



REVISED AGENDA

REGULAR TOWN COUNCIL MEETING

Tuesday, February 11, 2025 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

Governing Body and Town Senior Executive Leadership

Mayor: Jacques K. Gilbert | Mayor Pro Tempore: Edward Gray

Council Members: Audra Killingsworth; Brett D. Gantt; Terry Mahaffey; Arno Zegerman

Town Manager: Randal E. Vosburg

Deputy Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

Town Clerk: Allen L. Coleman | Town Attorney: Laurie L. Hohe

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

CONSENT AGENDA

All Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the Consent Agenda, and without discussion. If a Council Member requests discussion of an item, the item may be removed from the Consent Agenda and considered separately. The Mayor will present the Consent Agenda to be set prior to taking action on the following items:

~~CN1 REMOVED Agreement - Lease Agreement - The Depot Downtown Apex - Apex~~

~~Chamber of Commerce and Town of Apex - July 1, 2025 through June 30, 2030~~

Joanna Helms, Director, Economic Development Department

CN2 Annexation No. 796 - 2132 Kelly Road - 3.189 acres

Allen Coleman, Town Clerk

CN3 Construction Contract Award - Triangle Grading and Paving Inc. - James Sewer and Street Improvements Project - Budget Ordinance Amendment No. 8 and Capital Project Ordinance Amendment No. 2025-8

Matthew Reker, Utility Engineering Intern, Water Resources Department

CN4 Council Meeting Minutes - Various

Allen Coleman, Town Clerk

CN5 Fee Schedule Rate Adjustments - Mid-Year - Temporary Sign Fees, Columbarium, EV Charging Rates, Flat Rate Sewer Charge, Water Meter and ERT Fees

Amanda Grogan, Director, Budget and Performance Management Department

CN6 Ordinance Amendment - Chapter 12 Municipal Utilities and Services, Article VI. Cross Connection Control Update - Compliance w-Session Law 2024-49

Jessica Sloan, Program Coordinator, Water Resources Department

CN7 Property Acquisition - 8300 Jenks Road - Purchase and Sale Agreement - Electric Substation - Capital Project Ordinance Amendment No. 2025-11

Steve Adams, Real Estate and Utilities Acquisition Specialist, Trans. and Infra. Dev. Dept.

CN8 Tax Report - December 2024

Allen Coleman, Town Clerk

UPDATES BY TOWN MANAGER

REGULAR MEETING AGENDA

Mayor Gilbert will call for additional Agenda items from Council or Staff and set the Regular Meeting Agenda prior to Council actions.

PRESENTATIONS

PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards - 2nd Quarter

Councilmember Terry Mahaffey, Sponsor, and

Barbara Conroy Co-Founder and President of Apex Public School Foundation

PR2 Proclamation - National Engineering Week and Apex Engineering Day 2025 - February 16 through February 22, 2025 and Saturday, February 22, 2025

Mayor Jacques K. Gilbert

PR3 Wake Transit Plan Update, including Phase II Public Engagement Efforts

Benjamin Howell, AICP, Wake Transit Program Manager, Capital Area Metropolitan Planning Organization (CAMPO), and

Katie Schwing, Senior Long-Range Planner, Planning Department

PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular Agenda. The Mayor will recognize those who would like to speak at the appropriate time. Large groups are asked to select a representative to speak for the entire group.

Comments must be limited to 3 minutes to allow others the opportunity to speak.

PUBLIC HEARINGS - None Scheduled

UNFINISHED BUSINESS

UB1 Rezoning Case No. 24CZ15 Green Level Towns PUD - Continued from January 28, 2025

Lauren Staudenmaier, Planner II, Planning Department

NEW BUSINESS

NB1 Public Art - "Keyhole Portal" & "Doves of Peace" Sculpture Purchases and Relocation

Taylor Wray, Cultural Arts Center Manager, Parks, Recreation, and Cultural Res. Dept.

NB2—REMOVED Construction Contract Award - CT Wilson Construction Co. - Historical Tunstall House Renovation Project - Capital Project Ordinance Amendment No. 2025-10

Daniel Edwards, Senior Capital Projects Manager, Town Manager's Office

CLOSED SESSION - *None Anticipated*

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Joanna Helms, Director

Department(s): Economic Development

REMOVED

Requested Motion

~~Motion to approve a revised and restated lease agreement between the Apex Chamber of Commerce and the Town of Apex, effective July 1, 2025 through June 30, 2030; and authorize the Mayor Jacques K. Gilbert, to execute on behalf of the Town.~~

Approval Recommended?

Yes

Item Details

The current Lease Agreement between the Apex Chamber of Commerce and the Town of Apex regarding the Chamber's office space at The Depot, 220 N. Salem Street, is set to expire on August 5, 2025. There are several conditions and/or terms in the current lease that need to be revised due to changes in the relationship between the Chamber and the Town. This revised agreement will allow for an extension of the Chamber's presence at The Depot and will correctly reflect the conditions and terms of the relationship.

Attachments

- CN1-A1: Current Depot Lease Agreement (expires August 5, 2025)
- CN1-A2: New/Proposed Lease Agreement (expires June 30, 2030)



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 25, 2025, on the Question of Annexation - Apex Town Council's intent to annex 3.189 acres located at 2132 Kelly Road, Annexation No. 796, into the Town Corporate limits.

Approval Recommended?

Yes

Item Details

The Town Clerk certifies to the investigation of said annexation. Adoption of the Resolution authorizes the Town Clerk to advertise said public hearing by electronic means and on the Town of Apex's website.

Attachments

- CN2-A1: Resolution Directing the Town Clerk to Investigate Petition
 - Certificate of Sufficiency by the Town Clerk
 - Resolution Setting Date of Public Hearing
- CN2-A2: Legal Description - Annexation No. 796 - 2132 Kelly Road - 3.189 acres
- CN2-A3: Aerial Map - Annexation No. 796 - 2132 Kelly Road - 3.189 acres
- CN2-A4: Plat Map - Annexation No. 796 - 2132 Kelly Road - 3.189 acres
- CN2-A5: Annexation Petition - Annexation No. 796 - 2132 Kelly Road - 3.189 acres





RESOLUTION DIRECTING THE TOWN CLERK
TO INVESTIGATE PETITION RECEIVED UNDER G.S. § 160A-31

Annexation Petition No. 796
2132 Kelly Road – 3.189 acres

WHEREAS, G.S. § 160A- 31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Town Council of the Town of Apex deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Apex, that the Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify to the Town Council the result of his investigation.

This the 11th day of February, 2025.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition No. 796
2132 Kelly Road – 3.189 acres

To: The Town Council of the Town of Apex, North Carolina

I, Allen L. Coleman, Town Clerk, do hereby certify that I have investigated the annexation petition attached hereto, and have found, as a fact, that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. § 160A-31, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 11th day of February, 2025.

Allen L. Coleman, CMC, NCCCC
Town Clerk

(Seal)



RESOLUTION SETTING DATE OF PUBLIC HEARING
ON THE QUESTION OF ANNEXATION PURSUANT TO G.S. § 160A-31 AS AMENDED

Annexation Petition No. 796
2132 Kelly Road – 3.189 acres

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Town Council of Apex, North Carolina has by Resolution directed the Town Clerk to investigate the sufficiency thereof; and

WHEREAS, Certification by the Town Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Apex, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 25th day of February, 2025.

Section 2. The area proposed for annexation is described as attached.

Section 3. Notice of said public hearing shall be published on the Town of Apex Website, www.apexnc.org, Public Notice, at least ten (10) days prior to the date of said public hearing.

This the 11th day of February, 2025.

Jacques K. Gilbert, Mayor

ATTEST:

Allen L. Coleman, Town Clerk

Attachment: Legal Description

Smith & Smith Surveyors, P.A.
P.O. Box 457
Apex, N.C. 27502
(919) 362-7111
Firm License No. C-0155

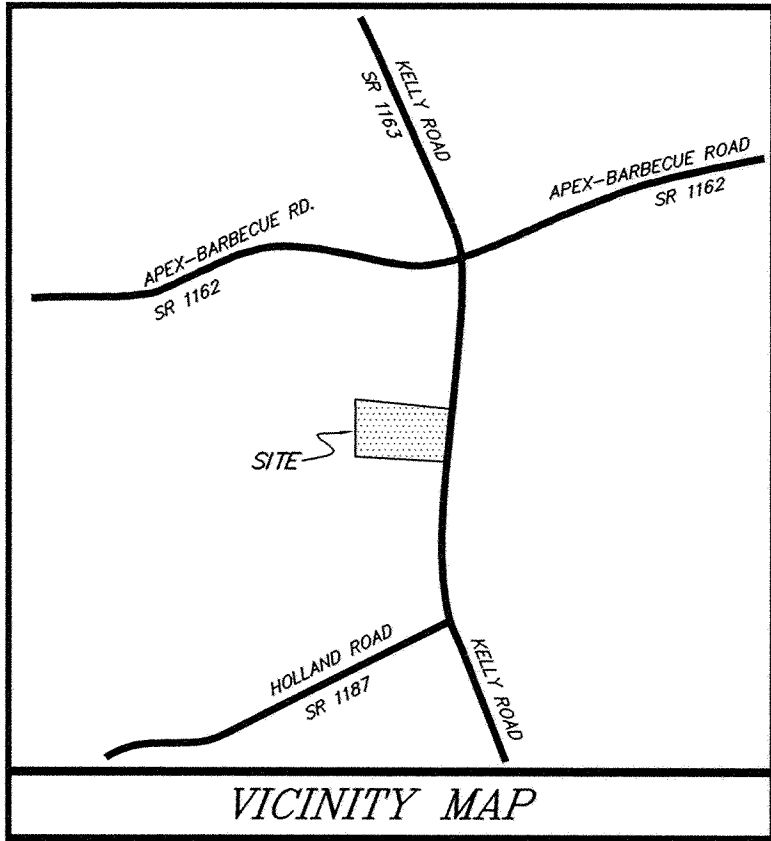
Lying and being in Buckhorn Township, Wake County, North Carolina and being described more fully as follows:

BEGINNING at a point in the centerline of Kelly Road (N.C.S.R. No. 1163) being the southeastern corner of Jennifer P. Cook; thence with the centerline of aforesaid road, South $10^{\circ}45'45''$ West, 276.05 feet to a calculated point in the centerline of Kelly Road (N.C.S.R. No. 1163) being the northeastern corner of Robert Scott Rose; thence with the northern property line of aforesaid Rose., North $81^{\circ}36'55''$ West, 472.10 feet to a calculated point in the eastern property line of Dorothy M. Mills, Trustee; thence North $05^{\circ}25'00$ East, 296.93 feet to a calculated point, being the southwestern corner of Jennifer P. Cook; thence with the southern property line of aforesaid Cook, South $79^{\circ}14'15''$ East , 499.36 feet to the point and place of BEGINNING, containing 3.189 acres more or less.

The above-described tract of land is all of Wake County PIN 0731267711, being a portion of the land described in Deed Book 1903, Page 649 of the Wake County Registry.

This description was prepared without the benefit of an actual survey expressly for the purpose of municipal boundary annexation.





ANNEXATION # _____

I, ALLEN COLEMAN, CMC, NCCC, TOWN CLERK, Apex, North Carolina
certify this is a true and exact map of annexation adopted this

the _____ day of _____, 2025,
by the Town Council. I set my hand and seal of

the Town of Apex, _____, 2025.

ALLEN COLEMAN, CMC, NCCC, TOWN CLERK

I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION USING REFERENCES SHOWN HEREON: THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION SHOWN HEREON: THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE OF LAND SURVEYING IN NORTH CAROLINA (21 HCAC 56.1600)

THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30(j).

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS THE 31 ST DAY OF JANUARY, A.D., 2025.



Staley C. Smith
Professional Land Surveyor
L-3766
License Number

REFERENCES: DEED BOOK 1903, PAGE 649
BOOK OF MAPS 2007, PAGE 731

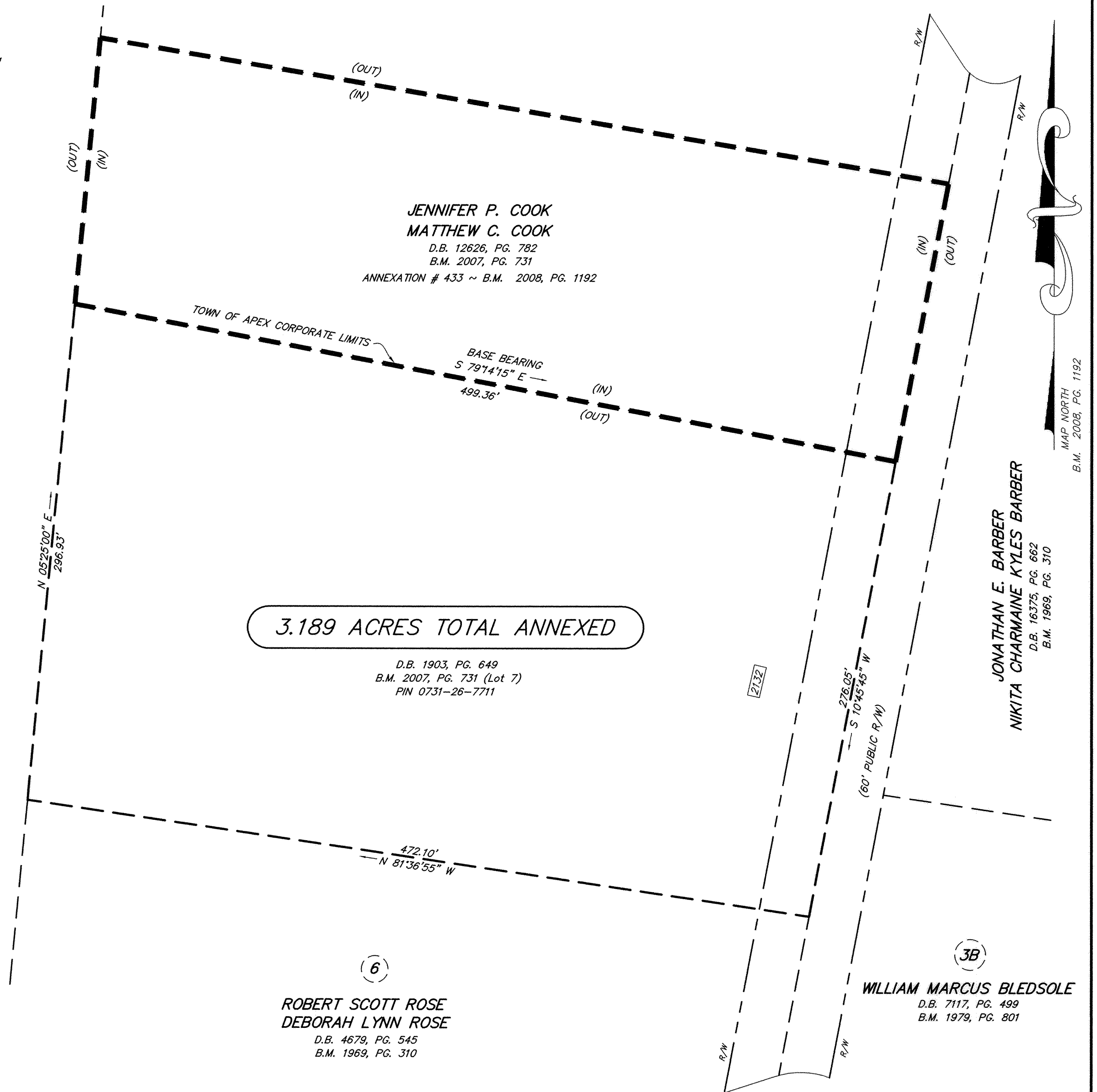
SURVEYOR NOTES:

1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY. OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY OTHER SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
5. AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
6. SITE ZONE: RR (SOURCE: WAKE COUNTY GIS)
7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.
8. SITE ADDRESS: 2132 KELLY ROAD
APEX, NC 27502-9583

LEGEND

- XXXX - Street Address (Typical)
- NCSR - North Carolina Secondary Road
- PIN - Parcel Identification Number
- R/W - Approximate Right Of Way Line (not surveyed)
- Line Not Surveyed
- Line Not Surveyed
- Line Not Surveyed
- Existing Town of Apex Corporate Limits (not surveyed)

RECORDED IN BOOK OF MAPS 2025, PAGE _____.

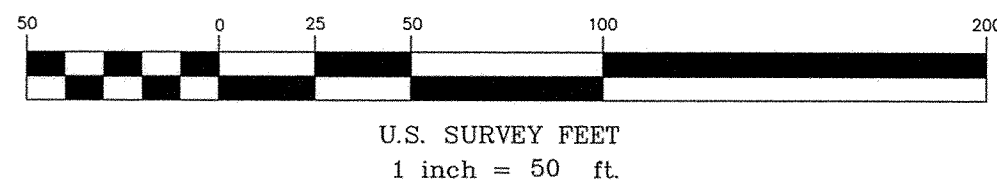


3.189 ACRES TOTAL ANNEXED

D.B. 1903, PG. 649
B.M. 2007, PG. 731 (Lot 7)
PIN 0731-26-7711

ROBERT SCOTT ROSE
DEBORAH LYNN ROSE
D.B. 4679, PG. 545
B.M. 1969, PG. 310

WILLIAM MARCUS BLEDSOLE
D.B. 7117, PG. 499
B.M. 1979, PG. 801



SATELLITE ANNEXATION MAP for the TOWN OF APEX

BERNARD PARKER
AND WIFE
LINDA P. PARKER
BUCKHORN TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

OWNER:
(NOT TITLE VERIFICATION)
BERNARD PARKER & WIFE
LINDA P. PARKER
2132 KELLY ROAD
APEX, NC 27502-9583
PIN 0731-26-7711

Smith & Smith,
Surveyors, P.A.

P.O. BOX 457
APEX, N.C. 27502
(919) 362-7111

FIRM LICENSE No. C-0155

DATE JANUARY 18, 2025
SCALE 1" = 50'
DRAWN BY J.A.B.
PROJECT NO. 2025-05

#796

PETITION FOR VOLUNTARY ANNEXATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Application #: Annexation #796
 Fee Paid: \$200.00

Submittal Date: 1-28-25
 Check #: 2971

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

1. We, the undersigned owners of real property, respectfully request that the area described in Part 4 below be annexed to the Town of Apex, ☒ Wake County, ☐ Chatham County, North Carolina.
2. The area to be annexed is ☐ contiguous, ☒ non-contiguous (satellite) to the Town of Apex, North Carolina and the boundaries are as contained in the metes and bounds description attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

OWNER INFORMATION

Aiton Bernard Parker

Owner Name (Please Print)

919-362-7960

Phone

Linda Purdee Parker

Owner Name (Please Print)

919-362-7960

Phone

Owner Name (Please Print)

Phone

Property PIN or Deed Book & Page #

PARKer L 987 @ BellSouth.net

E-mail Address

Property PIN or Deed Book & Page #

PARKer L 987 @ BellSouth.net

E-mail Address

Property PIN or Deed Book & Page #

E-mail Address

SURVEYOR INFORMATION

Surveyor: Smith & Smith Surveyors, PAPhone: 919-362-7111

Fax:

E-mail Address: staley@smithandsmithsurveyors.net (Staley's E mail)

ANNEXATION SUMMARY CHART

Property Information

Total Acreage to be annexed:

3.189

~~3.0~~

Population of acreage to be annexed:

2

Existing # of housing units:

1

Proposed # of housing units:

1

Zoning District*:

RR

Reason(s) for annexation (select all that apply)

Need water service due to well failure ☒Need sewer service due to septic system failure ☐Water service (new construction) ☐Sewer service (new construction) ☐Receive Town Services ☐

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department with questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #: Annexation # 796

Submittal Date: 1-28-25

COMPLETE IF SIGNED BY INDIVIDUALS:

All individual owners must sign. (If additional signatures are necessary, please attach an additional sheet.)

Alton Bernard Parker

Please Print

Linda Purdee Parker

Please Print

Alton Bernard Parker

Signature

Linda Purdee Parker

Signature

Please Print

Signature

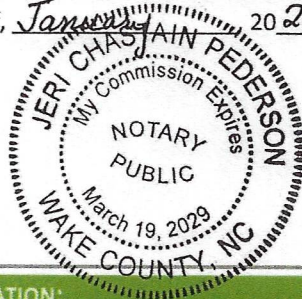
Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above State and County,
this the 28 day of January, 2025.

SEAL



Jeri Chastain Pederson
Notary Public

My Commission Expires: March 29, 2029

COMPLETE IF A CORPORATION:

In witness whereof, said corporation has caused this instrument to be executed by its President and attested by its Secretary by order of its Board of Directors, this the _____ day of _____, 20____.

Corporate Name _____

SEAL

By: _____

Attest: _____

President (Signature)

Secretary (Signature) _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, _____, a Notary Public for the above State and County,
this the _____ day of _____, 20____.

SEAL

Notary Public

My Commission Expires: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Matthew Reker, Utility Engineering Intern

Department(s): Water Resources

Requested Motion

Motion to award a construction contract to Triangle Grading and Paving, Inc. for the James Sewer and Street Improvements Project, authorize Town Manager, or their designee, to execute the contract and approve corresponding Budget Ordinance Amendment No. 8 and Capital Project Ordinance Amendment No. 2025-8.

Approval Recommended?

Yes

Item Details

The James Sewer and Street Improvements Project is a Town Capital Project including both roadway and utility construction. The utility work includes installing a new 8-inch gravity sewer outfall that will allow existing utilities impacting the James Street pavement structure to be taken offline. With the utilities removed the transportation work will re-pave, widen and install new curb and sidewalk along James Street.

On Thursday January 9, 2025, the Town of Apex received three bids for the James Sewer and Street Improvements Project. The low bidder was determined to be Triangle Grading and Paving, Inc. who submitted a bid of \$396,103.00. Since this is a multi-Department project, Capital Project Ordinance Amendment No. 2025-8 will adjust the funds for the implied contract costs for the Water Resources and Transportation items.

Budget Amendment 8 allocates funds for the project and additional \$208,900 Powell Bill funds received for FY 2025 in preparation for street projects and microsurfacing contracts currently out for bid.

Attachments

- CN3-A1: Recommendation of Award
- CN3-A2: Certified Bid Tabulation
- CN3-A3: Notice of Award
- CN3-A4: Triangle Grading and Paving Bid Package
- CN3-A5: Contract Agreement - Stipulated Price
- CN3-A6: Notice to Proceed
- CN3-A7: Budget Ordinance Amendment No. 8
- CN3-A8: Capital Project Ordinance Amendment No. 2025-8





WATER RESOURCES DEPARTMENT

January 9, 2025

Re: Award Recommendation
James Sewer and Street Improvements Project

On Thursday January 9, 2025, three bids were received and opened for the James Sewer and Street Improvements Project. The Water Resources Department has reviewed these bids and have prepared a certified bid tabulation for reference (CNX-02).

The three bidders for the project are as follows:

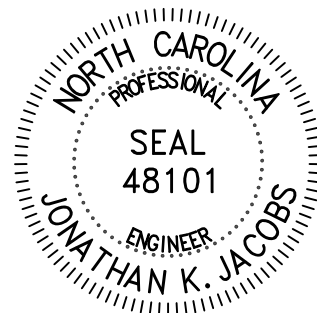
<u>Bidder</u>	<u>Total Base Bid</u>
Triangle Grading and Paving, Inc.: Burlington, NC	\$396,103.00
Axis Utility, Inc.: Wake Forest, NC	\$551,400.00
Moffat Pipe, Inc.: Wake Forest, NC	\$552,349.00

The contractor is properly licensed to perform the work based on the license information obtained from the NC Licensing Board for General Contractors, identified the minority business participation and included a bid bond in the amount of five (5) percent of the Grand Total Base Bid. All other required documentation was provided with each bid. No mathematical or clerical errors were found in the bids.

