} the real property located in Orange County, North Carolina and being more particularly shown on the plat recorded in Plat Book 116, at Pages 51, Orange County Registry (the "Plat"), to which plat reference is hereby made for a more particular description of same, said land being identified herein as the "Property;"

AND WHEREAS Declarant will convey lots from the Property subject to the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant declares the Property shall be held, sold and conveyed subject to the following restrictions, covenants and conditions. The purpose of these restrictions, covenants and conditions is to protect the value, desirability and attractiveness of the Property. These restrictions, covenants and conditions shall be appurtenant to and run with the land and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I HOMEOWNERS' ASSOCIATION

Section 1: Declarant has created the AQUABELLA HOMEOWNERS' ASSOCIATION, INC. ("the Association"), whose Members are the owners of all Lots shown on the Plat, to carry out and serve the purposes set forth in this instrument, and in its Articles of Incorporation, By-Laws, and rules and regulations and thereby to promote and protect the enjoyment and beneficial use and ownership of the Property.

Section 2: The Board of Directors of the Association shall enact and adopt any by-laws, rules and regulations, subject, however, to the terms and conditions of these Declarations, that they deem necessary for the operation of the Association, which by-laws, rules and regulations shall be binding upon all Members.

ARTICLE II ASSOCIATION PROPERTY/MAINTENANCE OBLIGATIONS

Section 1: Association Property: Prior to conveyance of the first Lot, Declarant shall deed fee simple title to the property shown on the Plat as the "Stormwater Bioretention Area" to the Association, subject to Declarant's reserved rights and any Member or public rights as set forth herein or on the Plat, but free of all encumbrances except for utility and other easements of record, including the 10' wide Public Pedestrian/Bicycle Access Easement shown on the Plat. This property shall hereinafter sometimes be referred to as the "Association Property." Declarant shall be responsible for all initial improvements to the Property and Association Property. Thereafter, the Association shall be responsible for all cost and expense of maintaining the Association Property, including managing



the landscaping, and all of its other obligations set forth herein.

Section 2: Pedestrian/Bicycle Access Easement: Declarant dedicates a 10-foot wide public pedestrian/bicycle access easement located on the Association Property and shown on the Plat. The Association shall be responsible for all costs and expense associated with improving and maintaining such access easement, including the posting and maintenance of a sign stating "Public Access" at the entrance of the path when the path connects to the path in Spotter's Ridge.

Section 3: Landscape Buffer: Declarant hereby creates a ten foot (10') wide landscape easement along the northeast side of Lot 3 abutting the property of The Chapel Hill Country Club, all as shown on the Plat. The Association shall be responsible for all cost and expense of maintaining the landscape buffer. The Association, and its successors and assigned, licensees and agents, is hereby granted a permanent easement over Lot 3 for access and egress to and from the Buffer Easement for the sole purpose of carrying out the obligations of the Association related to the Landscape Buffer.

Section 4: Stormwater Management: The Association Property shall be subject to a Stormwater Management Plan for the bioretention stormwater drainage facility located therein. The Stormwater Management Plan shall be carried out by the Association at its sole cost and expense. The Association shall also have the obligation to manage and maintain the infiltration basin located on Lot 3, and the Association, its successors and assigns, licensees and agents, is hereby granted a permanent easement over Lot 3 for access and egress to and from the infiltration basin for the sole purpose of carrying out the obligations of the Association related to the infiltration basis.

Section 5: Stormwater Easement: Every Owner and Declarant shall have a right and easement of enjoyment for stormwater drainage over and through the stormwater easements and into the stormwater maintenance area. All easements shown on the Plat and given herein shall be appurtenant to and shall pass with the title to each Lot, subject to the following additional provisions:

- (a) the right of the Association to charge dues to the Owners to satisfy the obligations of the Association as set forth herein;
- (b) the right of the Association to dedicate or transfer all or any part of the Association Property or pedestrian path to the public or any public agency, authority, or utility for such purposes, and subject to such conditions as may be agreed to by the Members; and
- (c) the right of the Association to make and amend its By-Laws and make rules and regulations governing the use of the Association Property and amenities and structures located



thereon.

