



Town of Carrboro
Planning Department
301 West Main Street
Carrboro, NC 27510

11/30/2018

Dear Planning Department,

I am writing this letter regarding the final disbursement of the Winmore "Performance Bond" deposited with the Town of Carrboro by Capkov Ventures Inc. 13 years ago. There is still a balance of \$141,050.70 being held by the Town of Carrboro. We have cleared up all outstanding issues related to the Performance Bond with the sole exception of resolving the Piano Street extension dilemma. As you may recall there is a 25' gap between the end of the asphalt pavement in Piano Street and the University of North Carolina's undeveloped property adjoining Winmore to the north. The Carrboro Land Use Ordinance Section 15-214 requires that the "street right of way shall be extended and the street developed to the property line of the subdivided property at the point where the connection to the anticipated or proposed street is expected.". Several years ago, we discussed a possible solution posed by Michael Brough whereby Capkov Ventures would deed the University of North Carolina a 25' strip of land at the end of Piano Street. By doing so it would have technically satisfied the Carrboro Land Use Ordinance by bringing the property line to the end of Piano Street. Unfortunately, recent discussions with Bruce Warrington of the University's Property Department did not prove productive. The University declined to accept a deed to the strip of land.

Capkov Ventures purchased the Winmore project from Phil Szostak, Bob Chapman, and Herman Green following the approval of the Conditional Use Permit, and after the construction drawings had been prepared and reviewed three times. Capkov had no knowledge or input into the discussions that took place surrounding the extension of Piano Street or the decision to consider the details later. It is our understanding that the applicant and the Town of Carrboro agreed that the Conditional Use Permit and the Construction Drawings would be approved, and a solution to the appropriate termination of Piano Street would be resolved later. A Performance Bond of \$100,000 was put up to cover the possibility of a future extension, which was later reduced to \$50,000 when we extended Piano Street several hundred feet to its current location.

Piano Street has now been constructed to within 25' of the UNC property line and a public right-of-way has been dedicated to the Town of Carrboro by the recorded final plat connecting Piano Street to the UNC property shall a connection be necessary at a later date (see exhibit "A"). We believe we have met the intent of the Land Use Ordinance by dedicating the connecting right-of-way and extending the roadway as far as practicable.

When we discussed the extension of Piano Street we were hesitant to extend the street to the vacant undeveloped land owned by the University of North Carolina because the extension necessarily involved the removal of several specimen Beech Trees in an unusually large and healthy Beech Grove (see exhibit "F"). The 25' street extension would have also required the disturbance of a naturally occurring ephemeral stream that serves as a direct tributary to Bolin Creek. The ephemeral stream functions amazingly well in its natural state and the neighbors have voiced their strong opposition to disturbing the creek, or the trees, to extend the asphalt. Both would take place without any type of planned connection at to the UNC property to the North, and with an alternative connecting road less than 300' to the East, which is wider, has no homes on it, and no creek to cross (see exhibits A, B, and D). To bridge this narrow gap of 25' at such a high environmental cost seemed unreasonable.

After receiving word that UNC was not willing to accept a deed to the sliver of right-of-way we started looking into making the connection despite the environmental and economic cost. Our review has led us to the conclusion that the road cannot be extended without the coordinated development of the UNC property to the North. This is not likely to occur for a very long time if ever. Henry Wells, the previous owner of Sungate Design, wrote "Since there is no immediate plan to develop the UNC property, it does not seem reasonable to extend Piano Street to the property line only to have to tear it up when the UNC property is developed in order to install a culvert..." (see exhibit "E"). Even worse, there may never be a connection proposed to the UNC property.

Finally, there is a large drainage area originating on the UNC property which crosses diagonally onto the Winmore property at the easternmost corner of the existing Piano Street right-of-way. Clearly the vast majority of the area where the stream crosses the right-of-way would be on UNC's property (See Exhibit "B"). This is important when you look back at the original master plan for Winmore which was supposed to be a three-phase mixed use development. The UNC property was intended to be phase III. This was not a theoretical concept, the University of North Carolina had invested \$1,000,000 in cash and was entitled to 33% of the profits in Winmore, plus interest on their investment. When Bob Chapman, Phil Szotak, and Herman Greens partnership fell apart the phase two land owners and UNC pulled out. This is important to know because the original site plan was predicated on it being a three-phase development. When we look at the approved site plan for Winmore the lots on the west side of Piano Street run all the way to the UNC property line with absolutely no setback. It is perfectly reasonable to assume that they intended to place the culvert crossing on the UNC property where most of the ephemeral stream is located. While that was then, and this is now it has significant implications on our ability to cross the ephemeral stream farther south on the Winmore property.