Based on the information above, The Water Resources Department recommends that The Town of Apex award a construction contract in the amount of \$396,103.00 to Triangle Grading and Paving for the James Sewer and Street Improvements Project.

Digitally signed by Jonathan K. Jacobs
DN: C=US,
E=jonathan.jacobs@apexnc.org,
O=Town of Apex, OU=Water
Resources, CN=Jonathan K. Jacobs
Date: 2025.02.05 15:28:01 -05'00'

Jonathan K. Jacobs, PE
Assistant Water Resources Director
Water Resources



TOWN OF APEX

The Peak of Good Living

PO Box 250 Apex, NC 27502 | 919-3427 | www.apexnc.org

**BID TABULATION
JAMES SEWER AND STREET IMPROVEMENTS PROJECT
FOR THE TOWN OF APEX
APEX, NORTH CAROLINA**

BID DATE/TIME: January 9, 2025 @ 11:00 A.M.

CONTRACTORS	LIC. NO.	CLASS	MB DOCS	BID BOND	BASE BID	REMARKS
Axis Utility, Inc. 1772 Heritage Center Suite 203 Wake Forest, NC 27587	83227	UL: PU (WL & SL)	X	X	\$551,400.00	
Moffat Pipe, Inc. 701 Finger Lakes Drive Wake Forest, NC 27587	54906	UL: UC	X	X	\$552,379.00	
Triangle Grading & Paving, Inc. PO Drawer 2570 Burlington, NC 27215	17456	UL: BLDG; HWY; PU (WL & SL)	X	X	\$396,103.00	**APPARENT LOW BIDDER

This is to certify that the bids tabulated herein were publicly opened and read aloud at 11:00 a.m. on the 9th day of January 2025, in the offices of the Town of Apex at 105-B Upchurch Street, Apex, North Carolina, and that all said bids were accompanied by either a certified check or bidder's bond except as otherwise noted.



Jonathan K. Jacobs, P.E.

NOTICE OF AWARD

Date of Issuance:

Owner: Town of Apex

Owner's Contract No.:

Engineer:

Engineer's Project No.:

Project:

Contract Name:

Bidder:

Bidder's Address:

TO BIDDER:

You are notified that Owner has accepted your Bid dated [] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

The Contract Price of the awarded Contract is: \$ [].

[4] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically. *[revise if multiple copies accompany the Notice of Award]*

☐ a set of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner [4] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]* and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 15 days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: Town of Apex
Authorized Signature

By: _____

Title: _____

Copy: Engineer

Acceptance of Notice

Receipt of the above Notice of Award is hereby acknowledged by _____

this the _____ day of _____, 20__.

By: _____ Title: _____

BIDDER'S CHECKLIST

This checklist shall be included as the first page of the submitted bidding documents. As outlined in article 7 of the Bid Form the following items shall be included with the submitted bidding documents:

	-	Properly Executed Bid Form (Including the acknowledgement of all Addenda)
✓	A.	Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or Certified Check (circle type of security provided); Bid Bond shall include an executed Power of Attorney.
✓	B1.	Identification of Minority Business Participation
✓	B2.	Affidavit A, Listing of Good Faith Efforts; or Affidavit B, Intent to Perform Contract with Own Workforce

BID FORM

Project: James Sewer and Street Improvements

Bid From: Triangle Grading & Paving, Inc.

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

**TOWN OF APEX
P.O. BOX 250, 105-B UPCHURCH STREET
APEX, NC 27502-0250**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related

- reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
 - G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
 - H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
 - I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
 - J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.
 - K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

[SUGGESTED FORMAT FOR UNIT PRICE BID]

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1	MOBILIZATION	LS	1	20000.00	20000.00
2	GRADING	LS	1	98500.00	98500.00
3	MILLING ASPHALT PAVEMENT, 0-1.5"	SY	122	25.00	3050.00
4	ASPHALT CONCRETE SURFACE COURSE, TYPE S 9.5B	TN	27	175.00	4725.00
5	ASPHALT CONCRETE BASE COURSE, TYPE B 25.0C	TN	103	150.00	15450.00
6	CONSTRUCTION SURVEYING	LS	1	25000.00	25000.00
7	2'-6" CONCRETE CURB & GUTTER	LF	39	40.00	1560.00
8	2' CONCRETE VALLEY GUTTER	LF	101	38.00	3838.00
9	CONCRETE CURB RAMP	EA	1	3500.00	3500.00
10	4" CONCRETE SIDEWALK	SY	87	105.00	9135.00
11	TRAFFIC CONTROL	LS	1	12000.00	12000.00
12	MATting FOR EROSION CONTROL	SY	200	2.50	500.00
13	SEEDING	LS	1	6400.00	6400.00
14	8" DUCTILE IRON GRAVITY SEWER 8'-10' CUT	LF	38	145.00	5510.00
15	8" SDR35 PVC GRAVITY SEWER 8'-10' CUT	LF	885	78.00	69030.00
16	4 FT. DIAMETER FLAT TOP PRECAST CONCRETE MANHOLE 6'-8'	EA	1	7350.00	7350.00
17	4 FT. DIAMETER FLAT TOP PRECAST CONCRETE MANHOLE 8'-10'	EA	1	8400.00	8400.00
18	4 FT. DIAMETER FLAT TOP PRECAST CONCRETE MANHOLE 10'-12'	EA	3	9600.00	9600.00

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
19	CONNECT EXISTING SERVICE	EA	2	1650.00	3300.00
20	CONNECT NEW SEWER MAIN TO EXISTING MANHOLE	EA	1	7450.00	7450.00
21	ABANDON EXISTING MANHOLE IN-PLACE	EA	2	1550.00	3100.00
22	FLOWABLE FILL	CY	15	650.00	9750.00
23	UNDERCUT UNSTABLE PIPE FOUNDATION	CY	150	24.00	3600.00
24	ROCK EXCAVATION	CY	10	125.00	1250.00
25	ASPHALT PAVEMENT PATCHING	SY	30	200.00	6000.00
26	EROSION CONTROL	LS	1	17500.00	17500.00
27	CLEARING & GRUBBING	LS	1	17500.00	17500.00
28	STABILIZED CONSTRUCTION ENTRANCE	EA	1	3905.00	3905.00
Total of All Unit Price Bid Items					\$396,103.00

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Total of Lump Sum and Unit Price Bids = Total Bid Price \$ _____

Time of Completion

- 5.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 6 – ATTACHMENTS TO THIS BID

- 6.01 The following documents are submitted with and made a condition of this Bid. Failure to provide the documentation with the bid may be grounds for rejection of the bid.:
- A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or Certified Check (circle type of security provided).
 - B. In accordance with GS 143-128.2(c), Bidder shall identify on its bid the minority businesses that it will use on the project and the total dollar value of the bid that will be performed by the minority businesses and list the good faith efforts (Affidavit A) made to solicit participation. A Bidder that will perform all of the work with its own workforce may submit an Affidavit (B) to that effect in lieu of the affidavit (A) required above.
 - 1. Identification of Minority Business Participation.
 - 2. Affidavit A, Listing of Good Faith Efforts; or Affidavit B, Intent to Perform Contract with Own Workforce.
 - C. Submit the Bidder's Checklist as provided in the bidding documents with the bid submittal. The Checklist shall be completed and included as the first page of the submittal.
 - D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - E. Contractor's License No.: 17456 [or] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;
 - F. Required Bidder Qualification Statement with supporting data; and
- 6.02 After the bid opening the Owner will consider all bids and alternates and determine the lowest responsible, responsive bidder. Upon notification of being the apparent low Bidder, the Bidder shall then file within 72 hours of the notification of being the apparent lowest bidder, the following:
- A. An Affidavit (C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to

or more than the goal established by the Owner and indicated in the Instruction to Bidders, paragraph Minority Participation Goals. This affidavit shall give rise to the presumption that the bidder has made the required good faith effort; or

- B. Affidavit (D) of its good faith effort to meet the goal. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

6.03 Bidder understands that if this Bid is accepted by the Owner, Bidder shall not substitute for the subcontractors named in the Bid Documents except as allowed in the Supplementary Conditions.

ARTICLE 7 – DEFINED TERMS

7.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 8 – BID SUBMITTAL

Contractor's License

- A. Number: 17456
B. Classification: Bldg, Hwy, PU
C. Limitation: Unlimited

Employer's Tax ID No.: 56-1458656

BIDDER: *[Indicate correct name of bidding entity]*

Triangle Grading & Paving, Inc.

Telephone Number: 336-584-1745

Fax Number: 336-584-0145

Contact Name and e-mail address: Chuck Fulp- cfulp@tgandp.com

This Bid Submitted by:

An Individual

Name: _____
(Type or print)

By: _____
(Individual's Signature)

Doing Business As: _____
(Type or print)

A Partnership

Partnership Name: _____

The Organization and Internal Affairs of the Partnership are governed by the laws of the State of: _____

By: _____
(Signature of general partner, attach evidence of authority to sign)

Name: _____
(Type or print)

Title: _____
(Type or print)

Attest: _____
(Signature of Corporate Secretary)

A Corporation

Corporation Name: Triangle Grading & Paving, Inc.

State of Incorporation: North Carolina

Type (General Business, Profession, Service, Limited Liability):

General Contractor

By: _____
(Signature, attach evidence of authority to sign)

Name: RG Kirkpatrick Jr.
(Type or print)

Title: President
(Type or print)

Attest: Eljah C. Kirkpatrick Corporate Seal
(Signature of Corporate Secretary)

Date of Qualification to do business in North Carolina is July 1984

Limited Liability Company – LLC

Name of LLC: _____

Name of State under whose Laws the Limited Liability Company was formed: _____

By: _____
(Signature of Manager)

Name: _____
(Type or print)

Title: _____

(Type or print)

BID BOND

Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.

BIDDER (Name and Address):

Triangle Grading & Paving, Inc.
PO Drawer 2570
Burlington, NC 27216-2570

SURETY (Name, and Address of Principal Place of Business):

Philadelphia Indemnity Insurance Company
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

OWNER (Name and Address):

Town of Apex
P.O. Box 250, 73 Hunter Street
Apex, NC 27502-0250
BID

Bid Due Date: January 9, 2025

Description (Project Name— Include Location): James Sewer and Street Improvements

BOND

Bond Number: Bid Bond

Date: January 9, 2025

Penal sum Five Percent of Amount Bid \$ 5%
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

Triangle Grading & Paving, Inc. (Seal)

Bidder's Name and Corporate Seal

By:

Signature

RAKiriapaloch Jr.
Print Name

President
Title

Attest:

Signature

Secretary
Title

SURETY

Philadelphia Indemnity Insurance Company

Surety's Name and Corporate Seal

By:

Signature (Attach Power of Attorney)

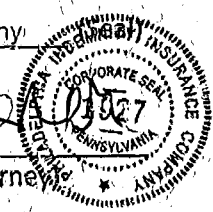
Angela Y. Buckner
Print Name

Attorney-in-Fact
Title

Attest:

Signature

Jenny Snell
Title



Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

Surety Phone No. 610-206-7836

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder any difference between the total amount of Bidder's Bid and the total amount of the Bid of the next lowest, responsible Bidder that submitted a responsive Bid as determined by Owner for the work required by the Contract Documents, provided that:

- 1.1 If there is no such next Bidder, and Owner does not abandon the Project, then Bidder and Surety shall pay to Owner the penal sum set forth on the face of this Bond, and
- 1.2 In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.
- 1.3 Recovery under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation shall be null and void if:

- 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
- 3.2 All Bids are rejected by Owner, or
- 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

Surety Bond Number: Bid Bond
Principal: Triangle Grading & Paving, Inc.
Obligee: Town of Apex

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint Angela Y. Buckner its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$ 75,000,000.00.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **PHILADELPHIA INDEMNITY INSURANCE COMPANY** on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, **PHILADELPHIA INDEMNITY INSURANCE COMPANY** HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF OCTOBER 2024.

(Seal)



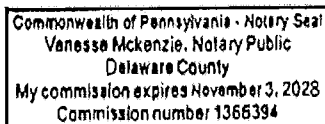
John Glomb

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of October, 2024 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Vanessa McKenzie



Member, Pennsylvania Association of Notaries

residing at:

Linwood, PA

My commission expires:

November 3, 2028

I, Edward Sayago, Corporate Secretary of **PHILADELPHIA INDEMNITY INSURANCE COMPANY**, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day October 2024 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of **PHILADELPHIA INDEMNITY INSURANCE COMPANY**.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 9th day of January, 2025.



Edward Sayago

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of Alamance

(Name of Bidder)

Affidavit of Triangle Grading & Paving, Inc.

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- ☒ **1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☒ **2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☒ **3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☒ **4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☒ **5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- ☐ **6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☐ **7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ **8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ **9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ **10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

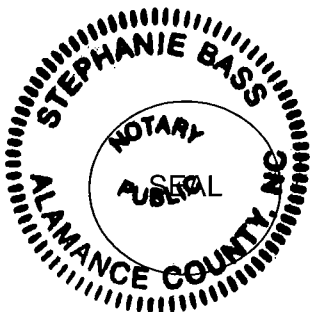
The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: 1-9-25

Name of Authorized Officer: RG Kirkpatrick Jr.

Signature: _____

Title: President



State of North Carolina, County of Alamance

Subscribed and sworn to before me this 9th day of January 2025

Notary Public: Stephanie Bass

My commission expires 11/22/26

**State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract
with Own Workforce.**

County of _____

Affidavit of _____
(Name of Bidder)

In lieu of compliance with the Owner's Minority Business Participation Goals, I hereby certify that
it is our intent to perform 100% of the work required for the _____

_____ contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements
of this type project, and normally performs and has the capability to perform and will perform all
elements of the work on this project with his/her own current work forces; and

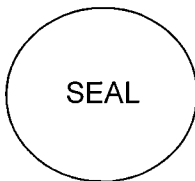
The Bidder agrees to provide any additional information or documentation requested by the owner in
support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the
Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between Town of Apex ("Owner") and _____ ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: 885 linear feet of 8-inch PVC gravity sewer line, 38 linear feet of 8-inch Ductile Iron gravity sewer line, asphalt paving and concrete work.

ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by the Town of Apex Water Resources Department. Contractor acknowledges that the Engineer identified in this Article is a department comprised of staff of the Owner and accepts that arrangement and the decision-making and interpretive authority of the Engineer as detailed in the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Days

- A. The Work will be substantially completed within 120 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 150 days after the date when the Contract Times commence to run.
- B. Parts of the Work shall be substantially completed on or before the following Milestone(s):
1. N/A

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of

requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$750 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$750 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
4. Milestones: Contractor shall pay Owner \$750 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
 - B. Total of Unit Price Work \$.
 - C. All Work, at the prices stated in Contractor's Bid, is attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

- a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 Interest on final payments due to prime contracts shall accrue in accordance with North Carolina General Statute 143-134.1.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of

construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 7, inclusive).
 - 2. Performance bond (pages 1 to 3, inclusive).
 - 3. Payment bond (pages 1 to 3, inclusive).
 - 4. Power of Attorney (pages 1 to 1, inclusive).
 - 5. Certificate of Insurance (pages 1 to 1, inclusive).
 - 6. General Conditions (pages 1 to 65, inclusive).
 - 7. Supplementary Conditions _
 - 8. Specifications as listed in the table of contents of the Project Manual.
 - 9. Drawings (not attached but incorporated by reference) consisting of 13 sheets with each sheet bearing the following general title: James Sewer and Street Improvements Project.
 - 10. Addenda (numbers ___ to ___, inclusive).
 - 11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 7, inclusive), including E-Verify Affidavit.
 - b. Notice of Award (pages 1 to 1, inclusive).
 - c. Documentation submitted by Contractor prior to Notice of Award.
 - d. Affidavits.
 - 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of

Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 E-Verify

- A. Contractor hereby acknowledges that “E-Verify” is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. Contractor further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a). Contractor hereby pledges, attests and warrants through execution of this Agreement that Contractor complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by Contractor shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Agreement.

10.07 Iran Divestment Act Certification

- A. N.C.G.S. 147-86.60 prohibits the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina from contracting with any entity that is listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. N.C.G.S. 147-86.59 further requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer’s Final Divestment List. As of the date of execution of this Agreement Contractor hereby certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer and that Contractor will not utilize any subcontractors found on the Final Divestment List.

10.08 Anti-Human Trafficking

- A. The Contractor warrants and agrees that no labor supplied by the Contractor or the Contractor’s subcontractors in the performance of this Agreement shall be obtained by means of deception, coercion, intimidation or force, or otherwise in violation of North Carolina law, specifically Article 10A, Subchapter 3 of Chapter 14 of the North Carolina General Statutes, Human Trafficking.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Apex

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

P.O. Box 250

Apex, NC 27502-0250

License No.: _____
(where applicable)

If Contractor is a corporation, partnership, or joint venture, attach evidence of authority to sign.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Antwan Morrison, Finance Director

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Apex

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

P.O. Box 250

Apex, NC 27502-0250

License No.: _____
(where applicable)

If Contractor is a corporation, partnership, or joint venture, attach evidence of authority to sign.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Antwan Morrison, Finance Director



Town of Apex

Budget Ordinance Amendment No. 8

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2024-2025 Budget Ordinance be adopted:

General Fund

Section 1. Revenues:

33210	Powell Bill Revenue	208,900
37100	Miscellaneous Revenue	35,000
Total Revenues		\$243,900

Section 2. Expenditures:

44507	Contracted Services Powell Bill	208,900
49663	Transfer to Street Capital Project Fund	35,000
Total Expenditures		\$243,900

Water & Sewer Fund

Section 3. Revenues:

34504	Water & Sewer Extension Fees	8,500
39101	Sale of Capital Assets	1,600
35411	Water Charges	64,900
Total Revenues		\$75,000

Section 4. Expenditures:

4966	Transfer to Water / Sewer Capital Project Fund	75,000
Total Expenditures		\$75,000

Section 7. Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 11th day of February 2025.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk



Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2025-8

63 -Transportation Capital Project Fund

BE IT ORDAINED, by the Council of the Town of Apex that the Capital Project Ordinance previously entitled "Street Improvements Capital Project Fund" be amended as follows:

Section 1. The revenues anticipated for the projects are:

63-9250-1008: Transfer from General Fund	35,000
Total Expenditures	\$35,000

Section 2. The expenditures anticipated are:

63-9250-1008 James Street Improvements	35,000
Total Expenditures	\$35,000

65 - Water & Sewer Capital Project Fund

BE IT ORDAINED, by the Council of the Town of Apex that the Capital Project Ordinance previously entitled "Water & Sewer Capital Project Fund" be amended as follows:

Section 3. The revenues anticipated for the projects are:

65-9275-1227: Interest Earned	12,100
65-9275-1227: Transfer from Water/Sewer Fund	62,900
Total Expenditures	\$75,000

Section 4. The expenditures anticipated are:

65-9275-1227: James Street Sewer	75,000
Total Expenditures	\$75,000

Section 5. Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 11th day of February 2025.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to approve, as submitted or amended, Meeting Minutes from the following meetings:

- January 14, 2025 - Regular Town Council Meeting Minutes
- January 23, 2025 - Town Council Work Session Minutes - *CANCELLED*

Approval Recommended?

The Town Clerk recommends the Town Council approve the meeting minutes as presented or amended.

Item Details

In accordance with 160A-72 of North Carolina General Statutes (NCGS), the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

Attachments

- CN4-A1: **DRAFT** Minutes - January 14, 2024 - Regular Town Council Meeting Minutes
- CN4-A2: **DRAFT** Minutes - January 23, 2025 - Town Council Work Session Meeting Minutes



DRAFT MINUTES

**TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, JANUARY 14, 2025
6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, January 14, 2025 at 6:00 p.m. in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here:

<https://www.youtube.com/watch?v=FqnBjOUEFKM&t=2s>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro Tempore Ed Gray
Councilmember Audra Killingsworth
Councilmember Terry Mahaffey
Councilmember Brett Gantt
Councilmember Arno Zegerman

Town Staff

Town Manager Randy Vosburg
Deputy Town Manager Shawn Purvis
Assistant Town Manager Marty Stone
Assistant Town Manager Demetria John
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and welcomed all who were in attendance and watching and wished everyone a Happy New Year. He then led all those in attendance in a recitation of the Pledge of Allegiance.

1 **Mayor Gilbert** then took a moment to remember those that are facing hardships
2 around the country, including Western NC, New Orleans, and Los Angeles. He asked for
3 Reverend Dr. Sequola Dawson, Sr. Pastor at St. Mary's to lead in invocation.
4

5 **Reverend Dr. Sequola Dawson** led the invocation.

6 **[CONSENT AGENDA]**

7 **Mayor Gilbert** noted that there would be further discussion on Consent Item 8 at the
8 February 18, 2025 Work Session related to the Flock Camera Safety Contract.

9 **Town Manager Vosburg** said that the item would still remain on the Consent Agenda,
10 and Council would be voting to approve the Contract tonight. He said the further discussion
11 at the Work Session would be for policy implementation of the Contract.
12

13 A **motion** was made by **Councilmember Killingsworth**, seconded by **Mayor Pro**
14 **Tempore Gray**, to approve the Consent Agenda as presented.
15

16 **VOTE: UNANIMOUS (5-0)**
17

18 **CN1 Agreement - Apex C.E.R.T., Inc. - Apex Fire Department and Emergency**
19 **Management - Formalized Volunteer Assistance (REF: CONT-2025-011)**

20 Council voted to approve a service agreement between Apex C.E.R.T., Inc. and the Town of
21 Apex, effective for (1) one-year, to provide volunteer assistance to the fire department and
22 other town departments when requested, and to authorize the Town Manager to execute, or
23 their designee, on behalf of the Town.

24 **CN2 Agreement - Facility Encroachment Agreement No. CSX1027645 - Town of Apex**
25 **and CSX Transportation, Inc. - Apex Southwest Peakway Connector Project (REF: CONT-**
26 **2025-012)**

27 Council voted to approve a Facility Encroachment Agreement No. CSX1027645 between CSX
28 Transportation, Inc. and the Town of Apex to construct a 16-inch water line under the rail line
29 for the conveyance of portable water, and to authorize Town Manager, or their designee, to
30 execute on behalf of the Town.

31 **CN3 Agreement - North Carolina Division of Motor Vehicles (DMV) - Access DMV**
32 **Records Containing Personal Information - eCrash Web - February 1, 2025 through**
33 **January 31, 2028 (REF: CONT-2025-013)**

34 Council voted to approve an agreement between North Carolina Division of Motor Vehicles
35 (DMV) and the Town of Apex, effective February 1, 2025 through January 31, 2028, to access
36 DMV records containing personal information by utilizing eCrash software, and to authorize
37 the Town Manager, or their designee, to execute on behalf of the Town.

38 **CN4 Agreement - Mobile Communications of America - Standard Services Agreement**
39 **- Support for Town of Apex Fire Department Radios (Replacement) - February 1, 2025**
40 **through January 31, 2030 (REF: CONT-2025-014)**

Council voted to approve a Standard Services Agreement (SSA) between Mobile Communications of America and the Town of Apex, to provide annual preventive maintenance, annual firmware updates and make repairs and replacements as needed to the fire department mobile, portable and vehicle repeater radios, effective February 1, 2025 through January 31, 2030, and to authorize the Town Manager to execute, or their designee, on behalf of the Town.

CN5 Agreement - Mission Critical Partners, LLC - Application Programming Interface (API) - Apex Fire Department's Record Management Software and Scheduling Software - February 1, 2025 through January 31, 2028 (REF: CONT-2025-015)

Council voted to approve a Statement of Services and End-User Subscription Agreement between Mission Critical Partners, LLC and Town of Apex, to provide an application programming interface (API) between the fire department's record management software and scheduling software, effective February 1, 2025 through January 31, 2028, and for the Town Manager, or their designee, to execute on behalf of the Town.

