



**CITY OF DURHAM**  
**OFFICE OF THE CITY ATTORNEY**  
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June 10, 2011

Mr. Brian Mulligan  
3118 Marywood Drive  
Durham, NC 27712

Re: Alleged Erosion and Flooding Issues at 3118 Marywood Drive, Durham

Dear Mr. Mulligan:

As directed by City Council at its May 19, 2010 Work Session, the City Attorney's Office is writing this letter to respond to the concerns you expressed at the Work Session and in your e-mail to the City dated April 20, 2011. After the Work Session, our office met with representatives from the Manager's Office, the City-County Planning Department, and the City's Public Works Department to discuss your concerns. At this meeting, City staff reviewed the various e-mails, letters, office meetings, and site inspections that have taken place or been exchanged between you and staff over the last sixteen months. The concerns raised by you at the Work Session and in your e-mail have previously been answered by City staff in letters from Steve Medlin to you dated September 15, 2010 and from Paul Wiebke to you dated October 5, 2010. Based upon the information available to the City at this point, those letters contain City staff's positions on the concerns that you have raised to date.

You have stated on several occasions that you have concerns about the quality of the water that flows through your backyard. As you know, City staff has indicated to you that it did not observe any signs of illicit discharges or contaminants in the stormwater crossing your property. Stormwater staff followed up with the Division of Water Quality ("DWQ"), within the North Carolina Department of Environment and Natural Resources after the Work Session, and was informed that DWQ did not observe any wetland or stream standard violations in or near your property. In addition, DWQ staff indicated that no water samples were taken, but it was their belief that if samples were taken they might show *E. coli* contamination from backyard pet waste.

You have indicated on several occasions that you have information from several engineers and landscape architects that you have retained. If you would like to provide that information to the City, staff will be happy to review it to determine if it impacts their assessment of the situation on your property.

Please feel free to contact me if you have any additional questions regarding this situation. My number is (919) 354-2752.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald T. O'Toole". The signature is fluid and cursive, with the first name "Donald" being more prominent than the last name "O'Toole".

Donald T. O'Toole  
Senior Assistant City Attorney

cc: Keith Chadwell, Deputy City Manager  
Theodore L. Voorhees, Deputy City Manager  
Ed Venable, Engineering and Stormwater Manager  
Steve Medlin, Director of City-County Planning  
Paul Wiebke, Assistant Stormwater Manager  
Dana Hornkohl, Public Works  
Patrick Baker, City Attorney