Exhibit "C" is an engineered drawing prepared by Brandon Finch of John R. McAdams. What it clearly illustrates is that you cannot extend Piano Street without crossing onto UNC's undeveloped property to the North. Almost all the improvements are located on the UNC side of the property line with only a portion of the culvert and rip rap outfall entering on to the Winmore property. More importantly you can't pull the culvert crossing southward on to Winmore's property because Lots 82-86 are right up against the property line. This is how the Conditional Use Permit was approved, the construction drawings were approved, and the Winmore community was platted and recorded in Orange County Land Records Office. The homes have all been constructed with families now living in them. The University of North Carolina Endowment Trust has no desire to sell the land needed to make the crossing. To construct the culvert crossing the University would have to agree to sell us their land out of the Endowment Trust to install a large forebay and install the pipe with all the associated clearing and grading. While the administrative mechanisms at UNC would probably prevent the sale even if they wanted to sell the land, they clearly have no interest in doing anything that would increase the chances of them having to make the crossing in the future. The concept plan they submitted back in 2009 "Carolina Crossing" did not connect to Piano Street and opted for the wider North Camellia Street to make their connection less than 300 feet to the east (see exhibit "D")

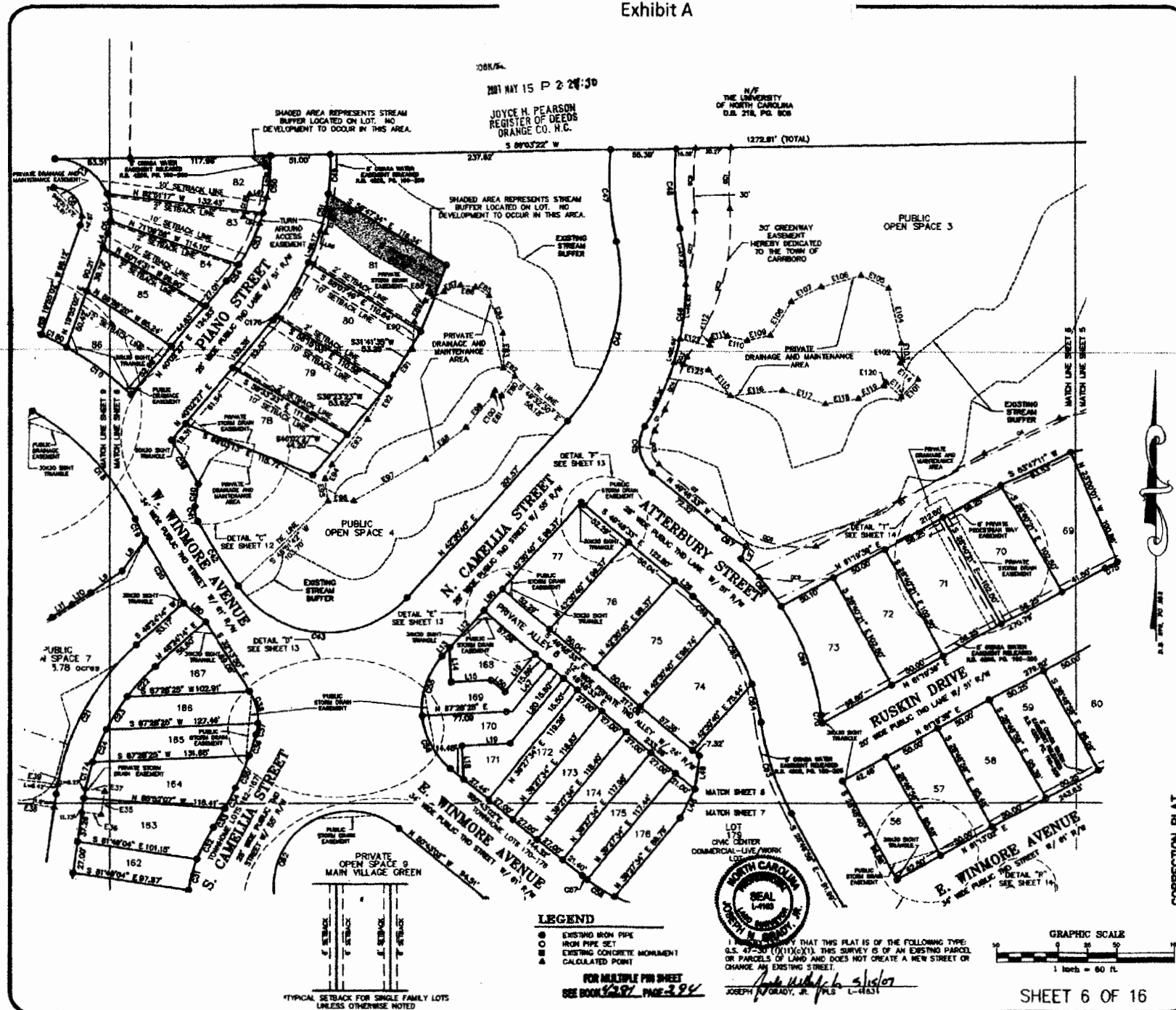
To summarize;