Section 6: Use of Association Property: The Owner of Lot 3 shall have access to and use of the Association Property, subject to the terms and conditions of these Covenants and all easements and other rights of the Association, its Members, and the public including without limitation the Stormwater Management Plan and the pedestrian/bicycle access easement. Except as provided in these Covenants and the easements granted hereto, no other Owners or their agents shall have the right to enter upon the Association Property except for the purpose of carrying out the duties of the Association with respect to the Stormwater Management Plan or all other terms or conditions of or obligations or rights created under these Covenants. The rights of Owners related to the Association Property may only be modified by unanimous vote of the Members, provided, that this provision shall not limit the Association's right to convey or use the Association Property as collateral for a loan, and the rights of the Owner of Lot 3 shall be subordinate to said right of the Association.

ARTICLE III MEMBERSHIP, VOTING RIGHTS, AND BOARD OF DIRECTORS

Section 1: Every Owner of a Lot which is subject to assessment shall be a Member of the Association, and shall be subject to the terms and conditions of these Covenants. Except as provided otherwise herein, membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2: The Association shall have one class of voting Members, and each Lot shall have one vote. Except as otherwise provided herein voting rights and procedures are established in and shall be governed by the By-laws of the Association.

Section 3. Unless otherwise provided herein or in the by-laws or Articles of the Association, all voting matters shall be decided by a simple majority vote of those Board of Directors present or voting by proxy at a duly called meeting. Each Lot Owner shall name one person to the Board of Directors, and each Lot therefore has one vote on the Board of Directors. In the event one Owner owns multiple Lots, that Owner shall have multiple votes on the Board of Directors. A Lot Owner may name a non-Aquabella owner to the Board of Directors to represent their lot, or may delegate their vote to another Aquabella Owner, so one Lot Owner can have multiple votes. The number of Board of Director members shall always equal the number of Lots. One individual can cast multiple votes on the Board of Directors if that individual represents multiple Lots.



ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments: Each Owner of a Lot, by acceptance of deed, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay to the Association annual assessments or charges to be established and collected as hereinafter provided. The assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. Declarant shall not be liable for any annual assessments or special assessments for any lots owned by Declarant.

Section 2: Purpose of Assessments: The assessments levied by the Association shall be used solely to promote the recreation, health, safety, and welfare of the residents of the Property, and shall be used, without limitation to carry out its obligations under Article II herein, to purchase insurance policies as deemed prudent by the Board of Directors of the Association, to pay any taxes which may be imposed upon the Association Property, to hire management companies or other professionals as deemed prudent by the Board of Directors, and for the improvement and maintenance of the Association Property and any improvements located thereon including the pedestrian path, or upon any easement reserved or conveyed herein, and the creation of adequate reserves as deemed prudent by the Board of Directors.

Section 3: Maximum Annual Assessment: The initial annual assessment shall be \$0.00 per Lot, payable in a single payment as provided herein. The initial annual assessment shall be the annual assessment until changed as provided herein. The initial payment shall be made by an Owner on the day any lot is first transferred, and shall be pro-rated to reflect the ratio of the number of days the new owner will own the lot in such Assessment Year as described further herein. After the initial annual assessment, the annual assessment shall be established by the Members of the Association by majority vote.

Section 4: Notice and Quorum: Written notice of any meeting called for the purpose of taking any action authorized under this Article IV shall be sent to all Members (Owners) not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty-six and two-thirds percent (66-2/3%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be



one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Meetings and voting may be in person, by conference call, or both simultaneously.

Section 5: Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 6: Date of Commencement of Annual Assessments: The annual assessment period shall be the calendar year, the "Assessment Year". The initial annual assessments provided for herein shall commence as to all Lots on the first day of the first month following the recording of the subdivision plat to provide a working capital fund. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the beginning of each annual assessment period. Payment of the assessment shall be due on January 5th of each new Assessment Year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance.