CN6 Budget Ordinance Amendment No. 5 and Capital Project Ordinance Amendment No. 2025-5 - Debt Service Payments and Affordable Housing Land Purchase (REF: ORD-2025-001 AND ORD-2025-002)

Council voted to approve Budget Ordinance Amendment No. 6 transferring budgeted Debt Service payments from the operating funds to respective Debt Service and Affordable Housing Funds and corresponding Capital Project Ordinance Amendment 2025-5 to account for Affordable Housing Land Purchase.

CN7 Budget Ordinance Amendment No. XX - New Position Authorizations (REF: ORD-2025-003)

Council voted to approve updates to the Town's Fiscal Year 2025 Position Authorization List and associated Budget Ordinance Amendment No. 7.

CN8 Contract Multi-Year - Flock Safety Inc. - License Plate Reader Technology - February 1, 2025 through January 31, 2027 (REF: CONT-2025-016)

Council voted to approve an Order Form and Master Services Agreement between the Town and Flock Group, Inc. and the Town of Apex, for License Plate Reader hardware installation, technology, and software, effective February 1, 2025 through January 31, 2027, and to authorize the Town Manager, or their designee, to execute the Order Form and Agreement on behalf of the Town.

CN9 Council Meeting Minutes - Various

Council voted to approve Meeting Minutes from the following meetings:

November 19, 2024 - Town Council Work Session Minutes

November 21, 2024 - Regular Town Council Meeting Minutes

December 10, 2024 - Regular Town Council Meeting Minutes

December 17, 2024 - Town Council Work Session Minutes

CN10 Finance Policy - Internal Control Policy (REF: RES-2025-001 AND PLCY-2025-001)

Council voted to adopt an Internal Control Policy for the Town of Apex.

CN11 Fiscal Year 2025-2026 Annual Operating Budget - Set Public Hearing - First Hearing

Council voted to set a Public Hearing for Tuesday, January 28, 2025 at 6:00 p.m. to receive resident input regarding the formulation of the Fiscal Year 2025-2026 Budget.

CN12 Human Resources (HR) Policy Updates - Town's Personnel Policies - Vacation Leave Max Payout and Retiree Insurance (REF: PLCY-2025-002)

Council voted to approve an amendment to the Town's Personnel Policies Manual.

CN13 Resolution - Abandon Existing Public Utility Easements - Hendrick Toyota - Access Relocation (REF: RES-2025-002)

Council voted to adopt a resolution entitled "Resolution to Abandon Portion of Existing Public Utility Easement", located at 1210 Laura Village Drive.

CN14 Resolution - Abandon Existing Access Easement - Aqualine Pristine Water Access and Dedication (REF: RES-2025-003)

Council voted to adopt a resolution titled "A Resolution to Abandon Portion of Existing Access Easement", located at 1501 East Williams Street.

CN15 Tax Report - November 2024 (REF: OTHER-2025-001)

Council voted to approve the Apex Tax Report dated December, 5, 2024.

[PRESENTATIONS]

PR1 Proclamation - Martin Luther King Jr. Commemoration Weekend 2025 (REF: PRO-2025-001)

Mayor Gilbert along with the rest of Town Council, read the Proclamation for Martin Luther King Jr. Commemoration Weekend 2025. He invited Tayon Dancy and Laric Copes to accept the proclamation and take a picture.

Ms. Dancy said she wanted to recognize Alpha Phi Alpha fraternity that had been working with them. She said that Dr. King was a part of the Alpha Phi Alpha fraternity. She also recognized the historic Apex First Baptist Church that had been helping with this as well. She thanked the Town Council for their support and for the participants. She said that the Fair Housing Act was passed shortly after Dr. King's death, she said this was a part of Dr. King's life work and she said that there is still much progress to be done. She said her heart's desire is for the community to show up and come out in support. She went through the events happening in Apex for the upcoming MLK weekend.

PR2 Proclamation - Human Trafficking Prevention Month - January 2025 (REF: PRO-2025-002)

Mayor Gilbert along with the rest of Town Council, read the Proclamation - Human Trafficking Prevention Month - January 2025. He then invited members of Shield NC - Niki Miller, Michele Stewart, Erin Bircher and Leslie Lockhart. He then invited members of Ship Outreach - Anissa McNair, Pastor Christopher Jones, Aaron Snead and Sons, Lafayette Trawick and Tru Pettigrew to accept the proclamation and take pictures.

1 **Ms. Miller** spoke on training and awareness. She gave some information on what a
2 trafficking may look like and how important training is for this. She said trafficking was difficult
3 to spot, and most of the time, victims are trafficked by people they know and trust. She said
4 that at shieldnc.org they host an hour-long training each month, where anyone can sign up
5 and learn about how to identify and help prevent human trafficking.

6 **Pastor Jones** gave information on Ship Outreach, and how they just opened a
7 trafficking center that help women, men and children that have been trafficked. He said Ship
8 Outreach works with the Federal Government on a “boots on the ground” approach to rescue
9 human trafficking victims. He thanked Apex for doing the Proclamation and bringing
10 awareness to this issue.

11
12 **PR3 Fiscal Year Ended June 30, 2024 - Annual Comprehensive Financial Report**
13 **(ACFR)**

14 **Antwan Morrison**, Finance Director and April Adams, Assurance Director with Cherry
15 Bekaert gave the following Fiscal Year 2024 Annual Comprehensive financial report:

16 **[SLIDE 1]**



1 [SLIDE 2]

Purpose:

- Receive results of required annual external audit

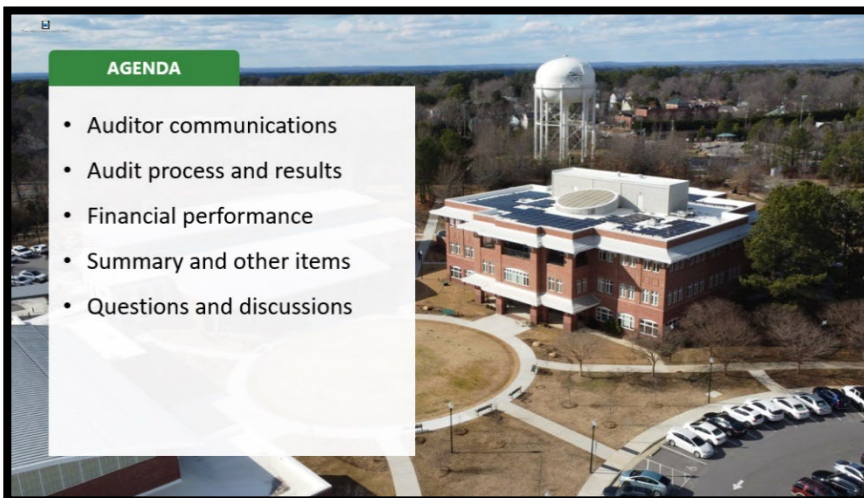
Requested Action:

- No action necessary

2
3 [SLIDE 3]

AGENDA

- Auditor communications
- Audit process and results
- Financial performance
- Summary and other items
- Questions and discussions

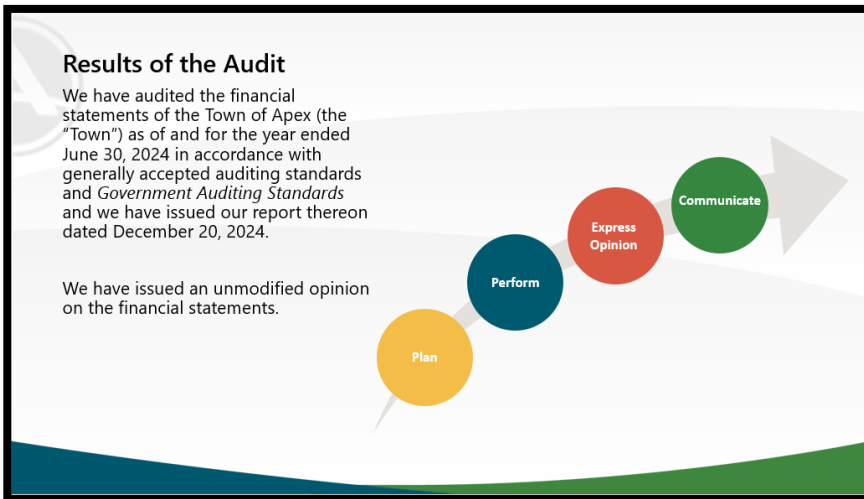


4
5 [SLIDE 4]

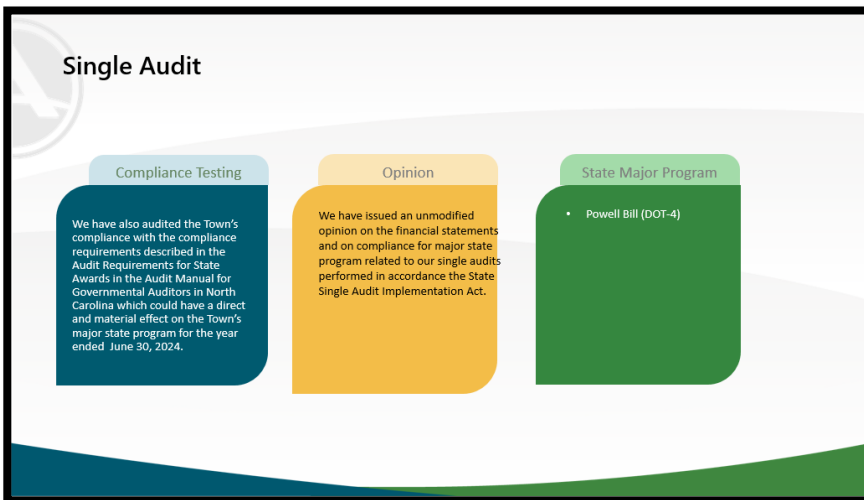


6

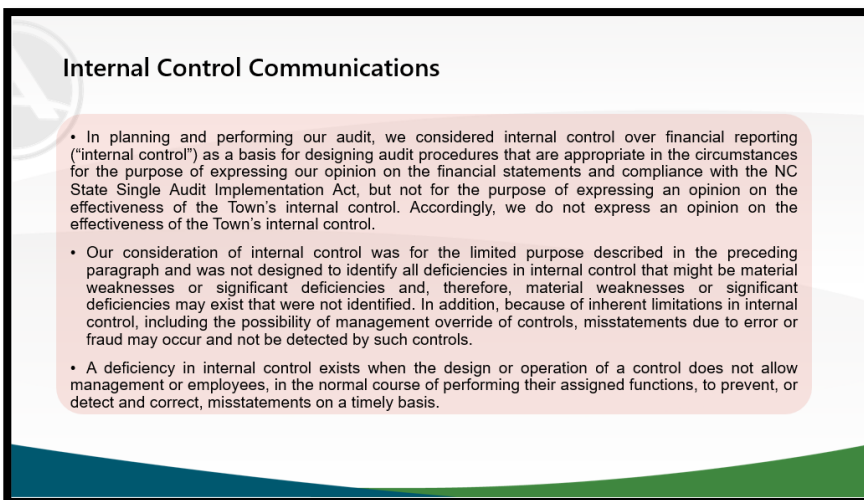
1 [SLIDE 5]



2
3 [SLIDE 6]



4
5 [SLIDE 7]



6

1 **[SLIDE 8]**

Internal Control Communications

Material Weakness

▶ A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the Town's financial statements will not be prevented, or detected and corrected, on a timely basis.

Significant Deficiency

▶ A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

We noted no deficiencies that we believe to be material weaknesses.

2
3 **[SLIDE 9]**

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management.

Corrected Misstatements

▶ None noted

Uncorrected Misstatements

▶ None noted

4
5 **[SLIDE 10]**

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town are described in Note 1 to the financial statements.

No new accounting policies were adopted, and the application of existing policies was not changed during the year.

We noted no inappropriate accounting policies or practices.

Related Party Relationships and Transactions

Significant Unusual Transactions

Significant Estimates

Financial Statement Disclosures

1 **[SLIDE 11]**

Independence Considerations

Nonattest Services

- ▶ We will complete the appropriate sections of and sign the data collection form
- ▶ For all nonattest services we perform, you are responsible for designating a competent employee to oversee the services, make any management decisions, perform any management functions related to the services, evaluate the adequacy of the services, and accept overall responsibility for the results of the services.

Independence Conclusion

- ▶ We are not aware of any other circumstances or relationships that create threats to auditor independence.
- ▶ We are independent of the Town and have met our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits.

2
3 **[SLIDE 12]**

Other Required Communications and Matters

- ▶ Difficulties encountered
- ▶ Disagreements with management
- ▶ Auditor consultations
- ▶ Management representations
- ▶ Management consultations
- ▶ Other findings or issues
- ▶ Fraud and illegal acts
- ▶ Going concern

Supplementary Information – in relation to opinion

Required Supplementary Information (MD&A) – no opinion given

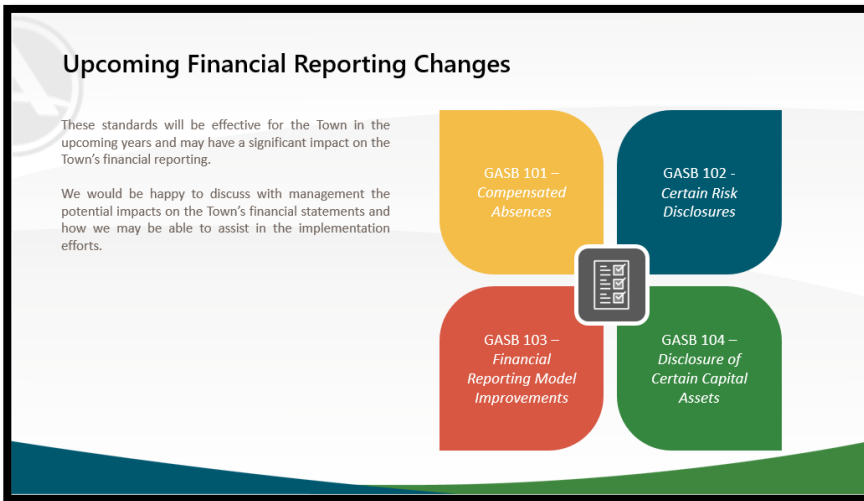
Introductory and Statistical Sections – no opinion given

4
5 **[SLIDE 13]**

LGC Performance Indicators

- **One** financial performance indicator of concern noted
- Audit was not submitted within five (5) months from fiscal year-end
- **Requires Response to Local Government Commission (within 60 days)**

1 **[SLIDE 14]**



2
3 **[SLIDE 15]**



4
5 **[SLIDE 16]**

Property Taxes (page 153)

- Assessed Valuation = \$12.5 billion – June 30, 2024
 - Compared to – \$11.8 billion - June 30, 2023
- Current year Ad Valorem Tax collections totaled - \$55.0 million – an increase of \$6.5 million from the prior year
- 99.8% of levy collected

1 **[SLIDE 17]**

Fund Balance and Net Position <small>(non-GAAP)</small>					
Net change in fund balance (net position) for the past five fiscal years are as follows:					
	2024	2023	2022	2021	2020
General Fund ⁽¹⁾	\$ 8,739,013	(\$2,802,214)	\$ 10,630,653	\$ 6,364,091	\$ 2,430,163
Electric Fund ⁽¹⁾	5,370,814	(498,351)	126,057	2,906,873	69,928
Water and Sewer Fund ⁽¹⁾	(3,813,400)	331,808	2,932,175	3,566,147	3,722,551
Stormwater Fund ⁽²⁾	2,815,985	N/A	N/A	N/A	N/A

Note1: Debt Service Funds are consolidated with corresponding fund for financial reporting purposes.

Note 2: Stormwater Fund established FY 2024. Transferred \$1.6M from Water and Sewer Fund in FY 2024, represent net collections since implementation of stormwater user fees – prior to having its own fund.

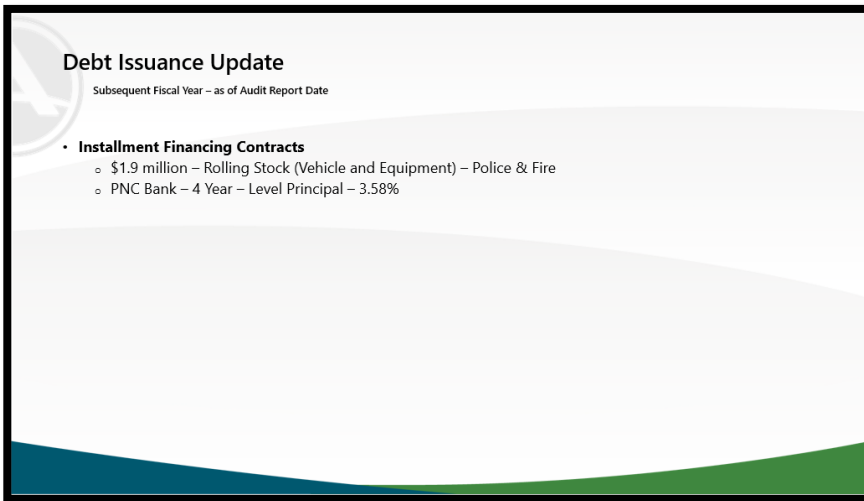
2
3 **[SLIDE 18]**

General Fund – Fund Balance	
➤ Policy – unassigned fund balance 25% of General Fund adopted budgeted expenditures for subsequent year (FY 2025)	
➤ Fund Balance Calculations:	
➤ Town policy – 25% or \$28,222,600	
➤ FY 2024 Unassigned Fund Balance –29.1% or \$32,821,095	
➤ Total amount above FY 2024 policy limit - \$4,598,495	
➤ FY 2025 – Appropriated Fund Balance – Adopted Budget - \$1.7M	
➤ FY 2025 – Appropriated Fund Balance – Amended Budget (to date) - \$340,000	

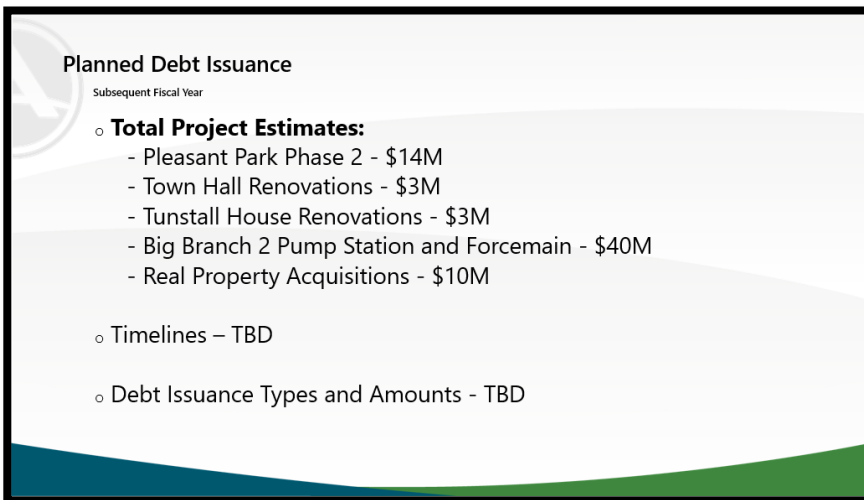
4
5 **[SLIDE 19]**

Debt Position	
DEBT OVERVIEW	DEBT COMPLIANCE
• Debt issuance:	• Percentage of debt to valuation – 1.2%
◦ \$3.46M – Two-Thirds Bonds – Mason Street Building – 20 years – 3.74%	◦ Town Policy – 2.5% (\$312,153,949)
◦ \$24.5M – GO Bonds – Transportation Improvements – 20 years – 4.11%	◦ State Statute – 8% (\$998,892,637)
◦ \$1.79M – Installment purchase – Rolling Stock – 4 years – 3.90%	◦ Legal Debt Margin – \$846,701,189 (see Table 14)
• Total Outstanding Debt - \$147.99 million	• Debt Service Ratio – 8.9%
◦ General Government: \$101.59 million	◦ Town Policy – 12%
◦ Proprietary Funds: \$46.4 million	
• Total applicable to limitation:	
◦ \$152.2 million (includes authorized but unissued GO Bonds)	
- 2021 - \$24.5 million unissued – Transportation Bonds	

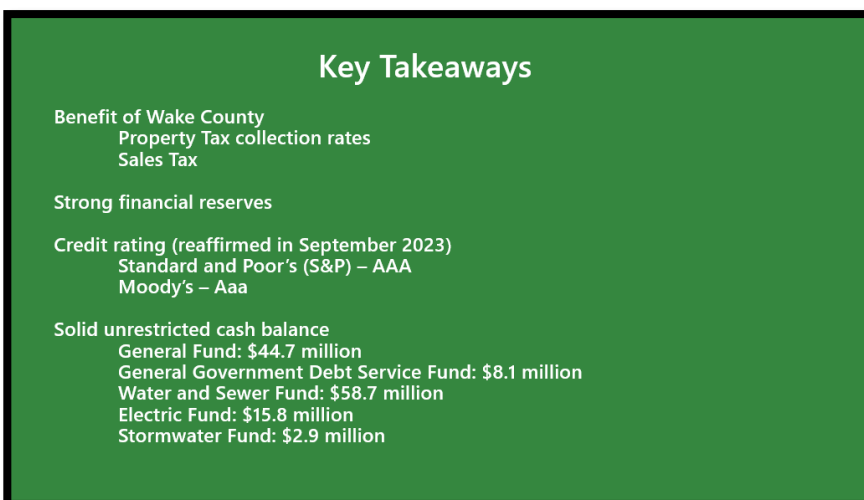
1 **[SLIDE 20]**



2
3 **[SLIDE 21]**



4
5 **[SLIDE 22]**



[SLIDE 23]

NC Department of State Treasurer
Subsequent Fiscal Year - FY 2025

- o Local Government Budget Fiscal Control Act (NC 159-34(a))
 - Requires annual independent audit timely
 - Due date four months after fiscal year ended or October 31st
 - Considered late after November 30th
- o Beginning with fiscal year 2025 due date will be six months after fiscal year ended or December 31st
 - Memo submitted December 20, 2024
 - Due to many challenges facing local governments (staffing, standards changes, complexities of audit, etc.)
 - Audit contract form has been updated to reflect revision
 - Submitted after March 31st - will receive notice of noncompliance and may have a portion of its sales tax distributions withheld
 - Note: units requesting LGC approval of debt must submit current audit report two months prior to the LGC meeting at which they are requesting consideration

[SLIDE 24]

Other Items

- Certificate for Achievement of Excellence in Financial Reporting from the GFOA
 - Awarded for fiscal year ended June 30, 2023
 - Submitted application for fiscal year ended June 30, 2024
- Special thanks to Finance Department, as well as members of town staff
- Questions/Discussion

Mayor Gilbert thanked the staff and Director Morrison for the hard work on the audit. **Councilmember Zegerman** congratulated Director Morrison and Finance Staff for a clean report. He asked how much of the rolling balance of the general fund into the next fiscal year was unrestricted.

Director Morrison said that they are all unassigned funds. He said that there is a calculation required to be done by the state that takes out the money that is spoken for in the general fund and this is what is remaining.

Mayor Gilbert thanked Director Morrison and then moved to the Regular Meeting Agenda.

[REGULAR MEETING AGENDA]

Mayor Gilbert asked for a vote to set the Regular Meeting Agenda.

1 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
2 **Zegerman**, to approve the Regular Meeting Agenda as presented.

3
4 **VOTE: UNANIMOUS (5-0)**
5

6 **[PUBLIC FORUM]**

7 **Mayor Gilbert** opened up the Public Forum and invited the first speaker up.