- 1) Winmore was planned and reviewed as a three-phase TND (Traditional Neighborhood Development) village mixed use community. The owners of two of the three phases dropped out, including UNC the owner of the property immediately north of Winmore. In doing so, the University eliminated the "anticipated or proposed" street connection to Piano Street. The University has since designed a site plan called "Carolina Commons" which does not propose a connection at Piano Street (See exhibit "D").
- 2) We have extended asphalt, curb and gutter, and sidewalk to within 25' of the common property line with UNC. Extending the street, the remaining 25' would have significant environmental impacts on a Beech Grove and a direct tributary to Bolin Creek. With no proposed or anticipated connection, we believe the environmental cost would considerably outweigh any benefit from the additional 25' of asphalt. We have extended the full width public right-of-way to the UNC property line in the event a connection is ever desired.
- 3) After looking at the engineering behind extending Piano Street the additional 25', it would require that the street cross an ephemeral stream at the very edge of the property. The crossing would require a significant culvert be installed to allow the storm water to run under the street replacing a portion of the ephemeral stream. The water would need to be collected in a forebay or collecting pond on the west side of Piano Street. Because lot 82 in Winmore is on the west side of Piano Street and is located exactly on the property line with UNC, all the collecting pond and most of the culvert crossing would need to be located on the University of North Carolina Endowment Trust property. The University has no interest and likely no ability to sell for such purposes. Capkov has extended Piano Street as far as practicable and having resolved all other performance bond issues request the return of the remaining \$141,050.70.

Best Regards, Eric Chupp

Director of Development
Capkov Ventures Inc.
(919) 260-7262
ericbchupp@bellsouth.net