Section 7: Effect of Nonpayment of Assessments: Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Association Property or abandonment of his Lot.

Section 8: Subordination of the Lien to Mortgages: The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the fee. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer except that such an extinguished lien may be reallocated and assessed to all of the Lots as a common expense. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.



ARTICLE V
ARCHITECTURAL AND LANDSCAPE CONTROL

No structure of any kind shall be built on any lot until the proposed plans for said structure have received architectural approval. Until such time as Declarant has sold all of the lots, Declarant shall be solely responsible for approving all applications. After Declarant has sold all the lots, then approval must be granted by the Board of Directors of the Association, or a committee established by the Board of Directors, provided that all structures must be of a quality and character comparable with the nature, landscaping and design of other structures and lots in the subdivision.

ARTICLE VI
EASEMENTS

All of the Property, including without limitation, the Lots, the Pedestrian Path, and the Association Property, shall be subject to such easements for landscape buffers, water lines, sanitary sewer lines, storm drainage facilities, gas lines, cable television, telephone and electric power lines and other public utilities as shall be or shall have been granted by the Declarant or by their predecessors in title, including all such easements shown on the Plat.

ARTICLE VII
USE RESTRICTIONS

Section 1: Use of Property: No Lot shall be used except for single-family residential purposes and in accordance with the restrictions hereinafter set forth. "Single-family residential" purposes may include "light housekeeping" apartments containing no more than one bedroom.

(a) No commercial, inoperative, abandoned, unlicensed motor vehicles or recreational vehicles, boats or sailing vessels, farm or construction machinery and like equipment, boats or trailers over twenty-two feet in length, or mobile or stationary trailers of any kind shall be kept or permitted to remain on any Lot, except as necessary for purposes of construction. Boats and/or trailers under twenty-two feet in length may be kept on a Lot if screened from view from all directions.



(b) Swing sets, play houses and play areas shall be located at the rear of the Lot, or if at the side, shall be screened from view from all directions.

(c) At no time shall any Lot or parcel be stripped of its topsoil and trees, or allowed to be eroded by being excavated or neglected.

(d) Each Owner shall maintain and preserve his or her lot in a clean, orderly, and attractive condition. Maintenance and preservation of the Lot shall include, for example, the trimming of shrubs, the mowing of grass, landscaping, and the removal of trash, leaves, debris and fallen trees or limbs.

(e) No mobile home, trailer, manufactured home or modular construction pre-fabricated unit shall be allowed on any Lot. No outbuilding shall be placed at the front of a lot unless approved by the Association.

(f) All utility and cable lines from the public road and within the Lots shall be properly installed underground, provided, however, that some above-ground lines may be used temporarily.

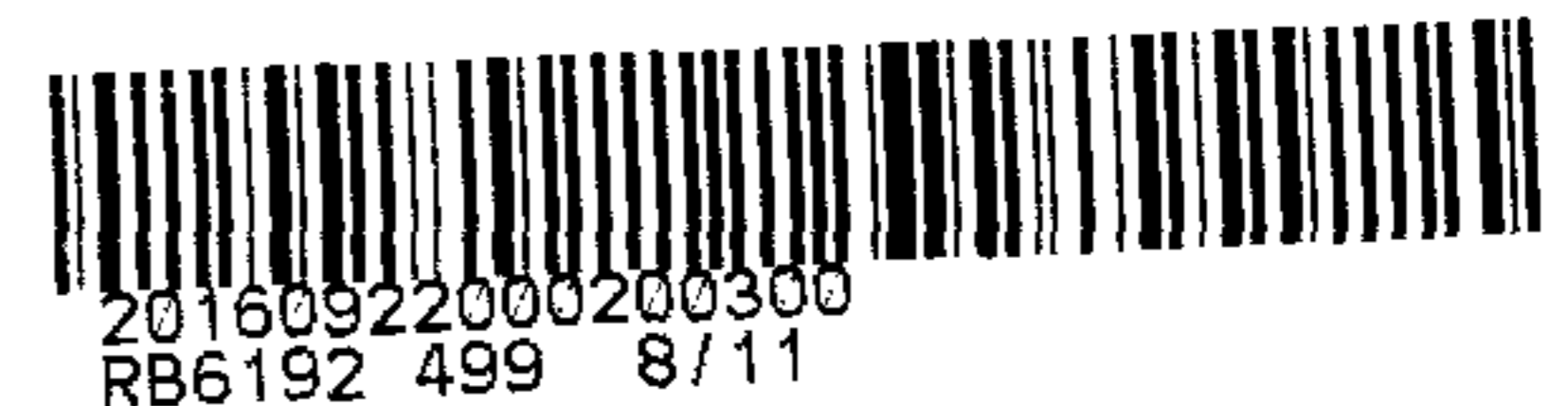
(g) No noxious or offensive activity shall be conducted upon any Lot or the Association Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to neighborhood or to the occupants of any adjoining Lots.