8 First to speak was **Phil Welch** at 1471 Big Leaf Loop:

9 "Good evening Mayor, Councilmembers, Town Manager, Staff, Public. I'd like to
10 recognize the other housing advocates joining me this evening. Please raise your hands if
11 you're supporting affordable housing. First, a bit of background. Town Council held a work
12 session on December 17th to discuss changes to their advisory bodies. I couldn't attend, but I
13 did watch the relevant portions of this session afterward, and I was surprised to hear the
14 recommendation to dissolve the Housing Advisory Board after only about three years of
15 operation. The rationale given was that the HAB had accomplished a lot, the housing staff is
16 now in place, and the work of the HAB is basically done. Whether or not these observations
17 are true, Apex is still far from filling its gaps in affordable housing. In fact, I believe the
18 shortage of affordable homes, especially for Apex's low to moderate-income families, has
19 grown worse in the last four years since the Affordable Housing Plan was passed. It was
20 passed unanimously by the Town Council. I offered that perspective in my comments on this
21 year's annual housing report. I thought it might be helpful to read those comments as a basis
22 for my suggestions on how to advise the Mayor, Council, and staff on ways to begin filling
23 Apex's deficit in affordable homes.

24 Here are my comments:

25 Apex continues to have a huge deficit of affordable homes for residents and essential
26 workers of at least 1,400 households and more likely closer to 3,000 or more when
27 accounting for our neighbors paying more than 30% of their income for housing plus our
28 essential workers who would love to work and live here. 93% of Apex's residents commute
29 out of town for work, so only 7% of people who work here are able to live here. Our essential
30 workers, for example, healthcare support, construction workers, entry-level teachers, and
31 police officers earning less than 80% of area median income, cannot afford average rents
32 here of \$1600. 770 low to moderate-income renters and 650 low to moderate homeowners
33 are severely cost-burdened, paying 50% or more for housing and having little left over for
34 other critical expenses such as food, healthcare, and transportation. So how are we doing
35 closing the gap?

36 Here are some highlights from the attached annual report:

37 - At the end of fiscal year 23/24, DHIC was completing construction on and beginning to rent
38 some of the 164 family affordable apartments in Stone Glen, across the Apex Peakway from

1 the Walmart shopping center. As of September 1st, last year, there were still about 70
2 apartments available. Please spread the word to friends, family, and essential workers.

3 - During the fiscal year 23/24, as part of Apex Cares, Rebuilding Together the Triangle
4 completed repairs on six homes owned and occupied by Apex residents, at an average cost
5 of just about \$26,000 per home.

6 - In June, the Community Development and Neighborhood Connection staff and the Housing
7 Advisory Board recommended, and the Town Council approved, major revisions to Apex
8 Cares with the goal of rehabbing 10 homes in each of the four subprograms during this fiscal
9 year.

10 - Two rezonings were approved in fiscal year 23/24 for market rate developments with three
11 ownership homes at up to 135% of area median income for 30 years, and 20 rental units at
12 80% of area median income for 10 years. These 23 units are out of a total of 970 housing
13 units or about 2.4% of the total.

14 Much more is needed to realize the vision in our Affordable Housing Plan: "Apex welcomes
15 people of diverse backgrounds and supports opportunities for affordable, safe, sanitary, and
16 quality housing that meets the needs of people of all incomes, ages, and abilities." With that
17 as background, I'd like to present some ideas I have for sharing information and proposals for
18 closing Apex's gap of affordable homes. My objective is to find ways to better communicate
19 the need for more housing choices to our Council, town staff, especially planning and
20 housing groups, and the public. I have a few ideas, including making the planning and
21 development process more transparent and accountable, and opening better channels of
22 communication among advocates, Councilmembers, and Planning and Housing staff
23 members. I believe the first step would be to estimate Apex's deficits in affordable homes by
24 different household incomes. Then we could ask the staff for specific annual objectives in
25 filling these gaps. These will provide the means to measure Apex's progress towards filling
26 these gaps. We'll also have the ability to hold our elected officials and staff accountable for
27 closing the gaps. Otherwise, I feel that we'll be like any of our other Wake County
28 municipalities, which ignore our neighbors who struggle to pay 30 to 50% or more of their
29 income for housing and continue to live in fear of displacement and homelessness. We'll also
30 continue to assume that it's acceptable for the vast majority (93% or above) of the workers in
31 Apex to commute from other towns and counties to service. I'm thinking that maybe we
32 should use the public forum portions of council meetings to share information with our
33 elected leaders, staff, and the public. Maybe we need to identify other Apex stakeholders
34 who can explain the benefits of stable, affordable homes. For example, we could invite
35 residents such as a Habitat homeowner to describe what a stable, affordable home means to
36 her as a single mother and special ed teacher in Apex. I'm already speaking with leaders from
37 local social service agencies, such as the Interim Executive Director at Western Wake Crisis
38 Ministry, to offer stories about people they've helped at the food pantry and with emergency
39 assistance who are at risk of becoming unhoused. She could also provide statistics on how
40 the demand for their services has been growing before, during, and after the pandemic.

1 Perhaps I could line up talks by selected local faith community leaders on the calls they're
2 getting from local families who are struggling to find and keep homes within their budgets.
3 Maybe they could speak about the impacts of the lack of affordable homes on members of
4 their congregations. However, I believe more advocacy is also needed. Advocates need to
5 understand developers' proposals so they can support those that include a reasonable
6 number of affordable homes at various price points and for affordable periods of 20 to 30
7 years or more. As advocates, we need to point out to staff and Councilmembers when
8 developers need to do better with their proposals. I want Apex to continue to stand out in our
9 County and our Country as the peak of good living for all who aspire to live and work here. I
10 invite Councilmembers, staff, and the public to talk to me about creative ways to achieve that
11 vision. Thank you."

12 **Mayor Gilbert** thanked the speaker and invited the next speaker.

13 Next speaker was **Dawn Cozzolino** of 3632 Bosco Road:

14 "Good evening Town Council. Yesterday 124 households in our New Hill community
15 lost power for over 12 hours. The cause of the outage, and you're getting a handout on that,
16 was reported by Duke Energy as due to public vandalism. This could have been a serious
17 threat. We have folks that are elderly, they have medical conditions, and when we don't have
18 power, we have wells, there's no water, there's no heat, and we lose our refrigerators.
19 Restoration of the power could have been even unknown at that point and it reminds us all of
20 the substation attack in Moore County back in 2022 that was never resolved. Since then, we
21 haven't really heard anything and it quietly went out of the news cycle. I ask for action tonight
22 and interaction between Apex, Holly Springs, and Wake County to address these safety
23 concerns. The local governments need to figure out how to improve the safety for residents,
24 and this is really important to protect the grid. This also relates, as I talk about often, to traffic
25 crashes. I bring that up because what's happening is we have the same roads, we have the
26 same limited police resources, but a significant increase in the people growth from
27 development, I'm not talking about babies being born. We have a high cost of living to go
28 along with that and things aren't getting better, they're getting worse. So I'd like to point out
29 that I think we could be more proactive rather than reactive, and I continue to focus on traffic
30 impact studies and those analyses for any developments, whether existing or proposed for
31 zoning. Could we think about dedicating more Apex police resources to the areas that Apex
32 has grown, and what I'm talking about is the areas of New Hill and Friendship community, and
33 we've asked for that in the past, and I think the timing is right to ask that question again.
34 Remember, development is not on an island where each development has its own needs and
35 it meets some volume limit. Actually, each development is compounded and is part of the
36 whole transportation network and people network. Let's use common sense. Thank you very
37 much for your time."

38 **Mayor Gilbert** thanked the speaker and called the next speaker.

39 Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

1 "Mayor, Town Council, good evening. So, I have been around probably way too long.
2 I've been in the area since 1991 and didn't really pay a lot of attention to the town's financials
3 until the last few years, and I've sat through the annual presentation that the town staff gave
4 earlier today, and I need to make a few comments. It's not meant to be negative, but we need
5 to also be transparent. In 2019, 2020, 2021, and as far as I know any year before that, the
6 financial audit was always turned in to the local government commission on time. Having sat
7 through these meetings, I have known about this in the past, so I reached out to the local
8 government commission in December, and they forwarded the documents to me. So, what
9 you have in front of you is one of the financial indicators, and I only used page six where it
10 states that your report was late in 2022, in 2023, and now we're going to be late in 2024. It
11 states, and I quote, 'as stewards of the public resources, the governing body is responsible for
12 ensuring that the audited financial statements are available to the public in a timely manner.
13 External groups such as the North Carolina General Assembly, federal and state agencies that
14 provide funding, and other public associations need current financial information about your
15 local government as well.' You all received this in 2022, and you signed a letter, a copy of
16 which is in front of you, that you understood the importance of the financials being submitted
17 in time. So, we missed it in 2022 when you got the notice and then 2023 happened and we
18 missed the deadline again and you received the same statement. Those of us who've been
19 watching and having conversations were concerned. This is government 101 that you get
20 your financials in on time. And I've read the letters about high staff turnover. Why are we
21 having staff turnover? You know, what is it that you as a council need to provide the town
22 staff? Is it more money? Is it more guidance? I don't know what it is, but it's embarrassing that
23 we can't get our financials in on time. Now I understand the consequence may not be large,
24 but from a reputational perspective, I think it's important that this is the last year that we're
25 late because we were never late before. So, I ask you to please have conversations among
26 yourself to figure out what you can do to help staff get the reports in on time. Thank you."

27 **Mayor Gilbert** thanked the speaker and called the next speaker.

28 Next to speak was **Mary Miskimon** at 3177 Retama Run, New Hill:

29 "Good evening, Happy New Year to the Council and staff. Last month I addressed the
30 council regarding the ongoing utility bill issue, and I'm back tonight just to follow up. So far,
31 more than 1,800 people who signed my petition have requested more transparency and
32 accountability. Specifically, more frequent updates to the webpage and a council agenda
33 item addressing the status of utility billing along with any information regarding the cyber
34 investigation that you may have. It's now after the holidays, mid-January. It appears the most
35 recent updates to the webpage were made in early December. I don't see anything on the
36 Council's agenda for tonight to address the cyber-attack and billing issue either. I know of
37 several people who did reach out to me directly to report that they continue to have issues
38 with their December bills. Additionally, I see from the E-permit portal that there were some
39 issues today. It appears from the alert that was sent out that there was a software issue. So, at
40 the most basic, we are simply asking for the following, please:

1 - A public hearing to give the public the opportunity to ask questions.

2 - Until the town is fully recovered, each Town Council meeting should have a separate
3 agenda item to ensure that the Town staff provides a specific update on the recovery plan
4 and the progress made.

5 - An update to the town's website on a weekly basis, please. Thank you for your time
6 tonight."

7 **Mayor Gilbert** thanked Ms. Miskimon and called the next speaker.

8 Next speaker **Cahana Daniel** at 605 W. Chapel Hill Street, Durham:

9 "Hi guys, I'm going to address the three-month allegation that was over here in the city
10 council, but I have one request: make 2025 about the city council. Don't let any of those
11 things come into here. I'm going to address what is anti-Semitism. Anti-Semitism involves
12 unfairly singling out Israel, denying Jewish history like what was over here last time with Jesus
13 Christ, and having allegations of genocide when there is no support for it. I don't believe that
14 I need to come over here to a room full of Christians and tell you that Jesus Christ was Jewish
15 from Judea. He was born Jewish and here's the thing: unlike Muslims or Christians, where you
16 have so many ethnicities within, Jews are an ethno-religion. We have the Jewish religion, the
17 Jewish faith, the Jewish people, and the Jewish language, Hebrew. The Hebrew translation for
18 Hebrew to English means "the other side of the river," the West Bank, Judah and Samaria. If
19 Jesus was here today, he would only be able to speak to me in Hebrew. No need to say that
20 Jesus was born 135 years before the land was ever called Syria Palestina by a Roman
21 emperor in order to stick it to the Jews who kept on revolting against him because they
22 wanted to release themselves from the occupation of the Roman Empire. Moreover, you all
23 heard about the heartbreaking story of the 16-year-old that was arrested by the IDF. I was
24 searching that, and it's easy to search it in Hebrew. This is Hussain Abuli. As you can see over
25 here, his parents and teachers strapped him with an explosive bomb and sent him to a
26 barricade in Israel in order to explode. Tell me, who is the bad guy over here? The IDF that
27 stripped him off of this bomb in 2004, or was it the parents and the education system that
28 taught him that he would get 72 virgins in heaven? During the intifada in 2002-2003, there
29 were successful suicide bombings. It's come over here to City Council and and give you
30 allegations. It's not the only one. Muhammad Elwat, Abu Katish and more and more children
31 have been sacrificed from their side in order to suicide bomb into Israel. But if they care so
32 much about children, why don't they care about those families that have been kidnapped and
33 held hostage in Gaza? You know what, if they don't care about Jews, why don't they care
34 about the two Arab Israelis that were kidnapped and found dead last week? These allegations
35 come here every week. I'm asking you to stop them. One last thing, the United States does
36 not give money to Israel. They give a voucher to Israel to buy merchandise and weapons from
37 the United States. They also do this for Ukraine and different countries, but somehow, they
38 forgot to mention this. Please make the city council about the city council again. I don't want
39 to come back here. Thank you very much."

Mayor Gilbert thanked all that came out and spoke and then moved to Public Hearings.

[PUBLIC HEARINGS]

PH1 2045 Land Use Map and Transportation Plan Amendments - Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities - Continuance Requested to January 28, 2025

Jenna Shouse, Senior Long-Range Planner, Planning Department requested to continue this item to the January 28th Town Council meeting, in order to be heard on the same night as the Parks plan update.

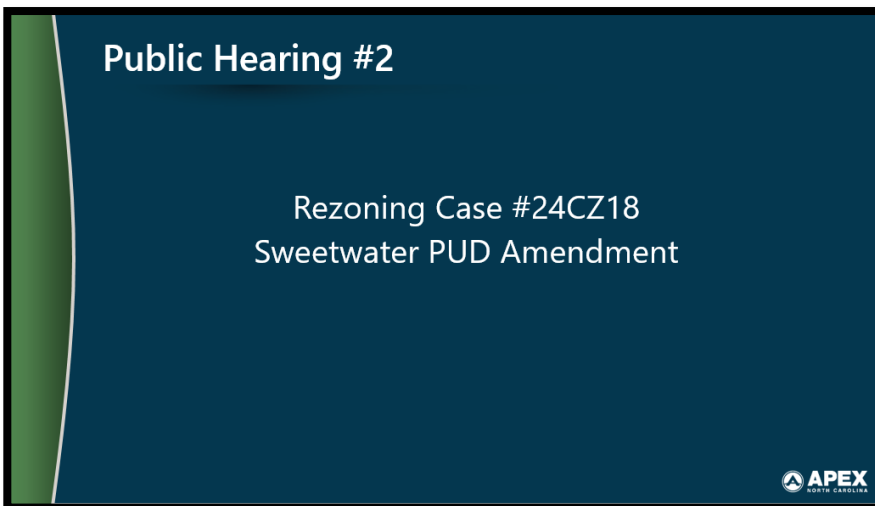
A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Zegerman** to continue the 2045 Land Use Map and Transportation Plan Amendments - Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities to the January 28th Town Council Meeting.

VOTE: UNANIMOUS (5-0)

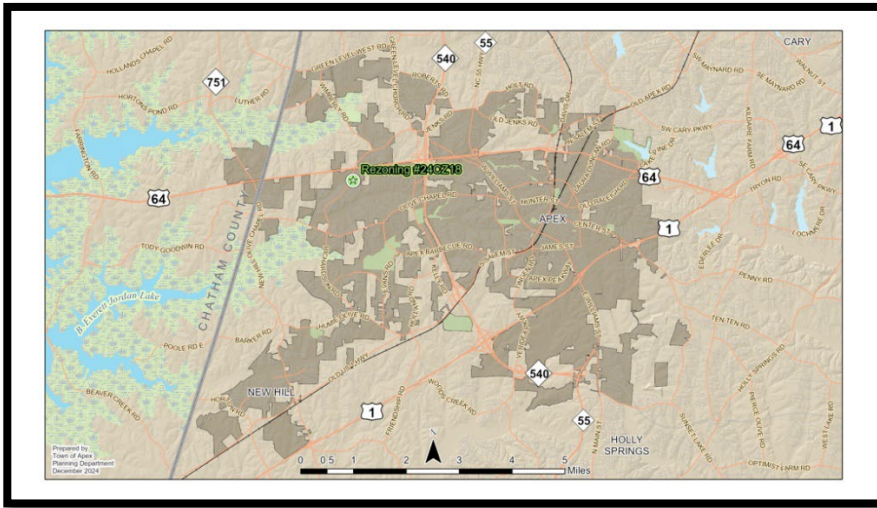
PH2 Rezoning Case No. 24CZ18 - Sweetwater PUD Amendment

Joshua Killian, Planner I, Planning Department gave the following presentation:

[SLIDE 1]



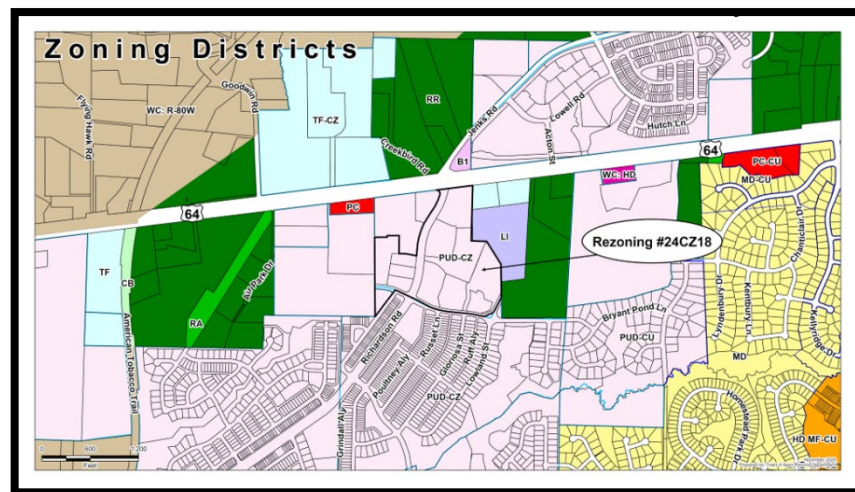
1 [SLIDE 2]



2
3 [SLIDE 3]

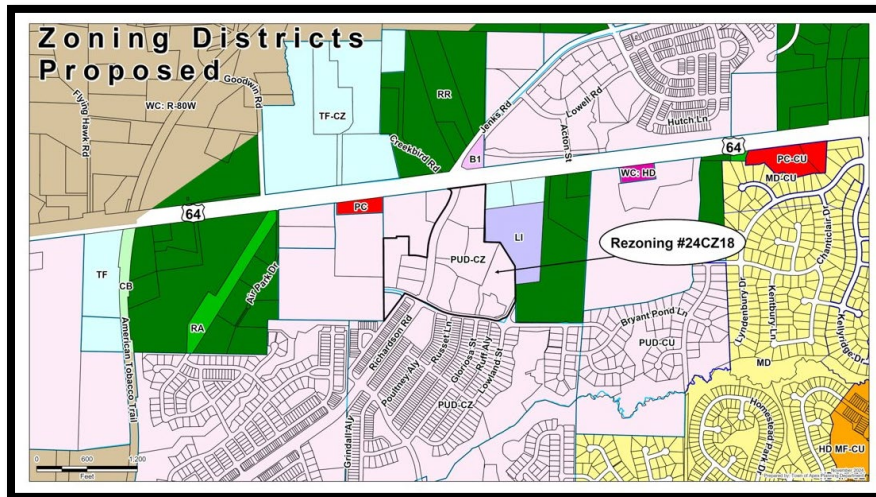


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5 [SLIDE 4]

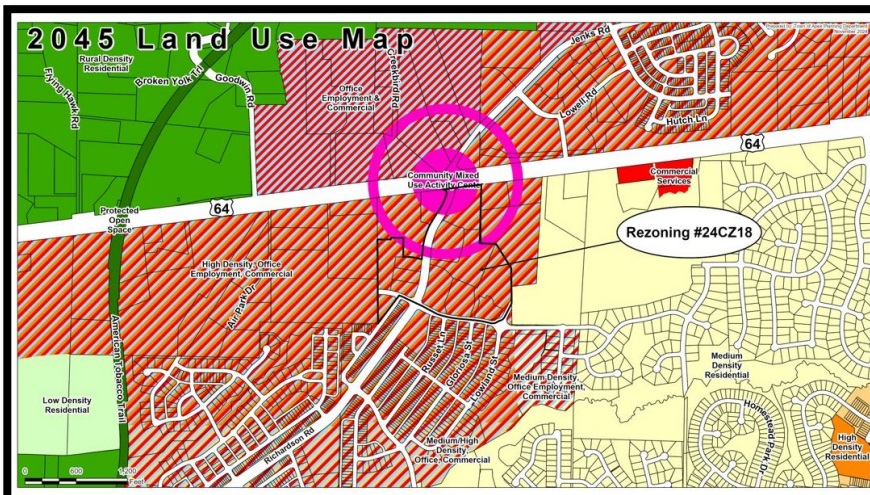


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1 [SLIDE 5]



2
3 [SLIDE 6]



4
5 [SLIDE 7]

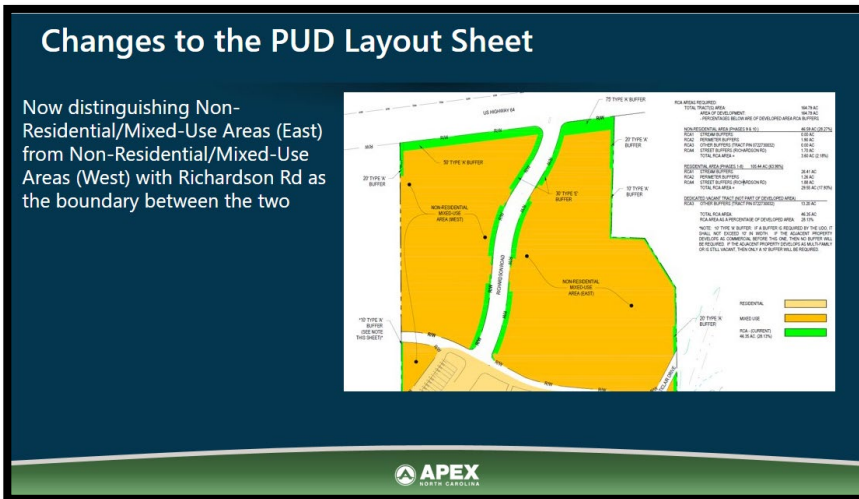
Proposed PUD changes

Changes to Section 5: Permitted Uses

- Add the use *Bar, nightclub, wine bar, or taproom* to the East side of the Non-Residential/Mixed-Use areas
- Amend the table of permitted uses, now showing separate columns for Non-Residential/Mixed-Use Areas (East) and Non-Residential/Mixed-Use Areas (West)

6

1 **[SLIDE 8]**



2
3 **[SLIDE 9]**



4 **Mayor Gilbert** asked if there were any questions.

5 **Marvin Waldo** at 3402 Sir Carlton Court, Raleigh, the applicant, gave an update on
6 the area. He noted that his mother grew up and went to school in Apex. He said that he had
7 not realized the proposed additional uses were not a part of the original rezoning until a
8 potential tenant reached out to him, and that the uses would bring it in line with other similar
9 developments in Wake County. He said that there would also be a major luxury hotel
10 announced for the area in the next 30 days. He asked if there were any questions.

11 **Councilmember Zegerman** asked if there would be individual parcels or one
12 ownership.

13 **Mr. Waldo** said that this would be one ownership for the whole property.

14 **Councilmember Zegerman** confirmed that this would be under one single
15 landowner.

16 **Mr. Waldo** said that it would be.

1 **Mayor Gilbert** opened the public hearing, and with no one signed up to speak,
2 brought the item back to Council for discussion and a possible motion for approval.

3
4 A **motion** was made by **Mayor Pro Tempore Gray**, seconded **Councilmember Gantt**,
5 to approve Rezoning No. 24CZ18 – Sweetwater PUD Amendment.