Exhibit A

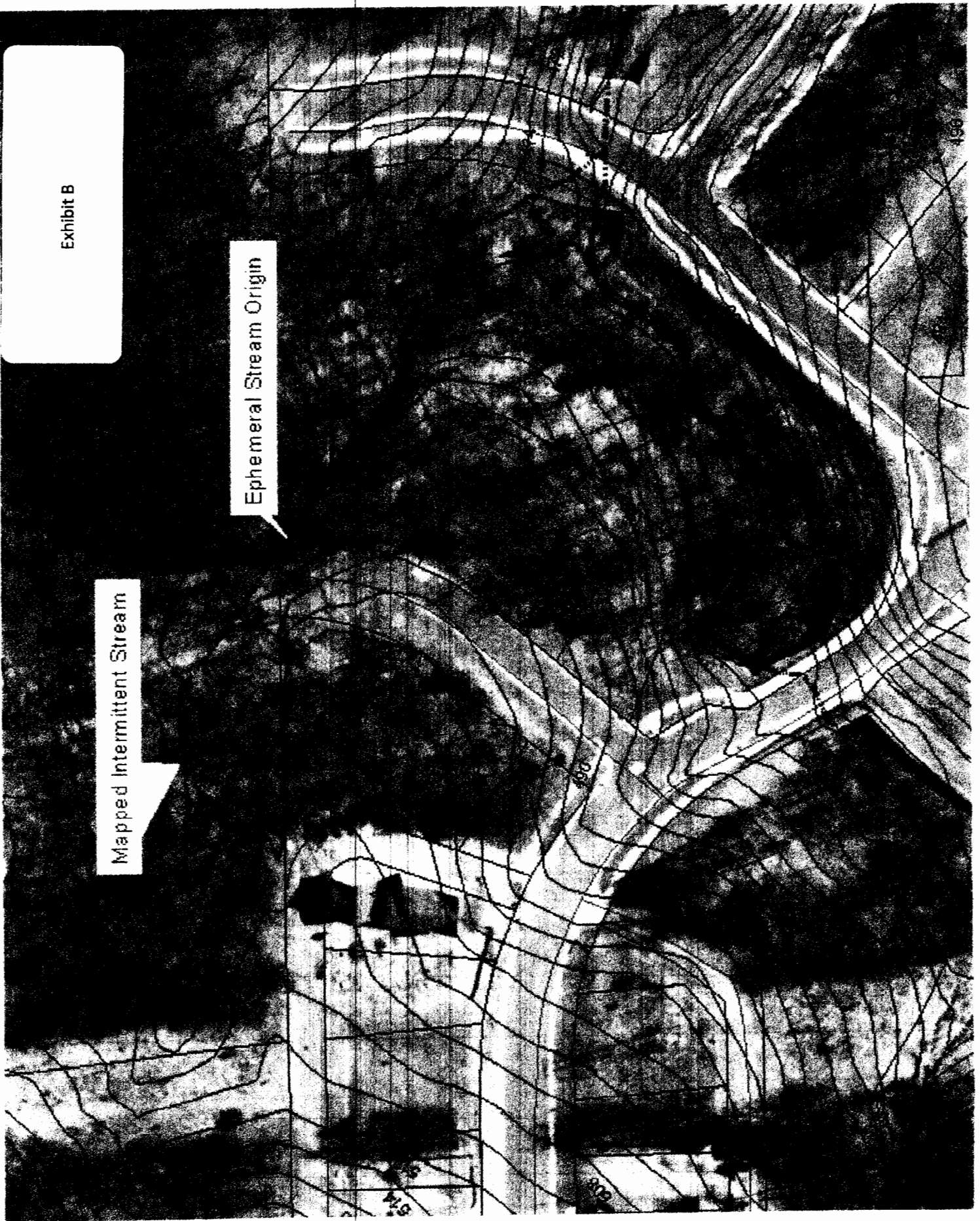


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Exhibit B

Ephemeral Stream Origin

Mapped Intermittent Stream



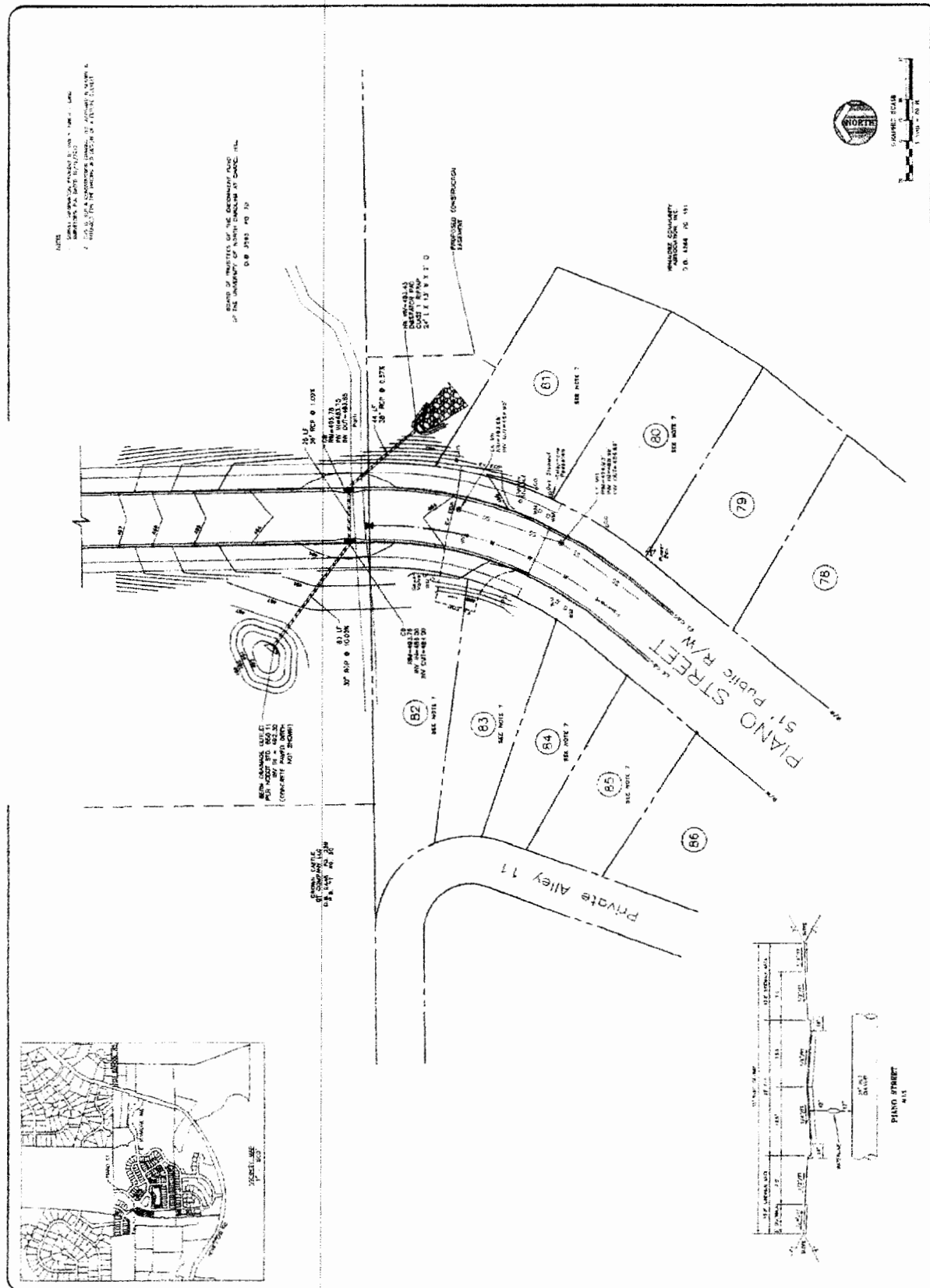


Exhibit "C"

ericbchupp@bellsouth.net

Exhibit E

From: Finch, Brandon <finch@mcadamsco.com>
Sent: Tuesday, July 22, 2014 8:21 PM
To: Eric B. Chupp; Scott Kovens
Subject: Fwd: Piano Street - Proposed Extension
Attachments: image001.png

FYI

Sent from my iPhone

Begin forwarded message:

From: Henry Wells <hwells@sungatedesign.com<mailto:hwells@sungatedesign.com>>
Date: July 22, 2014 at 8:02:11 PM EDT
To: Brandon Finch <finch@johnrmcadams.com<mailto:finch@johnrmcadams.com>>
Subject: Fwd: Piano Street - Proposed Extension

I forgot to copy you

Sent from my Verizon Wireless 4G LTE DROID

----- Original Message -----

Subject: FW: Piano Street - Proposed Extension
From: Henry Wells <hwells@sungatedesign.com<mailto:hwells@sungatedesign.com>>
To: "Martin Roupe (mroupe@townofcarrboro.org<mailto:mroupe@townofcarrboro.org>)"
<mroupe@townofcarrboro.org<mailto:mroupe@townofcarrboro.org>>
CC:

Marty,

Attached is a revised plan for Piano Street as it approaches the UNC property to the north. This plan was sent to me by Brandon Finch of John R. McAdams last Friday. The revisions shown on the plan seem to be more reasonable than the one originally approved since there is less impact to the existing drainageway. Since there is no immediate plan to develop the UNC property, it does not appear to be reasonable to extend Piano Street to the property line only to have to tear it up when the UNC property is developed in order to install the culvert which will be largely on the Winmore property. In addition the former proposal for the temporary terminus of Piano would have required the existing drainageway and fill material to be stabilized with rip rap. The existing drainageway appears to be stable at present. I understand that Eric Chupp will be in touch with you regarding the details of the proposed changes.

Let me know if you have questions or need additional information.

Henry

From: Finch, Brandon [mailto:finch@mcadamsco.com]
Sent: Friday, July 18, 2014 9:15 AM
To: Henry Wells
Subject: Piano Street - Proposed Extension