(h) No industrial activity whatsoever or any commercial activity which interferes or is likely to interfere with any Owner's quiet enjoyment of his or her property, including without limitation, a boarding, fraternity or sorority house, manufacturing, enterprise or body shop or other noisy business activity, or an antique, gift or other retail venture which is likely to attract significant customer traffic or create parking problems shall be permitted on any Lot.

(i) No animals other than a limited number of ordinary household pets such as dogs, cats, birds, fish, and hamsters shall be kept or allowed to remain on any Lot, for any purpose.

(j) No satellite or other receiving devices exceeding a dish diameter of 18" shall be allowed or maintained on any Lot or in Association Property.

(k) When the construction of any dwelling has commenced, work thereon must be



prosecuted diligently and must be completed within a reasonable time not exceeding fifteen (15) months from the date of commencement of construction; provided, however, the Declarant may modify such requirement in their sole discretion.

ARTICLE VIII INSURANCE

Section 1: Ownership of Policies: All insurance policies insuring the Association Property and any amenities located thereon and providing for liability thereon shall be purchased by the Association for the benefit of the Association and its mortgagees as their interests may appear.

Section 2: Premiums: Premiums for said insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense from the monthly assessments provided for herein.

Section 3: Proceeds: All insurance policies purchased by the Board of Directors shall be for the benefit of the Association and the Lot Owners and shall provide that all proceeds thereof shall be payable to the Board of Directors as insurance trustees shall be to receive such proceeds and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-Laws.

Section 4: Distribution of Insurance Proceeds: Proceeds of insurance policies received by the Board of Directors as insurance trustees shall be held and paid to defray any and all costs of reconstruction, repair or liability insurance considerations. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners.

ARTICLE IX GENERAL PROVISIONS

Section 1: Enforcement: The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of any future right to do so.

Section 2: Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision herein contained which provisions shall remain in full



force and effect.

Section 3: Amendment: The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years. These Declarations may be amended by majority vote, provided, however, that until the Declarant no longer owns a majority of the Lots, no material change to these Declarations may be made without unanimous consent of the Owners unless otherwise required by law or the Town of Chapel Hill.

Section 4: Mortgagee's Rights: A first mortgagee on the fee, or the insurer or guarantor of a first mortgage, shall be entitled, upon written request, to receive copies of this Declaration, the By-Laws, Rules and Regulations, and Articles of Incorporation of AQUABELLA HOMEOWNERS' ASSOCIATION; entitled to inspect the books and records of the Association during normal business hours or under other reasonable circumstances; entitled to receive at no additional cost the annual financial statement within ninety (90) days following the end of the fiscal year; entitled to receive written notices of meetings of the Association and to designate a representative to attend all such meetings; entitled to notice of any sixty (60) day delinquency in the payment of assessments or charges of any Owner of any Lot upon which that mortgagee, insurer or guarantor holds a mortgage; entitled to receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association on the Association Property or any amenities located thereon; and entitled to receive notice of any proposed action which requires the consent if a specified percentage of mortgage holders.