6
7 **Councilmember Mahaffey** said he was opposed to this Rezoning and wanted to
8 explain why. He spoke on Senate Bill 382 and how it changed the development regulations.
9 He said that in effect, it required any zoning or development regulation to be signed off on by
10 any affected property owner. He said this law has, in effect, eviscerated local authority
11 pertaining to land use. He said that moving forward, they need to know everything they could
12 possibly want to have as part of a rezoning ahead of time. He said that Councilmembers are
13 elected officials with the expectations of being able to make rules to address uses in Apex. He
14 said he believes the state law has put the Town Council in a bad place, and they have to think
15 hard about what to do moving forward.

16 **Councilmember Zegerman** asked if there were any conditions with zoning for the bar
17 and night club. He gave examples of sound levels or certain closure times.

18 **Mr. Killian** said that all uses in the UDO have supplemental standards. He said that he
19 did not know of any of the PUD zoning district that apply specifically to this use. He said that
20 time of operations and noise levels are in the Town code and not in this zoning ordinance. He
21 said these uses would have to follow all applicable supplemental standards.

22 **Councilmember Gantt** said that the location of these uses were only going to be on
23 the east side of the development.

24 **Councilmember Zegerman** said that was one thing. He asked Councilmember
25 Mahaffey if the local ordinance was updated, would that trigger a nonconformity.

26 **Councilmember Mahaffey** said that needed to be deferred to staff.

27 **Town Attorney Hohe** said it remains to be seen.

28 **Councilmember Mahaffey** said that this and future rezoning should be looked at in a
29 tighter manner and with conditions in the future, with a smaller list of uses. He said they need
30 to think a lot about the uses and their impact on the residents near the developments,
31 because 382 may not give them an opportunity to change them in the future.

32 **Councilmember Killingsworth** said that it would be a bigger burden on the town
33 and the development.

34 **Councilmember Gantt** said that he read the Bill, and he did not have the same
35 reading of it as Councilmember Mahaffey. He said he didn't share the same opinion on what
36 may happen because of it, specifically in regards to the downzoning being that broad. He
37 said they still have not heard town Legal staff's full thoughts on it yet.

38 **Councilmember Zegerman** explained the bill said that they can't create a non-
39 conformity, such as if the town updated lighting requirements.

40 **Councilmember Gantt** said that is related to the uses of the land.

41 **Councilmember Mahaffey** said that the bill specifically says development
42 regulations.

1 **Councilmember Killingsworth** said that the bill was very broad and encompassed a
2 lot.

3 **Councilmember Mahaffey** said the law is poorly drafted and extremely broad and
4 could potentially cover potentially any development regulation. He said that passing non-
5 trivial development regulations, it often creates a non-conformity, otherwise the regulation
6 wouldn't be necessary and typically, these regulations address specific issues, leading to
7 these non-conformities. He said that requiring the signature of every impacted landowner is
8 impractical and effectively means Council can't pass such regulations. He said that he would
9 move forward cautiously until the law is clarified or adjusted. He said that he is not
10 comfortable going forward with business as usual.

11 **Mayor Gilbert** said they need to decide if they want to move forward with staff's
12 recommendation on this Rezoning tonight. He said that he would like to have a Work Session
13 on the Bill.

14
15 A **motion** was made by **Councilmember Zegerman** to continue this item until after a
16 Work Session on Senate Bill 382 was held.

17
18 **Mayor Gilbert** asked why this issue with Bill 382 wasn't presented to staff before this
19 came to Council.

20 **Councilmember Mahaffey** said that staff were aware of his concerns with Bill 382.

21 **Mayor Gilbert** said that there was a motion and a second to approve, and an
22 additional motion to that.

23 **Councilmember Mahaffey** said that they would need to table the existing motion
24 before making another motion.

25 **Mayor Gilbert** said that he would like to hear more discussion before tabling the
26 motion.

27 **Mayor Pro Tempore Gray** said that there was an outstanding motion on the table
28 right now. He asked who would have to move to table the motion.

29 **Town Clerk Coleman** said that there was already a motion and a second that they
30 need to vote on.

31 **Councilmember Mahaffey** said that tabling is a motion to defer to a future time.

32 **Mayor Gilbert** said that before doing that, he would like to hear more discussion.

33 **Councilmember Killingsworth** said that a Work Session on this Bill will not be
34 productive because of it not being challenged at this time. She said she would prefer to go
35 ahead and vote for this now.

36 **Mayor Pro Tempore Gray** said that Bill 382 is so new that challenges to clarify the
37 scope will most likely happen in the future. He said the General Assembly did not consider
38 the will of the municipalities and consider the impact on the development community. He
39 said he would like to move forward with this item and have it be a vehicle for potential
40 clarification of this bill if necessary.

41 **Councilmember Gantt** said that this is up zoning and not down zoning, so it is not
42 related to this Bill.

1 **Councilmember Mahaffey** said that he was correct, but his concern is that this may
2 prevent any future action to address changes on this development, which are things they
3 have done in the past.

4 **Councilmember Zegerman** said he liked the proposed use, but said that he would
5 not support this motion. He said if for any reason, to send a message. He said that the bill has
6 passed severely limits the future abilities to change the property's zoning in the future. He
7 said he sees that this will pass, but he wants to make sure the message is sent from elected
8 officials and the development community that this bill will create significant issues regarding
9 non-commercial development.

10 **Town Clerk Coleman** said that he had been working with the Town Attorney, Town
11 Manager, other Town staff, and the Town's contracted lobbyist to get a report on how this Bill
12 would impact the Town and this information will be coming soon.

13 **Mayor Gilbert** asked how to proceed, with a motion to table and the original motion
14 with a second.

15 **Town Clerk Coleman** said to proceed with the original motion.

16 **Councilmember Mahaffey** said the motion to table didn't receive a second, so it
17 couldn't be voted on anyway.

18
19 *The following motion was made previously and included here for clarity:*

20
21 A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember**
22 **Gantt** to approve Rezoning Case No. 24CZ18 - Sweetwater PUD Amendment.

23
24 **VOTE: 3-2, with Councilmember Mahaffey and Councilmember Zegerman**
25 **dissenting.**

26
27 **PH3 Unified Development Ordinance (UDO) Amendments - January 2025 (REF: ORD-**
28 **2025-004)**

29 **Amanda Bunce**, Current Planning Manager, Planning Department introduced Bruce
30 Venable to the new Planner II with the Planning Department. She noted that this proposed
31 amendment would not be impacted by Senate Bill 382.

32 **Mr. Venable** gave the following presentation:
33

1 [SLIDE 4]



2
3 [SLIDE 5]

8.6.3 Illumination Standards

...
C **Alternative Compliance**
The Planning Director may approve an alternative form of compliance to Secs. 8.6.3 *Illumination Standards* and 8.6.4 *Design Requirements* when it has been clearly demonstrated on a lighting plan submitted by a licensed lighting professional holding the PE, LC, CLEP, or similar certification that the proposed deviations are necessary in order to improve the safety and/or functionality of the site. The lighting plan shall show compliance with all other sections of this Ordinance, including Sec. 8.5.5 *Operational/Physical Compatibility*, which may be invoked in the event the alternative form of compliance garners zoning complaints once installed.

The Planning Director shall consider the following factors in determining whether any such proposed alternative is acceptable:

- 1) Existing and proposed uses on-site;
- 2) Adjacent uses;
- 3) Existing and proposed topography;
- 4) Location and configuration of buildings on-site and on adjoining properties;
- 5) Existing and proposed evergreen screening;
- 6) Proposed house-side shields;
- 7) Size and configuration of the parcel;
- 8) Proximity to public rights-of-way;
- 9) Proximity to residentially-zoned properties;
- 10) Proximity to Resource Conservation Areas and all state and/or federal designated environmentally sensitive areas;
- 11) Consistency with the intent of this Ordinance.

APEX
NORTH CAROLINA

4
5 [SLIDE 6]

Amendment #1
Requested by Planning Staff:

8.6.4 Exterior Lighting, Design Requirements

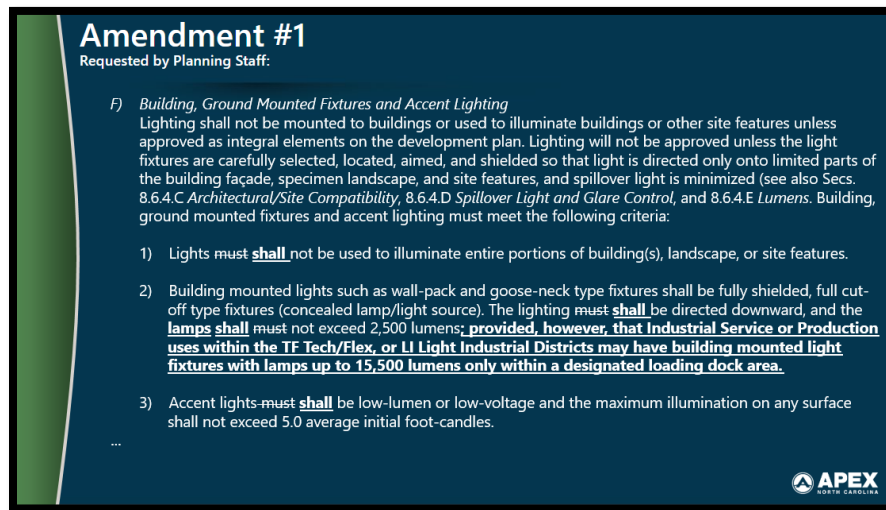
Exterior lighting, such as that used in and around buildings, recreation areas, parking lots, and signs, shall be designed to prevent the excessive spillover of light onto adjacent properties. It shall also be designed to protect against glare onto public rights-of-way thereby impairing the vision of motorists and adversely impacting adjoining properties. All exterior lighting shall be shielded from adjacent properties by existing vegetation, thick evergreen vegetated buffers, berms, walls, or fences, and/or the use of directional lighting, lighting shields, special fixtures, timing devices, appropriate light intensities, luminaries, and mountings at appropriate heights. External and/or internal shields are required on all lights in vehicular use areas and lights mounted to buildings where they are immediately adjacent to residential uses (such as along the edges of parking lots or mounted to the rear of buildings close to residential uses). All outdoor lighting shall conform to the following design standards of this Section. **When the standards of this Section cannot be reasonably met, the applicant may submit an alternative form of compliance per Sec. 8.6.3.C Alternative Compliance.**

...
E) Lumens
Lamps for full cut-off **pole mounted** fixtures shall not exceed 15,500 lumens

APEX
NORTH CAROLINA

6

[SLIDE 7]



Mr. Venable asked if there were any questions for the first amendment.

Councilmember Mahaffey asked why staff bring the amendments versus the variance process to Council.

Mr. Venable said the variance process often requires demonstrating an undue burden, which can be difficult, particularly with issues like meeting the lighting ordinance. Proving undue burden or meeting the required findings of fact in a quasi-judicial setting can be challenging. He said that they were attempting to provide administrative relief to ensure compliance with the intent of regulations without obstructing projects and hoping to find a path forward without resorting to a quasi-judicial setting.

Councilmember Gantt said he thinks industrial uses are some of the worst light polluters, and that he is hopeful that this doesn't pose a problem, and is glad the Director has discretion on alternatives.

Councilmember Zegerman said to keep in mind that this amendment requires the light fixtures being downward facing.

Councilmember Gantt said yes, which is the important.

Mr. Venable said they will be working with developers during this process to help them comply with the intent of the Ordinance.

Councilmember Mahaffey asked for Mr. Venable to go back to "E" section and asked why the addition of "pole-mounted" was necessary.

Mr. Venable said that they were concerned that there had been some confusion with lighting professionals regarding what this section meant, so they wanted to clarify it.

Councilmember Mahaffey asked if the intent was the same, it's just a text change.

Mr. Venable said yes.

Ms. Bunce continued the presentation.

[SLIDE 8]


Amendment #2
Requested by Planning Staff:

2. Amendments to 12.2 Terms Defined in order to update the definition of “Built-Upon Area” to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.

12.2 TERMS DEFINED

Built-Upon Area

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. In accordance with NCGS 143-214.7D, built upon area does not include the water area of swimming pools; slatted decks; and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle; **or artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer’s specifications over a pervious surface.** The owner or developer of a property may opt out of any of the exemptions from built-upon area set out in this section.




[SLIDE 9]

Amendment #3
Requested by Planning Staff:

3. Amendments to Sec. 8.7.1 Permitted Signs: Location, Size, and Number; Table 8.7.1 in order to make corrections to the symbols for “allowed with permit”, “not allowed”, and “allowed without permit” shown for the On-premise, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.

8.7.1 Permitted Signs: Location, Size, and Number
All signs are subject to Sec. 8.7.9 Definitions, Article 12: Definitions, and Sec. 8.7.2 through 8.7.6. The sections listed specifically in Sec. 8.7.1 have been included for emphasis and user convenience and shall not be construed to exclude other sections of the Ordinance. Any sign permitted by these regulations may display or publish a non-commercial message. This includes both signs that require and do not require a permit. Exemptions from Sec. 8.7.1 are found in subsection 8.7.1.C.

Sign Type	P = allowed with permit X = not allowed ✓ = allowed without permit					Illumination ¹
	Conditions	Residential Uses	Commercial Uses	Industrial Uses	Office & Institutional Uses	
Permanent Sign Types						
...						
Temporary Sign Types						
1 On-premise, Non-commercial Temporary Signs	8.7.1.B.1	X✓	✓P	✓P	✓P	No
...						



Mayor Gilbert opened up Public Hearing and with no one signed up to speak he closed Public Hearing and brought this item back for discussion and a possible motion.

Councilmember Mahaffey said that Bill 382 there are 3 amendments here. He said one is providing administrative relief for lighting, number two is compliance with State law, and number three is a technical correction. He said these are all minor changes and he is fine with proceeding on them. He said the bill makes it so these are the kinds of things they can do now, they cannot materially change property.

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Killingsworth** to approve Unified Development Ordinance (UDO) Amendments of January 2025.

VOTE: UNANIMOUS (5-0)

[NEW BUSINESS]

Mayor Gilbert moved to New Business.

NB1 North Carolina League of Municipalities (NCLM) Biennium Legislative Goals and Priorities - Long Session 2025-2026 (REF: OTHER-2025-002)

Town Clerk, Allen Coleman, gave an overview of the proposed legislative priorities as offered by the North Carolina League of Municipalities Board of Directors. He went through the process of the vote. He then asked Councilmember Mahaffey to give feedback since he was a part of the development. He said that for this discussion it would have normally been performed in a Work Session, but the League wants a response by this Thursday to designate a voting representative and a response by Friday to submit responses.

Councilmember Mahaffey said that he served on the Legislative Policy Committee and went through his part of the process to help develop the League's goals. He said that one of the items he advocated for was to expand property tax relief programs. He added that smaller municipalities had concerns about this affecting their revenue streams more significantly than Apex and other municipalities, so they did not move forward with that idea. He said there are some on this list that are more applicable to Apex than others. He said that he would be advocate for items applicable to Apex and encouraged other members to do the same.

Town Clerk Coleman reminded the Council that the voting was up to their top, 10 not in a prioritization order.

Mayor Gilbert asked what the asterisks meant.

Town Clerk Coleman said that the asterisks are what the lobbyist felt like they would be the most effecting in achieving.

Councilmember Mahaffey clarified that effective in achieving may be different than important for Apex, it's just items that they think are possible.

Town Clerk Coleman said that the Town of Apex will be considering our own Legislative agenda which will be separate than this process. He said that would be discussed and developed at the Annual Council Retreat in February. He said this was Apex providing feedback to the League of Municipalities on their Legislative Agenda.

Councilmember Mahaffey said that these goals were developed to not cover broad things that are already a core part of the League's mission, such as preserving local authority.

Town Clerk Coleman went through each goal and took a count. There were ties between goals 1, 7 & 9 for the final goal. They took a vote to remove two of them.

Councilmember Gantt proposed keeping goal 1. He said it would be beneficial to have disaster relief for situations like Hurricane Helene.

Mayor Pro Tempore Gray proposed keeping goal 7. He said it has a broad impact on communities in transition such as Apex. He said the regulatory structure to improve abandoned properties is very dated, and this would help with beautification. He said he felt the disaster relief point was a worthy goal, but they had to choose 10 to send to the League on Apex's behalf.

1 **Councilmember Killingsworth** and **Mayor Gilbert** agreed with Mayor Pro Tempore
2 Gray.

3 **Councilmember Gantt** said he was okay with proceeding with goal 7.

4 **Town Clerk Coleman** said that they would drop goals 1 and 9. He then re-read the
5 goals that they were supporting. He said that the Mayor and Town Council were authorizing
6 Councilmember Mahaffey to vote for goals number 2, 3, 4, 5, 6, 7, 8, 11, 15 and 16.
7

8 A **motion** was made by **Councilmember Mahaffey** and seconded by
9 **Councilmember Zegerman**, to designate Councilmember Mahaffey as the voting member
10 for this process with the League of Municipalities and vote for goals number 2, 3, 4, 5, 6, 7, 8,
11 11, 15 and 16 on Apex's behalf.

12 **VOTE: UNANIMOUS (5-0)**

13 **Mayor Pro Tempore Gray** thanked Town Clerk Coleman for putting this together and
14 Councilmember Mahaffey for doing the voting.

15 **Mayor Gilbert** moved to updates by Town Manager.
16

17 **[UPDATES BY TOWN MANAGER]**

18 **Town Manager Vosburg** gave the following updates on projects and events. He said
19 that the Saunders Lot Project was underway and already looks very different. The "Beyond the
20 Lot" campaign has been implemented, providing a lot of good information on the website.
21 Feedback on the campaign has been positive, and parking availability is being monitored
22 effectively. He said that Peakway Extension has noticeable activity and progress at the site.
23 The earthwork and clearing are evident, indicating where the bridge will be and the widening
24 on Salem Street has started. He then said that the Water Tower in Pleasant Park is expected to
25 break ground by the end of February in about a month and a half, marking a significant
26 infrastructure development for the town. He then spoke about the Third-Party Reviewer being
27 currently in the second phase of their three-phase approach, assessing data points, billing
28 systems, and residential bills analysis. Progress is being made, and recommendations are
29 forthcoming. He gave an update on the gas leak on Olive Chapel and said that the incident
30 was due to a third-party vendor working for a utility provider putting in fiber. The fire crews
31 managed the situation for over 12 hours, with road repairs continuing into the night and into
32 today. This is the second gas event in recent weeks, prompting discussions on preventive
33 measures. He gave an update on MLK Events and the several events that are planned,
34 including an MLK Junior learning lunch from 12p-1p at the Senior Center in the Friendship
35 room tomorrow, Author's Night on January 17th from 6:30p to 8:30p at the Halle Cultural Arts
36 Center, MLK Unity March and breakfast on January 18th 8a to 10:30a at Apex Baptist Church,
37 and the National Day of Service on Monday, January 20th from 9:00a to 10:00a at the John
38 Brown Community Center. He noted that the Town Hall will be closed on Monday, January
39 20th.

[CLOSED SESSION]

A **motion** was made by **Councilmember Zegerman** and seconded by **Councilmember Gantt**, to enter into closed session at **8:06 p.m.**

VOTE: UNANIMOUS (5-0)

CS1 Laurie Hohe, Town Attorney (REF: RES-2025-004)

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney client privilege between the attorney and the public body."

CS2 Laurie Hohe, Town Attorney (REF: RES-2025-005)

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney client privilege between the attorney and the public body."

Council returned to open session at **8:28 p.m.**

A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember Mahaffey** to approved a Resolution Authorizing Eminent Domain Proceedings Related to a Sidewalk Project along Pate, Cash, and Hillcrest Streets for the improvement of the Apex Street System.

VOTE: UNANIMOUS (5-0)

A **motion** was made by **Mayor Pro Tempore Gray** and seconded by **Councilmember Mahaffey** to Approve a Resolution Authorizing Eminent Domain Proceedings Related to a Sidewalk Project along Saunders and Hinton Streets for the Improvement of the Apex Street System.

VOTE: UNANIMOUS (5-0)

[ADJOURNMENT]

With no further business being before the Town Council, **Mayor Gilbert** adjourned the meeting at **8:30 p.m.**

Jacques K. Gilbert
Mayor

Allen Coleman, CMC, NCCCC
Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on_____.

DRAFT MINUTES

TOWN OF APEX TOWN COUNCIL WORK SESSION THURSDAY, JANUARY 23, 2025 3:30PM

The Apex Town Council Work Session scheduled for Thursday, January 23, 2025, at 3:30 p.m. at Apex Town Hall located at 73 Hunter Street in Apex North Carolina was cancelled. The meeting was not held.

Jacques K. Gilbert
Apex, Mayor

Allen Coleman
Town Clerk

Submitted for consideration and approval by Apex Town Clerk Allen Coleman.

Minutes approved on _____ day of _____ 2025.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Amanda Grogan, Director

Department(s): Budget and Performance Management

Requested Motion

Motion to amend the Town's Fiscal Year 2024-2025 Fee Schedule to include changes to temporary sign fees, columbarium niche fees, Electric Vehicle (EV) charging rates, flat rate sewer charge, water meter fees, and ERT fees as recommended by the Town Council's Finance Committee, effective February 11, 2025.

Approval Recommended?

Yes

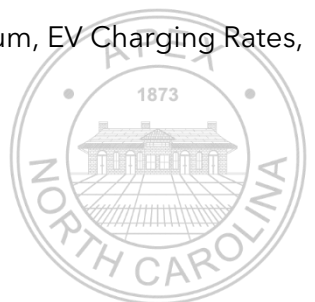
Item Details

Finance Committee recommended the following changes to the fee schedule at the January 23, 2025 Committee meeting. Additional information can be found in the summary attached.

- Add "Sign, Temporary Non-commercial" No Charge for clarification
- Increase Flat Rate Sewer to \$65.00 / month based on new methodology
- Increase Columbarium niche fee by \$300 to Single urn \$1,700 / Double urn \$2,300 to assist in replenishing the Cemetery Fund
- Update meter fees for 1 inch & higher to reflect "At cost + 10%"
- Update Damaged ERT Holder Replacement Fee to "ERT Damage / Replacement" \$134 + Labor
- Add EV Charging Rates
 - Town Owned Public Charging Energy Rate: set an initial kWh rate of \$0.20 and throttle charging during peak hours
 - Level 2 Public chargers - Mandatory LGS CP rate
 - Level 3 DCFC - Mandatory LGS CP rate

Attachments

- CN5-A1: Fee Schedule Change Summary - Temporary Sign Fees, Columbarium, EV Charging Rates, Flat Rate Sewer Charge, Water Meter and ERT Fees





TOWN OF APEX

Requested Fee Schedule Changes (effective 2/11/2025)

Temporary Sign Fees

Recent UDO amendment to the sign ordinance created need to amend the fee so that "Sign, Temporary" is split into two categories:

- "Sign, Temporary Commercial" \$50
- "Sign, Temporary Non-commercial" No Charge

This change is for any non-commercial or political sign (churches, non-profits, etc.).

Finance Committee Recommendation: Recommended approval

Flat Rate Sewer Charge

- No previous methodology for calculation of flat rate sewer. Updated fee uses NC DEQ approved residential flow rates for a single family dwelling (300 gallons per day (GPD) per dwelling unit). This usage is used to calculate an estimated monthly bill using adopted base and volumetric rates
- Staff recommended increase from \$40/ month to \$85.18/ month

Finance Committee Recommendation: Implement rate increase over 2-year period beginning with increase to **\$65.00/month**

Columbarium

Previous cost recovery was based on the number of units, while the total project cost increased, the available number of units did as well keeping cost recovery in line with current rates

Finance Committee Recommendation: Increase single and double urn fees both by \$300 (Single \$1,700 / Double \$2,300). With no available cemetery plots for sale, the cemetery has limited revenue sources for maintenance and repair. Increased fees will assist in building the Cemetery Fund back up to invest in the care of the property and be more inline with private columbarium costs. The increase results in approximately \$585,000 in additional revenue over the sale of all niches.

