



THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL

UNIVERSITY ARCHITECT AND DIRECTOR
FACILITIES PLANNING DEPARTMENT

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October 28, 2010

Mr. Craig Benedict, AICP, Director
Orange County Planning and Inspections Department
131 West Margaret Lane
P.O. Box 8181
Hillsborough, NC 28278

Dear Mr. Benedict:

I am writing to follow-up on our meeting of October 8, 2010 concerning future plans for the Bingham Facility. As you know, the University has declined the NIH award that would have provided funds for expansion of the facility. Our current plan, as we discussed with you, is to repair and renovate the older buildings and some of the infrastructure, but we will not be constructing any new facilities or expanding any of the existing ones. As we noted in our meeting, the wastewater system will not support any expansion of the existing facilities. As soon as it is available, we will provide to the Orange County Planning Department an updated and corrected site plan for administrative review and approval.

A letter dated April 9, 2010 suggested that the University should seek to obtain a Class A Special Use Permit (SUP) for the wastewater system serving the Bingham Facility. We believe the University is exempt from that requirement for the following reasons:

- a. The Bingham Facility has been in continuous existence since 1971, before the effective date of the County's Zoning Ordinance and before the requirement to obtain an SUP for a wastewater system treating more than 3000 gallons per day. Therefore by default, this use is already permitted.
- b. The North Carolina Department of Environment and Natural Resources (DENR) has statutory authority to regulate this type of wastewater treatment system and is requiring the University to upgrade the system to meet DENR regulations found in Title 15A, subchapter 2T of the North Carolina Administrative Code. The statutory authority and the accompanying state regulations pre-empt the County's ability to regulate this use.
- c. North Carolina General Statute section 153-347 subjects state buildings to regulation by a county's zoning ordinance. A wastewater system consisting of underground piping is not a building and thus cannot be regulated by the County.

For these reasons the University does not believe it must seek an SUP for the wastewater system. We will of course provide you with copies of our plans for the system as well as our application to DENR.

We appreciate the courtesy you have extended to us and your willingness to work with us. Please contact me if you have any questions.

Sincerely,

Anna A. Wu, FAIA

c: Robert P. Lowman
Masaya Konishi
Bruce Runberg