Section 5: Reserved Rights of Lot Owners: No Lot Owner shall be subject to a restraint imposed by the Association upon his right to sell, transfer, or otherwise convey his Lot. Under no circumstances shall the Association have a right of first refusal upon the sale and conveyance of any Lot. No Lot Owner shall be subject to any restraint imposed by the Association upon his right to mortgage his Lot with whomever or whatever institution and upon those terms and conditions the Lot Owner is willing to accept.

Section 6: Applicability of Declaration, By-Laws, Rules and Regulations: All Lot Owners, tenants and occupants of Lots shall be subject to and shall comply with the provisions of these Declarations, the By-Laws, and the Rules and Regulations, as the same may be amended from time to time. These provisions shall be deemed covenants running with and appurtenant to the land.

IN WITNESS WHEREOF, Declarant has hereunto caused this Declaration to be executed in its name by its officer and its corporate seal to be affixed hereto, on the day and year first above written.



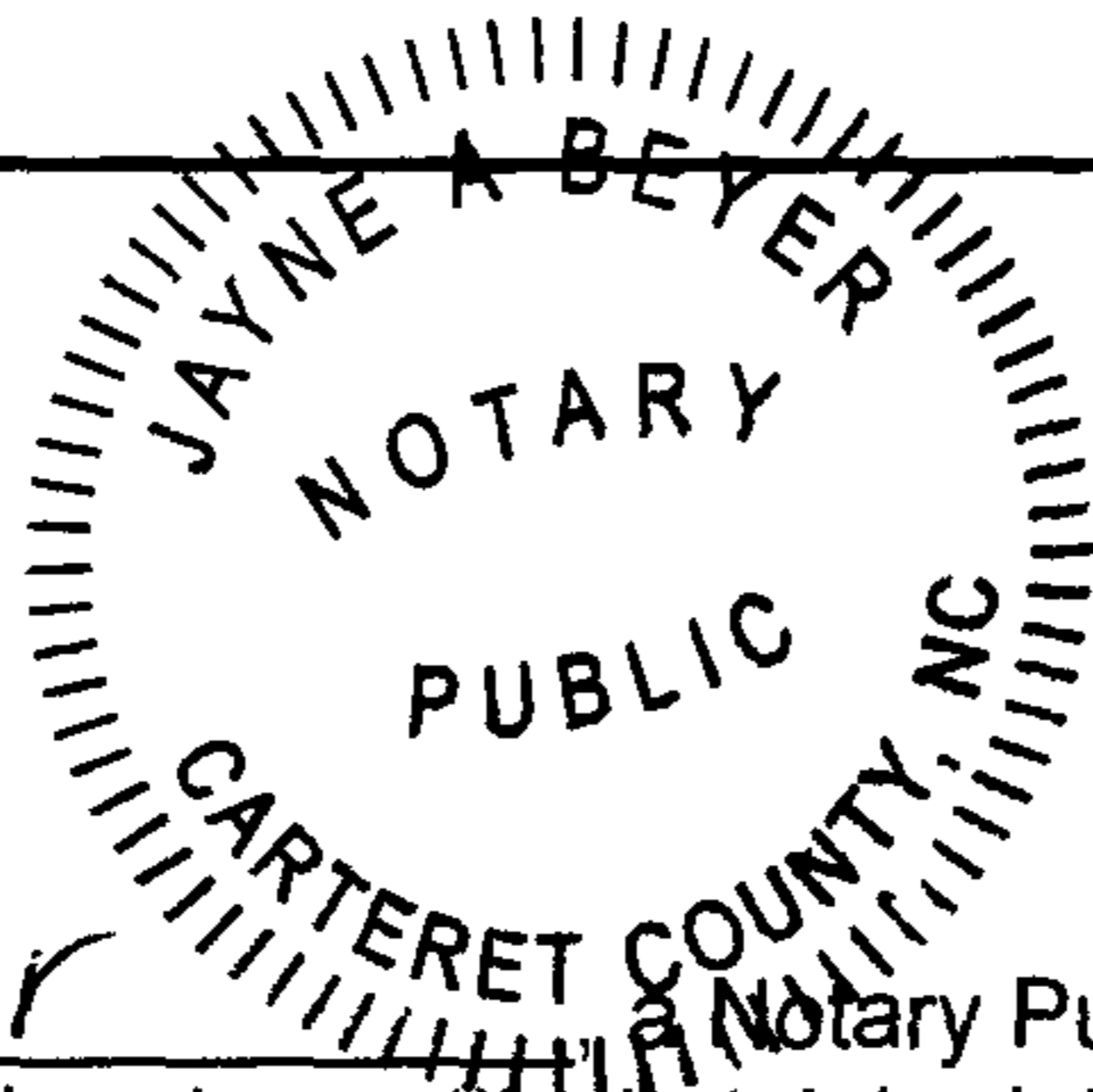
John I. Mackowiak (SEAL)
John I. Mackowiak