Water Meter Fees

Cost for materials and equipment continue to increase. Staff recommends updating the fee schedule for larger meter sizes to "at cost + 10%" to ensure the Town is recovering associated costs. Fees for damaged or

DEVELOPMENT SUBMITTAL FEES	
Fees collected by the Planning Department	
Sign, Master Plan	\$200
Sign, Permanent	\$75 + \$10/add'l sign
Sign, Temporary Commercial	\$50
Sign, Temporary Non-commercial	No charge
Site Inspections (Non-residential lot) ₂	\$500

Sewer Rates	
Sewer Base Charge	
Sewer Volumetric Rates (per 1,000 gallons)	
Commercial & Residential	
Colvin Park/White Oak *	
*Per the Alternative Sewer Agreement, "the Apex special published rate shall be an Apex charge of \$2 per thousand gallons."	
Wholesale Sewer Base Charge	\$11.63
Flat Rate Sewer	\$65.00 \$40.00 /month

300 GPD (109,500 annual / 9,125 monthly)	Inside Rate
Base Charge	11.63
Volumetric Rate	8.06
Gallons per Month	9,125
Monthly Bill	85.18

replacement would only be applied to active building permits that require a replacement meter, ERT holder or pedestal due to contractor damage.

Finance Committee Recommendation:

- Update meter fees for 1 inch & higher to reflect "At cost + 10%"
- Update Damaged ERT Holder Replacement Fee to "ERT Damage / Replacement" \$134 + Labor (this is the transmitter attached to the meter to allow for remote readings)

EV Charging Rates

EV Chargers present a huge financial risk for the Town without properly designed rates to recover the NCEMPA CP demand costs and distribution system costs. Five scenarios were reviewed with various impacts from full cost recovery to no charge. Staff recommended a minimum of \$0.20 per kWh with limited or throttled charging speed during peak hours for town owned chargers and Large General Service Coincident Peak rates for commercial charging stations. The Town's current LGS CP rate is ideal for cost recovery of high demand, low load factor electric loads. This rate includes CP demand charge, NCP excess demand charge and energy charge.

Scenario	Monthly Value to Recoup (CP)	Necessary Rate (CP)	Monthly Value to Recoup (no CP)	Necessary Rate (no CP)
Full Cost Recovery	\$741.11	\$0.43 per kWh	\$313.71	\$0.18 per kWh
50% Cost Recovery	\$370.56	\$0.22 per kWh	\$156.85	\$0.09 per kWh
Operation, Maintenance, & Wholesale Only	\$530.14	\$0.31 per kWh	\$102.75	\$0.06 per kWh
Wholesale Costs Only	\$470.94	\$0.27 per kWh	\$43.55	\$0.03 per kWh

Finance Committee Recommendation:

Town Owned Public Charging Energy Rate: set an initial kWh rate of \$0.20 and throttle charging during peak hours. This would reduce charging speed to comparable Level 1 charger (~3.5 kW).

Commercial Public Chargers:

- Level 2 Public chargers – Mandatory LGS CP rate
- Level 3 DCFC – Mandatory LGS CP rate

Rate Description		FY 25
Medium General Service TOU	Customer Charge (\$/bill)	90.00
	TOU Energy Charge (\$ kWh)	0.0831
	TOU On PeakDemand Charge (\$ kW)	13.78
Large General Service TOU	Customer Charge (\$/bill)	180.00
	TOU Energy Charge (\$ kWh)	0.0683
	TOU On PeakDemand Charge (\$ kW)	14.34
Large General Service Coincident	Customer Charge (\$/bill)	360.00
	Energy Charge (\$/kWh)	0.0536
	CP Demand Charge (\$ kW)	23.63
	Excess Demand Charge (\$ kW)	4.71

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Jessica Sloan, Program Coordinator

Department(s): Water Resources

Requested Motion

Motion to approve various amendments to Chapter 12 Municipal Utilities and Services, Article VI. Cross Connection Control Update of the Apex Town Code of Ordinance to comply with Session Law 2024-49.

Approval Recommended?

Yes

Item Details

The Cross Connection Control Ordinance has been amended to comply with the recent addition to General Statutes Section 1.1. (a) Article 10. Chapter 130A-330 "Prohibit Certain Backflow Preventer Requirements by Public Water Systems" as passed under Ratified Senate Bill 166, Session Law 2024-49.

The major changes to the ordinance are 1) the change in backflow preventer testing frequency from annually to every 3 years for residential irrigation customers; 2) restrictions to installation of backflow preventers on existing non-residential and residential customers; and 3) backflow test reports submitted by licensed plumbing contractors shall be accepted.

Attachments

- CN6-A1: Ordinance Amendment - Chapter 12 Municipal Utilities and Services, Article VI. Cross Connection Control Update - Compliance w-Session Law 2024-49
- CN6-A2: Session Law 2024-49 - Ordinance Amendment - Chapter 12, Article VI.
- CN6-A3: Ratified Senate Bill 166 only - Ordinance Amendment - Chapter 12, Article VI.



ORDINANCE NO. _____

**AN ORDINANCE TO AMEND ARTICLE VI
OF CHAPTER 12 OF APEX TOWN CODE**

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

Section 1. Article VI of Chapter 12 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as strikethrough text:

Sec. 12-156. Purpose.

- (a) The purpose of this article is to define the Town of Apex as the water purveyor in the elimination of all cross connections within its public potable water supply. This article shall apply to all consumers connected to the town's public potable water supply. This article will be periodically revised to maintain compliance with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 18C), and the North Carolina Plumbing Code as they pertain to cross connections with the public water supply. In accordance with G.S. 160A-312(b), the town is authorized to adopt "adequate and reasonable rules" to protect and regulate public enterprise systems such as water and wastewater systems.
- (b) The purposes of this article are as follows:
 - (1) To protect the public potable water supply of the town from the possibility of contamination or pollution by containing within the consumer's water system such contaminants, waterborne health hazards and other significant pollutants which could backflow into the public water systems.
 - (2) To eliminate or control existing cross connections, actual or potential, between the consumer's potable water system(s) and non-potable water system(s), plumbing fixtures and industrial piping systems.
 - (3) To provide a continuing inspection program of cross connection control, which will systematically and effectively control all actual or potential cross connections, which may be installed in the future.

Sec. 12-157. Designation of responsibility.

- (a) *Health agency's responsibility.* The North Carolina Department of Environmental Quality (NCDEQ) has the responsibility for promulgating and enforcing laws, rules, regulations, and policies applicable to all water purveyors in the State of North Carolina in carrying out an effective cross connection control program. The division of environmental health has the primary responsibility: for ensuring that the water purveyor operates a public potable water system free of actual or potential sanitary hazards including unprotected cross connections; for ensuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system; and, that the purveyor requires the installation,

testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

- (b) *Town of Apex's responsibility.* Except as otherwise provided herein, the town is the water purveyor and is responsible for ensuring a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water systems. In addition, the town shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system. The town will determine the degree of hazard or potential hazard to the public potable water system, the degree of protection required, and will ensure proper containment protection through an ongoing inspection program. The town will identify all facilities where approved backflow prevention assemblies are required to be installed. When it is determined that a backflow prevention assembly is required for the protection of the public system, the town shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at the service connection, to test that backflow prevention assembly immediately upon installation, **replacement, repair, rebuild, relocation,** and thereafter at frequency as determined by the town, to properly repair and maintain assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts. The required testing date will be determined by the town and may be adjusted as necessary. But in no circumstance shall more than one ~~annual~~ test be required in a ~~42~~ **36** month time period for ~~lawn~~ **residential** irrigation systems, **unless said systems apply or dispose chemical feeds.**

- (c) *Code enforcement officer's responsibility.*

(1) The town has the responsibility to ~~not only~~ review building plans and inspect plumbing as it is installed, ~~but they have~~ **as well as** the explicit responsibility of preventing cross connections from being designed and built into the plumbing system within its jurisdiction. Where the review of building plans suggests or detects the potential for cross connections being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the North Carolina Plumbing Code, for requiring that such cross connections be either eliminated or provided with backflow prevention equipment approved by the North Carolina Plumbing Code.

(2) The inspector ~~will~~ **shall** inquire about the intended use of water at any point where it is suspected that a **potential or actual** cross connection might be made ~~or where one is actually called for by the plans.~~ When such is discovered it shall be mandatory that a suitable, approved backflow prevention assembly approved by the North Carolina Plumbing Code, **NCDEQ** ~~North Carolina Department of Environment and Natural Resources,~~ and the town be required by the plans and be properly installed.

- (d) *Consumer responsibility.*

(1) The consumer has the primary responsibility of preventing pollutants and contaminants from entering the consumer's potable water system or the public potable water system.

(2) In those cases in which a backflow assembly was installed by a prior owner, the town, or any other person, the responsibility for maintenance, testing, and maintenance thereof, shall be with the current owner or consumer.

- (3) The cost of any backflow assembly, and any other plumbing modifications necessary and convenient to install a containment assembly, and the testing and maintenance thereof, shall be paid for by the owner or consumer.
- (4) The consumer shall, upon notification pursuant to Sec. 12-164 of this article, install a containment assembly as required by this article.
- (5) The consumer is responsible for scheduling the backflow test with a certified tester and ensuring the town approved backflow tester has submitted the passing backflow test to the town's designated electronic reporting system. The consumer account will be considered non-compliant until the passing backflow test is submitted to the town's designated electronic reporting system. Any consumer that fails to ensure the certified tester has submitted the passing backflow test report(s) to the town's designated electronic reporting system by the test due date shall be subject to enforcement actions and remedies provided in Sec. 12-166 of this Code.
- (6) Any repair, replacement, relocation, or rebuild of the backflow assembly will require a backflow test to ensure the backflow assembly is in good operating condition. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum of four (4) years.
- (7) The consumer shall complete the town backflow prevention assembly survey with every request for a change of business name or occupancy, or when altering any space or system receiving town water.
- (8) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the town immediately to ensure appropriate measures are taken to overcome and eliminate the contamination or pollution.

The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of the consumer's water system. The consumer, at his/her consumer's expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the town. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The consumer shall complete the town backflow prevention assembly survey with every request for a change of business name or occupancy, or when altering any space or system receiving town water. The consumer shall have the certified backflow tester submit the report(s) to the online cross connection control assembly tracking system (online system). Following any repair, overhaul, re-piping, or relocation of an assembly, the consumer shall have that backflow prevention assembly tested to ensure that it is in good operating condition and will prevent backflow. A certified backflow prevention assembly tester shall make tests, maintenance and repairs of backflow prevention assemblies. Failure to submit the test report(s) representing the site to the online system will subject the consumer to the enforcement actions and remedies provided in section 12-166 of this chapter.

- (e) *Certified backflow prevention assembly tester responsibility.* When employed by the consumer to test, repair, overhaul, **rebuild**, or maintain backflow prevention assemblies, a

certified ~~backflow prevention assembly~~ tester (~~tester~~) will have the following responsibilities:

- (1) Each person wishing to test, repair, ~~overhaul~~ **rebuild**, or maintain backflow prevention assemblies shall provide a **plumbing license or school** certificate(s) to ~~the town and~~ the online system which sets forth that such person has met the minimum qualification standards established by the town for certification as a ~~backflow prevention assembly tester~~, as outlined in the definition of ~~backflow prevention assembly~~ **certified** tester in section 12-158. If at any time the tester(s) **license or** certification is revoked, suspended, or flagged as inactive, the tester(s) shall not submit any test report(s) to the town or the online system for approval. The tester(s) shall be considered inactive and subject to enforcement as outlined in section 12-166.
- (2) The tester will be responsible for making competent inspections and for repairing, or ~~overhauling~~ **rebuilding** backflow ~~prevention~~ assemblies and making reports of such repair to the consumer, ~~the town~~ and the online system. The tester shall provide the list of materials or replacement parts **as part of the report submitted** used to the online system ~~during the online submittal procedure~~. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair, **rebuild**, and maintain backflow ~~prevention~~ assemblies. It will be the tester's responsibility to ensure that original manufactured parts (OEM) are used in the repair of or replacement of parts in a backflow ~~prevention~~ assembly. It will be the tester's further responsibility not to change the design, material or operational characteristics of ~~an~~ **a backflow** assembly during repair or maintenance without prior approval of the town. A tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. The tester shall provide a copy of all test and repair reports to the consumer, **and** online system, ~~and to the town~~ within ten business days of any completed test or repair work. New commercial, domestic, fire, and residential irrigation test report(s) that have not been previously recorded by the water resources department shall be submitted to the water resources department within ten days of **test** completion. A tester shall maintain such records for a minimum period of ~~three~~ **four** years.
- (3) All certified ~~backflow prevention assembly~~ testers must obtain and employ backflow ~~prevention~~ assembly test equipment. **Test equipment and the mandatory annual calibration certificate shall be submitted on the testers profile via the online system.** ~~that has been evaluated and/or approved by the town before registering the tester's equipment on the online system. All test equipment shall be registered with the town through the online system. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to the town through the online system as to such calibration, employing an accuracy/calibration method acceptable to the town.~~
- (4) Copies of all ~~p~~Passing test results shall be entered into **submitted to** the online system and a copy sent to the water resources department. **Failed tests will not be accepted on the online system. Testers shall provide failed backflow test reports to the Water Resources department via email and inform the customer or owner of the requirement to repair and retest the backflow assembly.**

- (5) Each backflow **certified** tester ~~or individual~~ performing backflow testing within the town jurisdiction shall ~~set up~~ **register for** an account in the online system, supplying and maintaining required information pertaining to the testing company, testers, test kits, ~~and licenses,~~ **and/or certifications**. Each tester shall create a **unique** user name and password to ~~be used on~~ **access** the online system. Each tester or individual shall adhere to all procedural policies and agree to all terms specified in the online system.
- (6) **A fee is payable by the certified tester at the time of submission of each passing backflow assembly test to the online system.** For each backflow test report submitted by the testing company or individual via the online system, the testing company or individual will be required to pay a filing fee due at the time of submittal. All backflow test reports must be submitted electronically via the online system. The filing fee shall be paid directly to the firm acting as the town's authorized online system provider. The tester may elect to absorb the filing fee for competitive marketing purposes or pass it along to the assembly owner when invoicing for the test.
- (7) ~~Each backflow test report submitted by the testing company or individual via the online system shall be in a passing state or status. Test reports that fail shall be repaired and be in passing status before submitting to the online system.~~
- (8) ~~Only plumbers currently licensed in North Carolina are permitted to repair or replace a backflow prevention assembly. Backflow prevention assembly testers shall comply with all federal, state and local laws, rules and regulations while performing any testing activities in the town.~~

Sec. 12-158. Definitions.

Air gap means **the unobstructed vertical distance through free atmosphere between the lowest effective opening from any pipe or faucet conveying a water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle.** a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap" shall be at least double the diameter of the supply ~~side~~ pipe **diameter** measured vertically above the overflow rim of the vessel—in no case less than one inch (2.54 cm) **above the receiving vessel flood rim.**

Approved backflow schools means schools that the town recognizes **that meet or exceed the NC American Water Works Association (AWWA)** for testing and repairs curriculum ~~and school hours that are the same as the NC AWWA state schools.~~

Approved check valve means a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi (pounds per square inch) and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g., clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly—i.e., pressure vacuum breaker, double-check valve assembly, double-check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

Appurtenance means any accessory to the water system that would allow water to flow from the pipe or hose outlet.

Atmospheric type vacuum breaker or non-pressure type vacuum breaker means a device containing a float-check, a check seat, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops the float falls and forms a check valve against back siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the device. An atmospheric vacuum breaker is designed to protect against a non-health hazard (isolation protection only) under a back siphonage condition only.

Auxiliary intake means any piping connection or other device whereby water may be obtained from a source other than the town's public **potable** water supply.

Auxiliary water supply means any water supply on or available to the premises other than the purveyor's approved public **potable** water supply **as defined herein; including, but not limited to, recycled water, grey water, rainwater, well water, cistern water, and reuse water**. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Back pressure means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration, which would cause, or tend to cause, a reversal of the normal direction of flow.

Back siphonage means a form of backflow due to a reduction in system pressure, which causes a sub-atmospheric pressure to exist at a site in the water system.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources. See terms "back pressure" and "back siphonage."

*Backflow prevention assembly **or backflow assembly*** —~~type~~ means a mechanical valve assembly **arrangement** used to ~~prevent backflow into a consumer or~~ **protect the** public potable water system, that meets or exceeds standards set forth by both the University of Southern California for Cross Connection Control and Hydraulic Research (USCFCCHR) and the American Society of Sanitary Engineering (ASSE) and appearing on *both* of the agencies' approval lists. A backflow prevention assembly used on fire suppression systems must have the additional approval of the Factory Mutual Research Corporation (FM) and comply with the National Fire Protection Association (NFPA) code. ~~The type of assembly used should be based on the degree of hazard either existing or potential (as defined herein). The types are:~~

- ~~(1) Double check valve assembly (DCVA).~~
- ~~(2) Double check detector assembly (fire system) (DCDA).~~
- ~~(3) Pressure vacuum breaker (PVB).~~
- ~~(4) Reduced pressure principle assembly (RP).~~
- ~~(5) Reduced pressure principle detector assembly (fire system) (RPDA).~~
- ~~(6) Residential dual check (RDC).~~

Below grade means underneath the surface of the earth or beneath material placed on the surface of the earth.

Building story means a building floor, section or division equal to ten feet in height.

Certified ~~backflow prevention assembly tester or testers~~ means a **licensed plumber or person who has proven their competency to test and make reports on backflow assemblies as evidenced by a certificate from an approved backflow school.** ~~person who has proven their competency to the satisfaction of the town. Only a state licensed plumber or the owner of the property where the backflow prevention assembly is installed, may repair, replace or repair backflow prevention assemblies. Only a fire sprinkler contractor can install, replace or repair backflow preventers that are part of a fire sprinkler system. Each person who is certified to make competent tests and make reports on backflow prevention assemblies shall:~~

(1) ~~Be knowledgeable of applicable laws, rules, and regulations applying to backflow prevention assemblies in the state and in the town.~~

(2) ~~Hold a certificate of completion from a town recognized, and approved North Carolina cross connection school in the testing and repair of backflow prevention assemblies.~~

Certified licensed plumber means a person that holds a plumbing class I license or plumbing class II license by the North Carolina State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors or licensed as a utility contractor issued by the North Carolina General Contractors Licensing Board.

Consumer means any person, partnership, association, organization, body politic or corporate and any other group acting as a unit, as well as individuals, using or receiving water from the Town of Apex water system.

Consumer's potable water system means that portion of the privately owned potable water system lying between the point of delivery and point of use and/or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.

Consumer's water system means any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system located on the consumer's premises, whether supplied by public potable water or an auxiliary water supply. The systems may be either a potable water system or an industrial piping system.

~~*Containment* means preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.~~

Containment assembly means a backflow prevention assembly installed at the point of separation between the public water supply and a private service or private distribution system or at a point of metering.

Contamination means an impairment of the quality of the water, which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.

Cross connection means any ~~unprotected actual or potential~~ **physical** connection ~~or structural arrangement between a public or a consumer's~~ **potable water supply system and any piping system, sewer fixture, container, or device, whereby water or other liquids, mixtures, or substances may flow into or enter the potable water supply system; any**

potable water supply outlet that is submerged or is designed or intended to be submerged in non-potable water or in any source of contamination; or an air gap that does not meet the State requirements. ~~other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross connections.~~

Cross connection control coordinator means the official position established by the town and designated by the town water resources director to administer this section. The cross-connection control coordinator shall be a certified tester and may serve as operator in responsible charge in accordance with 15A NCAC 18D.0701.

Degree of hazard is derived from the evaluation of conditions within a system, which can be classified as either a "pollution" (non-health) or a contamination (health) hazard.

Double-check-detector assembly (DCDA) means a specially designed assembly composed of a line-size approved double-check valve assembly with a specific bypass water meter and a meter-sized approved double-check valve assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant). Device must be approved by ~~(USCFCCHR)~~ The University of Southern California Foundation for Cross-Connection Control and Hydraulic Research **(USC FCCCHR)** and the ~~(ASSE)~~ The American Society of Sanitary Engineering **(ASSE)** by being on the agencies' approval list.

Double-check valve assembly (DC) means an assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant). Device must be approved by ~~(USCFCCHR)~~ The University of Southern California Foundation for Cross-Connection Control and Hydraulic Research **(USC FCCCHR)** and the ~~(ASSE)~~ The American Society of Sanitary Engineering **(ASSE)** by being on the agencies' approval list.

Dual check valve means a type of backflow device manufactured pursuant to ASSE Standard 1024.

Due date means the day by which the required backflow testing must be completed by **the customer** ~~a residential, commercial, or industrial address, parcel, or site.~~

Electronic reporting system or online system means the electronic system(s) adopted by the town to administer portions or the entire adopted cross connection control program.

Enclosure means a physical above ground or below ground apparatus **that** provides protection to backflow assemblies. ~~The above ground apparatus shall meet ASSE 1060 specifications. (If the backflow assembly is designed to be removed during cold weather, a decorative enclosure may be substituted for purpose.) Below ground apparatuses shall meet current Town of Apex Construction Specifications and current North Carolina Plumbing Code specifications.~~

Finish grade means any surface which has been cut or built to the elevation requested, indicated, or approved for that point. Surface elevation of lawn, driveway, flower bed, patio or other improved surfaces after completion of grading operations are considered finish grade.

Fire line means a system of pipes and equipment used to supply water in an emergency for extinguishing fire.

Health agency means the North Carolina Department of Environmental and Quality (**NCDEQ**) and/or Wake County Health Department.

Health hazard means an actual or potential **cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects.** ~~threat of contamination of a physical, chemical, biological, pathogenic or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health. Examples of waterborne health hazards include but are not limited to:~~

- ~~(1) *Physical*—Radioisotopes/radio-nuclides;~~
- ~~(2) *Chemical*—Lead, mercury and other heavy metals, organic compounds, other toxins and hazardous substances;~~
- ~~(3) *Biological*—Pathogenic micro-organisms like cryptosporidium, typhoid, cholera and E. Coli.~~

Imminent hazard means a condition that presents a substantial and immediate risk to the public's health.

~~*Industrial fluids* means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, or nonhealth hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to process waters; chemicals in fluid form; acids and alkalis; oils, gases; etc.~~

Industrial piping system means a system used by the consumer for transmission, conveyance or storage of any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances, which are or may be polluted or contaminated.

Interconnection means any system of piping or other arrangement whereby the public water supply is connected directly to a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which contains or could contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

Irrigation season means the time of year that irrigation is used in the Town of Apex. For the purposes of this article the irrigation season is March 1 through ~~September~~ **October** 30 of each year.

Irrigation system means any system supplying dry land with water by means of ditches, streams, piping, and appurtenances.

Isolation means the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: The Town of Apex may make suggestions, upon facility inspection, as to the usage of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

Isolation assembly means a backflow prevention assembly required by the North Carolina Plumbing Code that is installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of the private system.

Lead free means **not containing more than 0.2 percent lead when used with respect to solder and flux; and not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.** a material content in the backflow preventers of less than or equal to 0.25%.

Licensed plumber means **a person that holds a plumbing class I license or plumbing class II license by the North Carolina State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors or licensed as a utility contractor issued by the North Carolina General Contractors Licensing Board.**

NCDEQ means the North Carolina Department of Environmental Quality.

Non-health hazard means **a cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.** ~~an actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system could be a nuisance to water customers but would not adversely affect human health.~~

Non-potable water supply means water not approved for drinking or other household uses.

~~*Online cross-connection assembly tracking system (online system)* means the electronic system(s) adopted by the town to administer portions or the entire adopted cross-connection control program.~~

Owner means any person who has legal title to, or permission or obligation to operate or inhabit, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

Permanent irrigation system means any system supplying dry land with water with means of piping and appurtenances *below ground or finish grade* which is not readily accessible.

Point of delivery means, generally, at the backside of the meter, adjacent to the public street where the town's water distribution mains are located. The consumer shall be responsible for all water piping and control devices located on the consumer's side of the point of delivery.

Pollution means an impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

~~*Pollution hazard* means an actual or potential threat to the quality or the potable of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.~~

Potable water means, water approved for drinking or other household uses, for the purposes of this article, water from any source that has been approved for human consumption by the North Carolina Department of Environmental Quality (NCDEQ).

Pressure type vacuum breaker (PVB) means an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a back siphonage condition only. The assembly must be approved by and listed on the USFCCHR and ASSE approval list.

Private water system means a water system composed of private appurtenances such as groundwater residential wells, cisterns, piping, hoses, meters, and fittings that are connected to the public potable water system.

Public potable water system means any publicly or privately owned water system operated as a public utility, under a current NCDEQ permit, to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.

~~*Readily accessible* means access is available without the need to remove obstructions or items.~~

Reduced pressure principle backflow prevention assembly (RP) means an assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. ~~The first check valve reduces the supply pressure to a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure.~~ The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant). The assembly must be approved by and listed on the USC FCCCHR and ASSE approval list. ~~Device must be approved by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USFCCHR) and the American Society of Sanitary Engineering (ASSE) by being on the agencies' approval list.~~

Reduced pressure principle-detector assembly (RPDA) means a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against health hazard (i.e., contaminant). The assembly must be approved by and listed on the USFCCHR and ASSE approval list. ~~Device must be approved by the University of Southern California Foundation for Cross Connection Control and Hydraulic~~

Research (USCFCHR) and the American Society of Sanitary Engineering (ASSE) by being on the agencies' approval list.

~~Residential irrigation season~~ means the months in which all residential irrigation will be scheduled for annual backflow testing. For the purposes of this article, the residential irrigation season is March 1 through September 30 of every year.

Service connections means **a piped connection from a water main for the purpose of conveying water to a building or onto premises for human use. A service connection begins at the point downstream of a service meter for metered service and at the point of connection to the potable water supply system for unmetered service.** ~~the terminal end of a service connection from the public potable water system, i.e., where the town loses jurisdiction and control over the water at its point of delivery to the consumer's water system.~~

Unapproved water supply means a water supply which has not been approved for human consumption by the NCDEQ.

Water purveyor means the ~~consumer or the~~ operator in responsible charge of a public potable water system providing an approved water supply to the public.

~~Unapproved water supply~~ means a water supply which has not been approved for human consumption by the NCDEQ.

~~Used water~~ means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

Sec. 12-159. Right of entry.

- (a) Upon presentation of proper credentials and identification, authorized representatives from the town shall have the right to enter any building, structure, or premises during normal business hours, or at any time during the event of an emergency to perform any duty imposed by this article. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply. Where a consumer has security measures in force which would require proper identification and clearance before entry into their premises, the consumer shall make necessary arrangements with the security guards so that upon presentation of suitable identification, the town personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service until ~~a reduced pressure principle assembly~~ **the degree of protection determined by the cross connection control coordinator** has been installed or a right-of-entry has been granted.
- (b) On request, the consumer shall furnish to the town any pertinent information regarding the water supply system on such property where cross connections and backflow is deemed possible.

Sec. 12-160. Elimination of cross connections; degree of hazard.

- (a) When cross connections are found to exist, the owner, owner's agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the

town. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. If, in the judgment of the town, a health hazard exists water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated. The maximum time limits are as follows:

- (1) Cross connections with private wells or other auxiliary water supplies require immediate disconnection **and installation of an RP or RPDA. Water service will be restored when the violation is corrected.**
- (2) All facilities which pose a potential health hazard to the potable water system must have a **RP or RPDA installed** ~~reduced pressure principle backflow prevention assembly~~ within 30 days of notification by the town.
- (3) **Non-health hazard locations are exempt from the requirement to install a DC; however, the Town may elect to pay all associated costs to install a DC if the Water Resources Director or their designee requires the protection.** ~~All industrial and commercial facilities not identified as a "health hazard" shall be considered non-health hazard facilities. All non-health hazard facilities must install a double-check valve assembly within 60 days of notification by the town.~~
- (b) Water mains served by the town, but not maintained by the town shall be considered cross connections, with degree of hazard to be determined by the town. Degree of protection shall be based upon the degrees of hazard, as determined by the town.
- (c) In the event that the town personnel do not have sufficient access to every portion of a private water system (i.e., classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an ~~approved reduced pressure principle backflow prevention assembly~~ **RP** shall be required as a minimum of protection.
- (d) No person shall fill special use tanks or tankers containing pesticides, pathogenic micro-organisms, fertilizers, other toxic chemicals or their residues from the public water system except at a town approved location equipped with an air gap or an approved **RP** ~~reduced pressure principle backflow prevention assembly~~ properly installed on the public water supply. **Hydrant meters and temporary meters constructed for use by a contractor or provided by another municipality are prohibited from use in the Town's public potable water system.**
- (e) **Any containment assembly that has not been installed in accordance with Sec. 12-161 and whose location does not pose a health hazard to the public potable water system shall be considered pre-existing and compliant with this Article. However, any pre-existing, compliant approved backflow assembly will be allowed to remain only in its original location for as long as the backflow prevention assembly can be repaired with original manufactured parts. If a change in use of the property represents a health hazard, then such containment assembly shall no longer be considered pre-existing and compliant and shall be replaced with an approved backflow prevention assembly pursuant to Sec. 12-161.**

- (f) Any existing assembly two and one-half inches (2-1/2) or larger backflow assembly installed on fire protection systems that were initially approved by the town and installed in accordance with Sec. 12-161 and whose location does not pose an imminent health hazard to the public potable water system shall be considered pre-existing and compliant with this Article. However, any pre-existing, compliant approved backflow assembly will be allowed to remain only in its original location and must be repaired with approved parts. If the containment assembly is removed or repaired with parts that are not approved or parts are no longer available, or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved lead-free DCDA or RPDA. In addition, any site obtaining an alteration permit, which use is deemed a health hazard, will be required to install or upgrade the backflow prevention assembly to current North Carolina Plumbing, Fire Code, Town standards and ordinances.

Sec. 12-161. Installation of assemblies.

- (a) All backflow prevention assemblies shall be lead-free and installed in accordance with the specifications furnished by the town and/or in manufacturers' recommendations and specifications, the town of Apex Standard Specifications and Details Manual Section 620, and the latest edition of the North Carolina Plumbing and Fire Code.
- (b) All new construction plans and specifications, when required by the North Carolina Plumbing Code and the North Carolina Department of Environmental Quality, shall be made available to the town for review and approval and to determine the degree of hazard.
- (c) Ownership, testing, and maintenance of the assembly shall be the responsibility of the consumer.
- (d) ~~All double-check valve assemblies~~ RPs and DCs shall be installed in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below grade installations are prohibited.
- (e) Private distribution systems shall have a master meter and a master backflow assembly at each connection to the public water supply. ~~Reduced pressure principle backflow prevention assemblies shall be installed according to their listing and in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below grade installations are prohibited.~~
- (f) Any backflow assembly not approved by the town shall be replaced with an assembly; which is approved by town.
- (g) No backflow prevention assembly shall be installed in a traffic area, public utility easement, or town right-of-way unless pre-approval is obtained in writing from the ~~town cross-connection control coordinator~~ water resources director or their designee.
- (h) The consumer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the town and the online system within 10 days after a ~~reduced pressure principle~~ backflow assembly (RP), ~~double-check valve assembly (DCVA)~~, ~~pressure vacuum breaker (PVB)~~, ~~double-~~

~~check detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA)~~
is installed:

- (1) Facility name. (name registered with the town)
 - (2) Facility address. (physical address, city, state, zip code); where assembly is located)
 - (3) Property owner name.
 - (4) Property owner address, city, state, zipcode. (If different from service address)
 - (5) Property owner phone number.
 - (6) Property owner email address, if available.
 - (7) Description of assembly's location. (Hotbox, mechanical room, inside structure, vault)
 - (8) Date of new installation.
 - (9) Installer. (Include name, plumbing company represented, plumber's license number, phone number, address)
 - (10) Type of assembly. (RPA, DCVA, RPDA, DCDA, PVB, air gap)
 - (11) Assembly manufacturer name, model number, serial number and size.
 - (12) Health level.
 - (13) Assembly orientation.
 - (14) Type of test. (Domestic, irrigation, commercial, pool)
 - (15) Passing test results/report.
 - (16) Tester signature and date of submittal.
 - (17) Date of test.
 - (18) Permit number, if necessary.
 - (19) Line pressure.
 - (20) Any repairs or replacement of assembly.
 - (21) A passing designation for the assembly status.
- (i) When it is not possible to interrupt water service, provisions shall be made for a "parallel installation" of backflow prevention assembly ies **equal to that of the main line**. The town will not accept an unprotected bypass around a backflow assembly. Any and all water meter bypasses shall be locked, tagged and the tag dated with the last date that it was secured.
- (j) Upon notification by the town, the consumer shall install the appropriate containment assembly not to exceed the following time frame:
- (1) Imminent hazard — Immediate correction
- (2) Health hazard — 30 days
- (3) Non-health hazard — 60 days

- (k) Following installation, all ~~RP, DCVA, PVB, DCDA, and RPDA~~ **backflow assemblies** are required to be tested by a certified ~~back flow prevention assembly~~ tester within ten days **and submitted to the town's electronic reporting system.**
- (l) Backflow prevention assembly installations with exposure to cold weather shall comply with ASSE 1060 specifications. Backflow prevention assemblies installed for lawn irrigation shall be designed for removal during cold weather exposure or installed in compliance with ASSE 1060 specifications.
- (m) ~~All backflow preventers installed in the town water distribution system shall be "lead free" as defined by Section 12-158 of this article.~~ **No backflow prevention assembly shall be modified in the field.**
- (n) **Any containment assembly required to be installed by the provisions of this article or by a corrective order issued by the Water Resources Director or their designee shall be installed by one of the following:**
 - (1) **Licensed Class I Plumber: can install, replace, or repair irrigation, domestic, and fire (outside installations only) containment assemblies for all structures.**
 - (2) **Licensed Class II Plumber: can only install, replace, or repair irrigation, domestic, and fire containment assemblies for single-family residential dwellings, excluding townhomes. A fire sprinkler certification is required to install, replace, or repair a fire sprinkler system.**
 - (3) **Limited Plumbing License: can install, replace, or repair irrigation or domestic containment assemblies of two-inch diameter or smaller.**
 - (4) **Licensed Fire Sprinkler Contractors: can only install, replace, or repair containment assemblies that are a part of the fire sprinkler system. They cannot install, replace, or repair irrigation or domestic containment assemblies.**
 - (5) **Licensed Utility Contractor: can install, replace, or repair irrigation, domestic, and fire containment assemblies within 5-feet of the building.**

Sec. 12-162. Testing and repair of assemblies.

- (a) A certified ~~backflow prevention assembly~~ tester approved by the town and the online system shall make testing of backflow prevention assemblies. **For backflow assemblies on residential irrigation systems which do not apply or dispose chemical feeds, such tests are to be conducted upon installation and every thirty-six (36) months thereafter. For all other backflow prevention assemblies,** ~~Such~~ tests are to be conducted upon installation and annually thereafter or at a frequency established by the town. A record of all testing and repairs is to be retained by the consumer. Test reports/records must be submitted through the online system ~~to the town~~ within ten business days after the completion of any testing, replacement, or repair work.
- (b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through ~~annual~~ or required testing, or routine inspection by the consumer or by the town,

these repairs must be completed within **ten (10) days for health hazard facilities and thirty (30) days for non-health hazard facilities.** ~~a specified time in accordance with the degree of hazard. In no case shall this time period exceed:~~

- ~~(1) Health hazard facilities — 7 days.~~
- ~~(2) Non health hazard facilities — 21 days.~~
- (c) ~~All backflow prevention assemblies with test cocks are required to be tested annually or at a frequency established by the town.~~
- (d) All certified ~~backflow prevention assembly~~ testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by the town. All test equipment shall be registered with the town and shall be checked for accuracy annually (at a minimum), calibrated if necessary, and certified to the town as to such accuracy/calibration, employing a calibration method acceptable to the town (see subsection 12-157(e)(3)).
- (e) It shall be unlawful for any consumer or certified ~~backflow prevention assembly~~ tester to submit any record to the town and the online system, which is false or incomplete in any material respect. It shall be unlawful for any consumer or certified tester to fail to submit any record, which is required by this article to the town. Such violations may result in any of the enforcement actions outlined in section 12-166.
- (f) Any consumer or owner that has not submitted the required backflow test report(s) to the town or the online system via the retained backflow tester before the due date is non-compliant and subject to the enforcement actions in section 12-166.
- (g) Upon providing the proper notice as provided in this subsection (g), the Town of Apex may change any due date identified in the Town of Apex Cross Connection Control program for the purpose of making the program more effective or efficient. Notice of a change in due date shall be provided to the consumer or owner no less than two months before the due date currently identified in the Cross Connection Control program and may be provided by either phone, email, or letter. A change in the due date shall not increase the number of required tests in a 12-month **or 36-month** period, **as determined by subsection (a) above,** unless otherwise required by this article VI.
- (h) All residential irrigation consumers or owners shall have **a** ~~an annual~~ backflow due date within the ~~residential~~ irrigation season.
- (i) **Certified testers may make repairs or rebuilds to residential irrigation and domestic containment assemblies only. Changes to any plumbing configuration on either side of the backflow assembly is prohibited. All other installations, repairs, and replacements shall be made by licensed plumbers, fire sprinkler contractors, or utility contractors as required by Sec. 12-161.**
- (j) **Certified testers and licensed plumbers shall only use lead-free, original manufactured parts to repair a backflow prevention assembly and shall not change the design, material, or operational characteristics of an assembly during repair, replacement, or maintenance without prior approval by the town.**

Sec. 12-163. Facilities requiring protection.

- (a) Approved backflow prevention assemblies shall be installed on new service lines and on the service line to any facility pursuant to the North Carolina Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's plumbing, facility addition on the customer's property, change in use of the property served by the connection, or when otherwise required by state or federal law. ~~that the town has identified as having a potential for backflow.~~ The town has identified the following types of facilities or services as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly may be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the town. As a minimum requirement, all commercial and mixed use services will be required to install a DCVA ~~double-check valve assembly~~, unless otherwise listed below. All assemblies and installations shall be subject to inspection and approval by the town.

Abbreviations used below:

~~DCVA—Double check valve assembly.~~

~~RDC—Residential dual check.~~

~~RP—Reduced pressure principle assembly.~~

~~DCDA—Double check detector assembly.~~

~~RPDA—Reduced pressure detector assembly.~~

~~AG—Air gap.~~

~~PVB—Pressure vacuum breaker.~~

~~FDC—Fire Department Connection~~

(1) Automotive services stations, dealerships, etc.: RP

(2) Auxiliary water systems:

- a. Approved public/private water supply: RP
- b. Unapproved public/private water supply: RP
- c. Used water and industrial fluids: RP

(3) Bakeries:

- a. No health hazard: DCVA
- b. Health hazard: RP

(4) Beauty shops/barber shops:

- a. No health hazard: DCVA
- b. Health hazard: RP

(5) Beverage bottling plants: RP

- (6) Breweries, wineries, distilleries: RP
- (7) Buildings —Hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections: RP
- (8) Canneries, packing houses, and rendering plants: RP
- (9) Commercial car wash facilities: RP
- (10) Commercial greenhouses: RP
- (11) Commercial sales establishments (department stores, malls, etc.):
 - a. No health hazard: DCVA
 - b. Health hazard: RP
- (12) Concrete/asphalt plants: RP
- (13) Dairies and cold storage plants: RP
- (14) Dye works: RP
- (15) Film laboratories: RP
- (16) Fire systems three-fourths-inch to two inches:
 - a. No health hazard: DCVA
 - b. Health hazard (booster pumps, foam, antifreeze solution, FDC, etc.): RP
- (17) Fire systems two and one-half inches to ten inches (or larger).
 - a. No health hazard: DCDA
 - b. Health hazard (booster pumps, foam, antifreeze solution, FDC, etc.): RPDA
- (18) Fire trucks: RP
- (19) Fire systems (residential): RP
- (20) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
- (21) Laundries (i.e., dry cleaners): RP
- (22) Lawn irrigation systems (split taps): RP
- (23) Metal manufacturing, cleaning, processing, and fabricating plants: RP
- (24) Mixed use business and residential occupancy:
 - a. No health hazard: DCVA
 - b. Health Hazard: RP
- (25) Mobile home parks: RP
- (26) Oil and gas sales (bulk wholesale, or retail) distribution, production, storage or transmission properties: RP
- (27) Pest control (exterminating and fumigating): RP

- (28) Electrical power plants: RP
- (29) Restaurants: RP
- (30) Residential (single-family homes; individually metered duplexes, triplexes, multiplexes, apartments, townhouses, condominiums, etc.): RDC or RP
- (31) Restricted, classified, or other closed facilities: RP
- (32) Sand and gravel plants: RP
- (33) Schools and colleges: RP
- (34) Sewage and storm drain facilities: RP
- (35) Swimming pools: RP
- (36) Waterfront facilities and industries: RP
- (37) Yard hydrant: RP

~~All assemblies and installations shall be subject to inspection and approval by the town.~~

(b) Approved backflow prevention assemblies shall be installed on existing service lines where the degree of hazard from the customer's connection is determined to be high by NCDEQ. As may be modified from time to time by NCDEQ, the following connections are determined to be high hazard service connections:

- (1) Lawn sprinkler systems with chemical injection or booster pump**
- (2) Wastewater treatment plants**
- (3) Connection to an unapproved water system or unapproved auxiliary water supply**
- (4) Connection to tanks, pumps, lines, steam boilers or vessels that handle sewage, lethal substances, toxic or radioactive substances**
- (5) Fire sprinkler systems with booster pump facilities or chemical additives**
- (6) Buildings with five or more stories above ground level**
- (7) Hospitals and other medical facilities**
- (8) Morgues, mortuaries and autopsy facilities**
- (9) Metal plating facilities**
- (10) Bottling plants (subject to back pressure)**
- (11) Canneries**
- (12) Battery manufacturers**
- (13) Exterminators and lawn care companies**
- (14) Chemical processing plants**
- (15) Dairies**
- (16) Film laboratories**
- (17) Car wash facilities**

(18) Dye works

(19) Laundries

(20) Swimming pools

(21) Waterfront facilities

Sec. 12-164. Connections with unapproved sources of supply.

- (a) No person shall connect or cause to be connected any supply of water not approved by the NCDEQNR to the **public potable** water system ~~supplied by the town~~. Any connections allowed by the town must be in conformance with the ~~back-flow~~ **backflow** prevention requirements of this article.
- ~~(b) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the town immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.~~

Sec. 12-165. Fire protection systems.

- (a) All connections for fire protection systems connected with the public water system two inches and smaller shall be protected with an approved **DC** ~~double-check valve assembly~~ as a minimum requirement. All fire systems using toxic additives, booster pumps, or having an FDC shall be protected by an approved **RPDA** ~~reduced-pressure principle detector assembly~~ at the main service connection.
- (b) All connections for fire protection systems connected with the public water system greater than two inches shall be protected with an approved **DCDA** ~~double-check detector assembly~~ as a minimum requirement. All fire protection systems using toxic or hazardous additives, booster pumps, or having an FDC shall be protected by an approved **RPDA** ~~reduced-pressure principle detector assembly~~ at the main service connection.
- ~~(c) All existing backflow prevention assemblies two and one-half inches and larger installed on fire protection systems that were initially approved by the town shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this article. However, if the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double-check detector assembly or reduced-pressure principle detector assembly as required by this provision.~~

Sec. 12-166. Enforcement.

- (a) The consumer or person in charge of any installation found to be in violation of the provisions of this article shall be notified in writing with regard to the corrective action(s) to be taken.
- (b) Such notice shall be served by personal delivery, registered mail, or certified mail to the consumer or person in charge, and shall explain the violation(s) and give the time period within which the violation(s) must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice unless otherwise specified by section 12-160. If the violation has been determined by the town to be a potential hazard to the public

health, safety or welfare, the consumer shall be required to correct the violation immediately.

- (c) In the event a consumer is found in violation of this article and fails to correct the violation in a timely manner, or to pay any civil penalty or expense assessed under this section upon the town's written demand of payment therefor, water service may be terminated without additional notice, and service shall be reestablished when the violation is corrected and any applicable civil penalties and other required fees are paid.
- (d) The violation of any section of this article may be punished by a civil penalty listed as follows, to be recovered by the town in a civil action in the nature of a debt if the offender does not pay the penalty within the prescribed period of time after the offender has been cited for violation. The water resources director may assess a civil penalty in accordance with this subsections ~~12-166(d)(1) — (6), inclusive~~. The civil penalty must be paid within 30 days of receipt of written citation by the consumer or person in charge. Each individual violation shall be a separate and distinct offense. Notwithstanding anything to the contrary in this article the provisions of this section may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
 - (1) Unprotected cross connection involving a private water system, which creates a health hazard—up to \$1,000.00 per day, not to exceed \$10,000.00.
 - (2) Unprotected cross connection involving a private water system, which is of a non-health hazard—up to \$500.00 per day, not to exceed \$5,000.00.
 - (3) The town may immediately discontinue water service to any consumer if, in the judgment of the town, any consumer or person in charge of any installation
 - a. Is found to be in noncompliance with the provisions of this article and neglects the consumer's responsibility to correct a violation after having been given notice thereof, and such violation constitutes or presents an imminent hazard to the public health, safety and welfare, and/or
 - b. Has a water connection to the town's system that, in the judgment of the town, constitutes or presents an imminent hazard to the public health, safety or welfare; and/or
 - c. Has an unprotected service connection determined by NCDEQ to be a high hazard service connection, and/or
 - d. Has an unprotected service connection which was installed without all required permits, and if the consumer's service connection was installed pursuant to such permits a backflow assembly would have been required.
 - (4) Failure of a consumer or certified tester to submit any record required by this article, or the submission of falsified reports/records may result in a civil penalty of up to \$500.00 per violation. If a certified ~~backflow prevention assembly~~ tester submits falsified records to the town or the online system, the town shall permanently revoke that tester's privilege to test cross connection devices/assemblies. In the event a certified ~~backflow prevention assembly~~ tester fails to submit any record within the timeframe required by this article or fails to exercise the same degree of care, skill and judgment in the performance of services to the citizens of the town as is ordinarily

provided by a similar professional under the same or similar circumstances, then the water resources director or cross connection control coordinator or designee of same has the discretion to remove the tester from the list of available certified testers.