Leslie Mackowiak by John I. Mackowiak attorney in fact (SEAL)
John I. Mackowiak, as attorney in fact
for Leslie R. Mackowiak

Pursuant to N.C.G.S. §105-317.2, the Seller/Grantor states as follows:

The property conveyed herein *does not include* the primary residence of one or more of the Grantors. Each Grantor's address is provided above.

State of North Carolina
Carteret County



I, Jayne A. Beyer
Carteret, do hereby certify that John I. Mackowiak, appeared before me, in his individual capacity and in his capacity as attorney in fact for Leslie R. Mackowiak, this day and duly acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal, this the 21st day of September, 2016.

Jayne A. Beyer
Notary Public

My commission expires: 11/13/16



Amy Harvey

From: Town Council
Sent: Wednesday, September 25, 2024 3:55 PM
To: Reid Lerner
Cc: Adam Searing; Amy Ryan; Camille Berry; Elizabeth Sharp; Jeanne Brown; Jess Anderson; Karen Stegman; Melissa McCullough; Paris Miller-Foushee; Theodore Nollert; Amy Harvey; Ann Anderson; Carolyn Worsley; CHRIS BLUE; James Baker; Loryn Clark; Mary Jane Nirdlinger; Ross Tompkins; Sabrina Oliver; Susan Brown; Britany Waddell
Subject: Re: Videos of Aquabella Bioretention Pond - 8:00am Tuesday, September 24, 2024 (2 Attachments)
Attachments: Video 2 of 2 Acquabella Bioretention Pond - 5:50pm EST, Tuesday September 24th 2024; Video 1 of 2 of Acquabella Bioretention Pond - 8:00am Tuesday, September 24, 2024

Hello Reid,

Thank you for your emails about the Aquabella bioretention pond. I have attached both of your emails, including videos to this message, and copied the Mayor and individual Council members, as well as appropriate staff.

Thanks,

Shay Stevens



Shay C. Stevens | She/Her
Community Relations Manager
Manager's Office
[Town of Chapel Hill](#)
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514-5705
Phone: (919) 968-2833

Amy Harvey

From: Reid Lerner <reidlerner@gmail.com>
Sent: Wednesday, September 25, 2024 12:26 AM
To: Town Council; Reid Lerner
Subject: Video 1 of 2 of Acquabella Bioretention Pond - 8:00am Tuesday, September 24, 2024
Attachments: IMG_1934.MOV

Caution external email: Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Dear Town Council

Since it is raining today, Tuesday, September 24th, 2024, I am providing video evidence as of 8:00am EST of one of the LUMO Stormwater violations with the Acquabella HOA that I mentioned yesterday in my email to the Town Council.

Please note that the property line between Acquabella HOA and my home was marked by the developer with a pink flag around the tree which you can see in the video. The video shows a drain from the Acquabella bioretention pond located within a few feet of the property line and this drain simply dumps and concentrates the majority of the water from this Acquabella Bioretention Pond onto my property for many hours. It does this every time there is significant rainfall. I will send another email (the attachment will not fit in this email) with the water still flowing at 5:50pm EST, despite the fact it isn't raining at that time.

Effectively, the Bioretention Pond simply aggregates a large amount of water from the Acquabella neighborhood and then concentrates the outflow of this water directly onto my property through this drain (and separately through the underground 4 inch PVC pipe which I mentioned to you in the email from yesterday). This concentration of water creates multiple streams of water which flows through and erodes my property onto the Chapel Hill Country Club. These streams sometimes form a pond at the bottom of my property and on the Chapel Hill Country Club property as documented in the third party civil engineering report I provided to the town.

This is not compliant with Chapel Hill Stormwater rules in the LUMO nor legal. Both the Chapel Hill Country Club and I have brought this matter to the attention in writing to multiple individuals in the Chapel Hill Departments of Stormwater, Planning, Building, and the Town Manager's office for over 2 years.

I request the town to take immediate action to formally document the violations of Stormwater requirements in writing and to require the Acquabella HOA bring this Bioretention Pond to modern standards. This is the only way the Bioretention Pond could function properly. This should be done before any further approvals are given by the Town of Chapel Hill for development which will only make the situation worse.

Regards,

Reid Lerner

Amy Harvey

From: Lerner, Reid <Reid.Lerner@grifols.com>
Sent: Wednesday, September 25, 2024 12:37 AM
To: Town Council; reidlerner@gmail.com
Subject: Video 2 of 2 Acquabella Bioretention Pond - 5:50pm EST, Tuesday September 24th 2024
Attachments: IMG_1944.MOV

Caution external email: Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Dear Town Council,

Please find the second video taken on Tuesday, September 24th, 2024 at 5:50pm EST. You will notice there is no rain coming down, but the Aquabella Bioretention Pond is still simply concentrating and draining the water from the Acquabella neighborhood onto my neighboring property. It does this for hours every time there is a significant rain.

I request the town to take immediate action to formally document the violations of Stormwater requirements in writing and to require the Acquabella HOA bring this Bioretention Pond to modern standards. This is the only way the Bioretention Pond could function properly. This action should be done before any further approvals are given by the Town of Chapel Hill for development which will only make the situation worse.

Regards,
Reid Lerner

Amy Harvey

From: dkbwell@mac.com
Sent: Wednesday, September 25, 2024 2:26 PM
To: Town Council; All Agenda Materials
Cc: Charnika Harrell
Subject: Council Agenda Item Major Modification of Aquabella Subdivision, #25-0456 Comment 9-25-2024
Attachments: Comments Town Council 9 25 24 Aquabella subdiv revision.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Caution external email: Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Dear Town Council,

This is a complicated matter and I hope someone will take a look at this before the meeting. This project needs to be delayed pending a more coherent stormwater plan from the applicant and a better evaluation.

Thanks for the opportunity to comment.

DK Broadwell
1024 Pinehurst

David K. Broadwell, M.D.
1024 Pinehurst Dr.
Chapel Hill, NC 27517
26 September 2024

RE: Major Modification of Aquabella Subdivision, #25-0456

To: Chapel Hill Town Council

I live across the street from Aquabella. This is indeed a major modification of an approved plan, and I have been very disturbed by the process the Town has employed to evaluate its merit and suitability. I understand the Town is committed to increasing housing density in Chapel Hill, but this plan is a bad precedent and if approved will lead to problems for the neighbors and the people who purchase the lots.

The Lerner's, Alexanders and the Bissigs have shared their comments with me, and they have both listed the violation by the applicant of his own HOA bylaws, leading to litigation. How the Town can condone unilateral withdrawal from HOA covenants is bewildering to me. HOAs are in the LUMO and permits to build are not issued without LUMO approval.

The Town's failure to provide requested public documents in a timely manner is also disappointing and continues to this very meeting. Where is the Rare and Specimen tree survey that is required for the application? Where is the Planning Commission addendum passed last week that states, **"it would be valuable for Town staff to evaluate the location of the rare and specimen trees in relation to the proposed sub-division to ensure that the act of dividing the parcel doesn't lead to future development constraints.** Minor modifications made early in the process is preferable to major conflict and costly restoration at a later stage of development." Emphasis from PC.

That last tenet- looking at the big picture now to avoid future problems- is where rejecting approval of this plat for now would be of great service to the citizens and set a rational precedent for future infill projects.

The problem is, and will be, stormwater if this is approved. This has been inadequately evaluated. This application raises major concerns about the effect of this revised subdivision's runoff on surrounding neighbors. Failure to address this is a serious gap in the Town's assessment of this project. There has been virtually no consideration of how this proposal's stormwater endangers the neighbors, particularly at the northwestern edge of the plat. The ephemeral stream that is shown quickly becomes an ephemeral lake with as little as 1-2" of rain. Currently there is a large natural catch basin that fills up and slowly discharges. The town has videos of this- you already know the volume of water that goes through the area. There is a

reason that this section is a Resource Conservation District in the current approved plan- the water of this watershed needs somewhere to be retained before flooding homes.

It is telling that the application states, "The applicant intends to use the existing SCM for the proposed additional lots." This is the existing failing SCM. Applicant also presents there is a ridge that divides the runoff in two different directions. Most of the runoff goes into the existing RCD western basin, which he ignores. There is no justification for the new culvert penciled in on the NW side. This culvert is inadequate for dealing with this volume of water and irresponsibly dumps the water downstream on the neighbors. It now channels all stormwater *south* of Grand Alexander *directly* to the neighbors. The plan ignores any stormwater north of Grand Alexander, which will continue to flow into the RCD and will increase as impervious area increases with development. This bizarre culvert scheme would be laughable were it not for the inevitable and dire consequences for stormwater control.

John's draft presentation mentions some sort of Stormwater Control Management structures *adjacent to the sidewalk* on Pinehurst Dr. The one SCM he already manages doesn't work, and it's only one house. Why would the Council consider him a reliable participant in stormwater planning? His application is inconsistent and incomplete.

If this project meets approval under current LUMO rules, then the rules are inadequate. The process should serve above all LUMO's overarching purpose – 1.6 "the basic and minimum requirements for the protection of public health, safety, and welfare." If the Town is committed to infill projects like this one, the Town needs to acknowledge that such projects are not traditional subdivisions where a developer controls a large area. There's no buffer zone- whatever's built affects the neighbors and that should be part of the approval process. This is a bad precedent for the increased density development the council desires.

The seller has clearly stated he is not the developer and will sell individual lots and be done and gone. Ms. Harrell misunderstands this- she wrote me "I think we could recommend the developer apply for a Zoning Compliance Permit for the stream work before development is proposed on the affected lots." **Waiting until individual lot zoning compliance approval to deal with subdivision stormwater is too late, and it's irrational.** Every neighbor and interested party disagrees with your staff recommendation to approve. The stormwater, tree canopy and other LUMO issues CANNOT be separately verified lot by lot.

I pity the new lot owner. He or she wants to build and asks where's my drainage? There's a stream in my living room, as well as a giant hickory tree. And I emphasize that this volume of water is not going away, as major precipitation events become more common it will get worse.

The town needs to require a professional unbiased stormwater solution that considers the big picture before approval. It's possible the only practical solution is to allow part of the plat to remain as a the currently designated resource conservation area and permit development of part. Don't most new subdivisions have runoff issues that require building a stormwater

retention pond? Retaining the RCD would also probably take care of the rare and specimen tree problem that was emphasized by the Planning Commission.

The Council has the power and responsibility to do the right thing. If the Council cannot look beyond the immediate profit motive of the applicant, angry and litigious lot owners and flooded neighbors will be asking why this was allowed to happen. Please delay this approval pending a better evaluation and coherent stormwater plan.

Thank you for the opportunity to provide input.

DK Broadwell