- (5) Failure to test or maintain backflow prevention assemblies as required: ~~up to \$200.00 per day.~~
- a. Backflow prevention assemblies installed on non-sewer meters and domestic meters for non-residential use: The water meter shall be locked by town staff until the date of the scheduled backflow test or repair.
 - b. Backflow prevention assemblies installed on a single residential meter for irrigation: The backflow prevention assembly shall be locked by town staff until the date of the scheduled backflow test or repair.
 - c. Backflow prevention assemblies installed on fire protection systems for non-residential use: The water meter on the domestic service shall be locked by town staff until the date of the scheduled backflow test or repair.
 - d. Backflow prevention assemblies installed on fire protection systems for single-family homes: Civil penalties of one hundred dollars (\$100.00) per day, not to exceed \$3,000.
 - e. For consumers where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment and any other customer that is served with an action notice may elect to request a civil penalty assessment in lieu of water service termination. Request for civil penalty may be requested in writing to the cross connection control coordinator. Civil penalty assessment will be based on the degree of hazard.
 - 1. Health Hazard: two hundred fifty dollars (\$250) per day, not to exceed \$7,500
 - 2. Non-Health Hazard: one hundred dollars (\$100) per day, not to exceed \$3,000
- (6) Requests for extension of time shall be made in writing to the water resources director. All other appeals shall be made in accordance with the following procedures:
- a. *Adjudicatory hearings.* A consumer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before a hearing officer designated by the town manager upon making a written demand, identifying the specific issues to be contended, to the town manager within 30 days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified in the subsection, the decision on the civil penalty assessment shall be final and binding.
 - b. *Appeal hearings.* Any decision of the hearing officer made as a result of an adjudicatory hearing held under subsection 12-166(d)(6)a. may be appealed by any party to the Board of Adjustment ~~town council~~.

Failure to make written demand within the time specified in this subsection shall bar further appeal. The **Board of Adjustment** ~~town council~~ shall hold a hearing and make a decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision to the appellant by registered or certified mail.

- c. *Official record.* When a final decision is issued under subsection 12-166(d)(6)b., the town shall prepare an official record of the case that includes:
 1. All notices, motions, and other like pleadings;
 2. A copy of all documentary evidence introduced;
 3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative of any testimony taken;
 4. A copy of the final decision of the Town of Apex.
- d. *Judicial review.* Any consumer against whom a final decision of the **Board of Adjustment** ~~town council~~ is entered, pursuant to the hearing procedure under subsection 12-166(d)(6)b. may appeal the order or decision by filing a written petition for judicial review within 30 days after receipt of the order or decision to the General Court of Justice of Wake County, and serving a copy of such petition on the Town of Apex in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. Within 30 days after receipt of service of the petition of judicial review, the town shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in subsection 12-16(d)(6)c.
- e. The water resources director, cross connection control coordinator, or his/her director's authorized representative, shall administer enforcement of this program.

Sec. 12-167 – Limitation of Liability

The town shall not be held liable, for any cause, for failure to detect any containment assembly failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public potable water system, nor shall this article diminish the responsibility of any owner from whose property a contamination of the public potable water system.

Secs. 12-168—12-190. Reserved.

Section 2. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, and the sections of this ordinance may be renumbered to accomplish such intention.

Section 3. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the ____ day of _____, 2025.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2024-49
SENATE BILL 166

AN ACT TO AMEND VARIOUS DEVELOPMENT REGULATIONS; TO AMEND VARIOUS NORTH CAROLINA STATE BUILDING CODES; TO AMEND VARIOUS CONSTRUCTION CONTRACTORS AND DESIGN PROFESSIONALS REGULATIONS; TO AMEND VARIOUS ENVIRONMENT AND ENVIRONMENTAL HEALTH REGULATIONS; AND TO REORGANIZE THE BUILDING CODE COUNCIL.

The General Assembly of North Carolina enacts:

PART I. DEVELOPMENT REGULATIONS

PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY PUBLIC WATER SYSTEMS

SECTION 1.1.(a) Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-330. Local authority to require backflow preventers; testing.

(a) No public water system owned or operated by a local government unit, as that term is defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an existing nonresidential or residential connection, including multifamily dwellings, not otherwise required by State or federal law except where the degree of hazard from the customer's connection is determined to be high by the Department.

(b) The limitation established in subsection (a) of this section shall not be construed to prohibit requirements for installation of backflow preventers pursuant to the North Carolina Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's plumbing, facility addition on the customer's property, or change in use of the property served by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited to the service line between the home or building and the meter, and without a change in use or facility addition, does not necessitate a backflow preventer. An increase in the flow of water to the home or building, without a change in use or facility addition, does not necessitate a backflow preventer.

(c) A public water system owned or operated by a local government unit, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury arising out of or relating to the backflow of water into potable water supply systems where a backflow preventer is not required by State or federal law, or where the degree of hazard from the customer's connection is not determined to be high by the Department.

(d) The Department shall determine whether the degree of hazard for a service connection is high when the installation of a backflow preventer is not otherwise required by State or federal law. The Department shall provide notice of such determinations on its website.

(e) Nothing in this section shall prohibit a public water system owned or operated by a local government unit from requiring the installation of a backflow preventer if the system pays all costs associated with the backflow preventer, including the device, installation, and appropriate landscaping.

(f) No public water system owned or operated by a local government unit shall require periodic testing more frequently than once every three years for backflow preventers on residential irrigation systems that do not apply or dispose chemical feeds.

(g) A public water system owned or operated by a local government, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury resulting from compliance with the limitations on periodic testing provided in subsection (f) of this section.

(h) A public water system owned or operated by a local government unit may accept the results of backflow preventer testing conducted by a plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester approved by the public water system.

(i) For purposes of this section, the following definitions apply:

(1) "Backflow preventer" means an assembly, device, or method that prohibits the backflow of water into potable water supply systems.

(2) "Certified backflow prevention assembly tester" means a person who holds a certificate of completion from a training program in the testing and repair of backflow preventers.

(3) "High hazard" means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects."

SECTION 1.1.(b) G.S. 150B-2 reads as rewritten:

"§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

...

(8a) Rule. – Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

...

m. Determinations by the Department of Environmental Quality of high hazards pursuant to G.S. 130A-330.

...."

SECTION 1.1.(c) This section is effective when it becomes law and applies to requirements for installation or testing of backflow preventers made by a public water supply on or after that date.

PROHIBIT DUPLICATIVE WATER SERVICE SHUT-OFF VALVE REQUIREMENTS IN CERTAIN RESIDENTIAL DWELLINGS

SECTION 1.2.(a) Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-331. Prohibit duplicative water service shut-off valves.

All persons and units of local government locating, constructing, altering, or operating, or intending to locate, construct, alter, or operate, a public water system, as defined in G.S. 130A-313, are prohibited from requiring the installation of a redundant inline water service shutoff or cutoff valve between a water service meter and a customer receiving water service within a dwelling subject to the North Carolina Residential Code. This section does not apply to (i) integrated valves attached or located within a water meter box for the purpose of water meter

installation, repair, or replacement or (ii) valves installed as an accessible main shutoff valve near the entrance of water service as required by the North Carolina Residential Code."

SECTION 1.2.(b) This section becomes effective January 1, 2025.

BUILDING PERMIT FEES FOR INSPECTION DEPARTMENT CLARIFICATION

SECTION 1.3.(a) G.S. 160D-402 reads as rewritten:

"§ 160D-402. Administrative staff.

(a) Authorization. – Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter.

(b) Duties. – Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Staff Arrangements. – A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government.

(d) Financial Support. – The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter, ~~and all such Chapter.~~ All fees collected by a building inspection department for the administration and enforcement of

provisions set forth in Article 11 of this Chapter shall be used for to support the administration and operations of the building inspection department and for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the State Fire Marshal under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings."

SECTION 1.3.(b) This section becomes effective July 1, 2024.

RESIDENTIAL PLAN REVIEW FEE REIMBURSEMENT

SECTION 1.4.(a) G.S. 160D-1110(b) reads as rewritten:

"(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the North Carolina State Building Code and all other applicable State and local laws. Nothing in this section requires a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, so long as the local government may review and approve the residential building plans as it deems necessary. If a local government chooses to review residential building plans for any structures subject to regulation under the North Carolina Residential Code, all initial reviews for the building permit shall be performed within 15 business days of submission of the plans. A local government that reviews residential building plans for the purpose of building permit issuance shall perform its initial review concurrently with processes for project development approvals required from other State, federal, and local agencies. If a local government does not perform its initial review within 20 business days of submission of the plans, the local government shall refund to the building permit applicant a portion of their total permit application fee. That portion shall equal ten percent (10%) of the total permit application fee, for each business day in which the local government does not perform its initial review, for a period not to exceed 10 business days. A local government shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code. No building permits shall be issued unless the plans and specifications are identified by the name and address of their author. If the General Statutes require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes or of any ordinance or development or zoning regulation requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by a licensed contractor."

SECTION 1.4.(b) This section becomes effective July 1, 2024, and applies to permit applications submitted on or after that date.

CLARIFY PUBLIC SAFETY ISSUES FOR WITHHOLDING BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY

SECTION 1.5. G.S. 160D-1110(h) reads as rewritten:

"(h) No local government shall withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy. For the purposes of this subsection, a "public safety issue" shall not include improvement, installation, placement, repair, or replacement of any of the following:

- (1) Landscaping around dwellings subject to the North Carolina Residential Code within individual lots.
- (2) Landscaping within common areas within a subdivision development.
- (3) Street lighting fixtures within common areas of a subdivision development.

If a developer has not, at the time of issuance of a certificate of occupancy, completed all required site improvements as set forth in subdivisions (1) through (3) of this subsection, the developer shall submit to the local government a signed affidavit detailing the reasons why the required site improvements are not complete, the expected date of completion and compliance, and a statement promising to complete the required site improvements."

PROHIBIT UNRESTRICTED RIGHT OF ENTRY AS A CONDITION TO DEVELOPMENT APPROVALS

SECTION 1.6.(a) G.S. 160D-403(e) reads as rewritten:

"(e) Inspections. – Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and the terms of the approval. In exercising this power, staff may enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, so long as the appropriate consent has been given for inspection of areas not open to the public or an appropriate inspection warrant has been secured. Administrative staff are prohibited from requiring unrestricted written consent from a permit applicant to enter any premises or areas not open to the public as a condition to accepting an application for, or the issuance of, development approvals."

SECTION 1.6.(b) Local governments and administrative staff are prohibited from acting upon unrestricted written consent from a permit applicant to enter any premises or areas not open to the public as a condition to accepting an application for, or the issuance of, development approvals, obtained prior to the effective date of this subsection (a) of this section. This subsection shall not be construed to invalidate a validly issued administrative warrant, administrative inspection warrant, administrative search warrant, or inspection warrant which has been secured by local government or administrative staff pursuant to G.S. 160D-403(e) or G.S. 15-27.2, or construed to prohibit periodic inspections authorized by G.S. 160D-1117 or G.S. 160D-1207.

PROHIBIT TECHNICAL CODE COMPLIANCE AFFIDAVITS

SECTION 1.7. G.S. 160D-1104(c) reads as rewritten:

"(c) In performing the specific inspections required by the North Carolina State Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina State Building Code. An inspector is prohibited from requiring affidavits attesting that work is in compliance with the North Carolina Residential Code in lieu of conducting inspections required for work subject to the North Carolina Residential Code."

LOCAL GOVERNMENT CURB AND GUTTER DESIGN STANDARDS

SECTION 1.8.(a) G.S. 160D-804 is amended by adding a new subsection to read:

"(k) Curb and Gutter Design Standards. – Notwithstanding G.S. 160A-307 and G.S. 160D-916, the regulation shall not limit, or prohibit the use of, curb and gutter design standards adopted by the North Carolina Department of Transportation for subdivision roads adjacent to, and serving, dwellings subject to the North Carolina Residential Code."

SECTION 1.8.(b) This section becomes effective January 1, 2025, and applies to permit applications submitted on or after that date

MUNICIPAL PEDESTRIAN FACILITY REQUIREMENTS WITHIN ETJ FOR SUBDIVISION STREETS DESIGNATED AS PUBLIC

SECTION 1.9.(a) G.S. 160D-804(c) is amended by adding a new subdivision to read:

"(5) A regulation adopted by a city shall not require a developer to design and construct pedestrian facilities, including sidewalks, within rights-of-way for new streets designated as public and to be submitted to the North Carolina Department of Transportation for review pursuant to G.S. 136-102.6, for small residential subdivisions located in areas subject to municipal planning and development regulation in an extraterritorial jurisdiction established pursuant to G.S. 160D-202, unless the city accepts long-term maintenance responsibilities by written agreement with the North Carolina Department of Transportation prior to construction of pedestrian facilities. For the purposes of this subdivision, "small residential subdivision" means a subdivision development that contains 20 individual lots or less."

SECTION 1.9.(b) A city that required a developer to design and construct pedestrian facilities on or after January 1, 2020, as described in G.S. 160D-804(c)(5) enacted by subsection (a) of this section, shall coordinate with the North Carolina Department of Transportation to accept long-term maintenance responsibilities by written agreement for those pedestrian facilities as required by G.S. 160D-804(c)(5). Nothing in this section shall be construed to affect any long-term maintenance agreements between a municipality and the North Carolina Department of Transportation for pedestrian facilities described in G.S. 160D-804(c)(5) in effect on the effective date of this section.

G.S. 160D-804 TECHNICAL CORRECTION

SECTION 1.10. G.S. 160D-804(j) reads as rewritten:

"(j) Private Driveway Pavement Design Standards. – The regulation shall not require pavement design standards for new private driveway construction that are more stringent than the minimum pavement design standards adopted by the North Carolina Department of Transportation. Notwithstanding any regulation adopted by the local government, the local government must accept engineered pavement design standards that do not meet minimum standards required by the Department of Transportation if the proposed design standard is signed and sealed by a duly licensed professional engineer, under Chapter 89C of the General Statutes, and meets vehicular traffic and fire apparatus access requirements. This subsection applies to construction of new privately owned driveways, parking lots, and driving areas associated with parking lots within a new development or subdivision that the developer designates as private and that are intended to remain privately owned after construction. If driveways, parking lots, and driving areas associated with parking lots are constructed to pavement design standards that do not meet minimum standards required by a regulation adopted by the local government, as authorized by this subsection, the developer must include disclosures to prospective buyers as outlined in G.S. 136-102.6(f) prior to entering into any agreement or any conveyance with any prospective buyer. A local government is discharged and released from any liabilities, duties, and responsibilities imposed by this Article, or in common law, from any claim arising out of, or attributed to, the plan review or acceptance of signed and sealed pavement design standards submitted pursuant to this subsection. Nothing in this ~~section~~-subsection limits the authority of local governments or the Department of Transportation to regulate private roads, driveways, or street connections to a public system, or to regulate transportation and utilities, pursuant to subsection (c) of this section, or as otherwise authorized by law."

CLARIFY REQUIREMENTS FOR MODEL HOMES

SECTION 1.11.(a) Chapter 160D of the General Statutes is amended by adding a new Article to read:

"Article 15.

"Miscellaneous Provisions.

"§ 160D-1501. Model homes within subdivision developments.

(a) Definition. – For the purposes of this section, a "model home" means a residential dwelling built within a subdivision development constructed in compliance with the North Carolina Residential Code which will be temporarily utilized to display the dwellings and products offered, within the same subdivision development, to prospective purchasers.

(b) Temporary Mixed Occupancy; Temporary Certificate of Occupancy Issuance. – A model home may include an area designated as a Business Group B occupancy, including for use as a sales office and conducting development-related business with prospective purchasers. Upon completing the construction of a model home, a local government may issue a temporary certificate of occupancy pursuant to G.S. 160D-1116 if the permit holder, in their request for the temporary certificate of occupancy, designates certain areas within the model home as a Business Group B occupancy.

(c) Accessibility Requirements. – An area designated as, or leading to, Business Group B occupancies within the model home must meet accessibility requirements as required by State and federal law. Any other areas shall only be utilized for display purposes for prospective buyers to view the developer's product and for no other purpose.

(d) Display Area Signage. – A permit holder receiving a temporary certificate of occupancy for a model home pursuant to subsection (b) of this section must conspicuously post and maintain signage at entrances to model home display areas specifying that the display area is only for prospective buyers to view the developer's product and for no other purpose.

(e) Utility Connections to Model Homes. – All persons and units of local government authorizing the connection of electrical, water, sewer, and any related utility services to a model home must connect services requested by a permit holder upon issuance of a temporary certificate of occupancy to a model home pursuant to subsection (b) of this section.

(f) Permit Holder to Disconnect Bathroom Facilities. – A permit holder receiving a temporary certificate of occupancy for a model home pursuant to this section shall shut off all water to bathroom facilities within a model home. Equitable bathroom facilities for accessibility shall be provided on the premises."

SECTION 1.11.(b) The section becomes effective January 1, 2025, and applies to applications for temporary certificates of occupancy submitted on or after that date.

PERFORMANCE GUARANTEES FOR SUBDIVISIONS

SECTION 1.12.(a) G.S. 160D-804.1 reads as rewritten:

"§ 160D-804.1. Performance guarantees.

To assure compliance with G.S. 160D-804 and other development regulation requirements, a subdivision regulation may provide for performance guarantees to assure successful completion of required improvements.

For purposes of this section, all of the following apply with respect to performance guarantees:

- (1) Type. – The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:
 - a. Surety bond issued by any company authorized to do business in this State.
 - b. Letter of credit issued by any financial institution licensed to do business in this State.

- c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (1a) Duration. – The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
- (1b) Extension. – A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.
- (1c) Inspection. – A local government shall conduct an inspection of the improvements subject to a performance guarantee within 30 days of a request received from a developer and advise the developer whether the improvements are completed to the required specifications. In the event a local government and developer disagree whether a required improvement is completed to the specifications of a local government, a developer may obtain a certification under seal from a licensed professional engineer that the required improvements have been completed to the specifications of the local government.
- (2) Release. – The performance guarantee shall be returned or released, as appropriate, ~~in a timely manner within 30 days~~ upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are ~~complete~~. complete or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the local government. The local government shall return letters of credit or escrowed funds within 30 days upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed.
- (3) Amount. – The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The local government may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs ~~shall be based~~ on unit pricing. The additional twenty-five

percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

- (3a) Timing. – A local government, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
- (4) Coverage. – The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. No performance guarantee may be required for maintenance of any improvement once the improvement is completed to the specification of a local government or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the local government.
- (5) Legal responsibilities. – No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
 - a. The local government to whom the performance guarantee is provided.
 - b. The developer at whose request or for whose benefit the performance guarantee is given.
 - c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.
- (6) Multiple guarantees. – The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
- (7) Exclusion. – Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section."

SECTION 1.12.(b) This section becomes effective January 1, 2025, and applies to permit applications submitted on or after that date.

PART II. NORTH CAROLINA STATE BUILDING CODE

LOCAL FIRE PREVENTION CODE UNIFORMITY WITHIN DWELLINGS SUBJECT TO THE NORTH CAROLINA RESIDENTIAL CODE

SECTION 2.1. G.S. 143-138(e) reads as rewritten:

"(e) Effect upon Local Codes. – Except as otherwise provided in this section, the North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. Provided a political subdivision shall not adopt local fire prevention code provisions which apply to dwellings subject to the North Carolina Residential Code which are not prescriptively required by the North Carolina Residential Code. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160D-202 or a local act; county jurisdiction shall include all other areas of the

county. No such code or regulations, other than floodplain management regulations and those permitted by G.S. 160D-1128, shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems, foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local fire prevention codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, may be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160D-1127.

A local government may not adopt any ordinance in conflict with the exemption provided by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit the exemption provided by subsection (c1) of this section."

FIRE-RESISTANCE REQUIREMENTS FOR TOWNHOUSE END UNITS

SECTION 2.2.(a) Definitions. – For purposes of this section, "Code" means the North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council.

SECTION 2.2.(b) Fire Resistance for Exterior Wall Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Section R302 and Table R302.1 within the North Carolina Residential Code.

SECTION 2.2.(c) Implementation. – Notwithstanding Section R302 and Table R302.1 within the North Carolina Residential Code, a fire separation distance between the exterior end wall of a townhouse building having a fire-resistance rating of 0 hours and the closest interior lot line may be less than 3 feet when any exterior elements of an adjacent townhouse or building are located at a distance equal to or greater than 6 feet. Any separation of an exterior end wall of a townhouse building less than 6 feet shall provide a minimum cumulative fire-resistance rating of 2 hours.

SECTION 2.2.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Section R302 and Table R302.1 to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

GROUND FAULT CIRCUIT-INTERRUPTER (GFCI) PROTECTION FOR SUMP PUMPS LOCATED IN CRAWLSPACES AND BASEMENTS

SECTION 2.3.(a) Definitions. – For purposes of this section, "Code" means the North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council.

SECTION 2.3.(b) GFCI Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Section 210.8 of the North Carolina Electrical Code.

SECTION 2.3.(c) Implementation. – For single-phase 15- and 20- ampere receptacles supplied by a branch circuit dedicated to electric sump pumps to prevent flooding installed in locations specified in Sections 210.8(A)(4) and 210.8(A)(5) that are required to have ground-fault circuit interrupter protection for personnel, the ground-fault circuit interrupter protection reset for those receptacles must be installed at a readily accessible location within the dwelling unit, and with an indicator light, and clear descriptive labeling to indicate that the receptacles are de-energized due to ground-fault protection application rendering the sump pumps inoperable.

SECTION 2.3.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Section 210.8 of the North Carolina Electrical Code to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.3.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

STAIRWAY ADJACENT GLAZING REQUIREMENTS

SECTION 2.4.(a) Definitions. – For purposes of this section, "Code" means the North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council.

SECTION 2.4.(b) Stairway Glazing Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to the Section R308.4 within the North Carolina Residential Code.

SECTION 2.4.(c) Implementation. – Notwithstanding Section R308.4, glazing adjacent to a landing at the top of a stairway or ramp that is located more than 18 inches above the landing shall not be considered to be a hazardous location.

SECTION 2.4.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Section R308.4 of the North Carolina Residential Code to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided

in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.4.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

ELECTRIC WATER HEATER ELEVATION REQUIREMENTS

SECTION 2.5.(a) Definitions. – For purposes of this section, "Code" means the North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council.

SECTION 2.5.(b) Water Heater Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to the Section P2801.7 within the North Carolina Residential Code.

SECTION 2.5.(c) Implementation. – Notwithstanding Section P2801.7, elevation of the ignition source is not required for electric water heaters.

SECTION 2.5.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Section P2801.7 of the North Carolina Residential Code to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.5.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

IMPLEMENTATION OF CODE CHANGES FOR USE OF CERTAIN INSULATION IN UNVENTED ATTIC AND ENCLOSED RAFTER ASSEMBLIES

SECTION 2.6. Section 6 of S.L. 2023-108 reads as rewritten:

"AMEND INSULATION REQUIREMENTS FOR UNVENTED ATTIC AND ENCLOSED RAFTER ASSEMBLIES

"SECTION 6.(a) Definitions. – As used in this section, "Code" means the current North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. For purposes of this section and its implementation, "R402 Rules" means provisions and tables within Section 402, Building Thermal Envelope, North Carolina – Residential Provisions, of the North Carolina Energy Conversation Code. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Building Code Council and the Residential Code Council as created in Section 1 of this act.

"SECTION 6.(b) R402 Rules Amendment. – The Council shall amend R402 Rules to include, as an optional alternative to residential ceiling insulation minimums, minimum insulation requirements for the use of air-impermeable insulation in areas with unvented attic and unvented enclosed rafter assemblies. Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to the R402 rules within the North Energy Conservation Code.

"SECTION 6.(c) Implementation. – ~~The Council shall amend R402 Rules to include, as an optional alternative to residential ceiling insulation minimums, minimum insulation requirements for the use of air-impermeable insulation in unvented attic and unvented enclosed rafter assemblies. In developing this amendment, the Council shall include in that optional alternative that where~~ Where R402 Rules require R-38 insulation in the ceiling, installing air-impermeable

insulation, as follows, to the underside or directly above the roof deck shall be deemed to satisfy the R-38 ~~requirements~~: requirement in areas with unvented attic or unvented enclosed rafter assemblies: (i) R-20 (equivalent U-factor 0.05) for climate zone 3; (ii) R-25 (equivalent U-factor 0.037) for climate zone 4; and (iii) R-25 (equivalent U-factor 0.037) for climate zone 5. These air-impermeable insulation alternative R-value minimums apply in residences with areas with unvented attic or unvented enclosed rafter assemblies and meeting the following criteria:

- (1) The unvented attic or unvented enclosed rafter assemblies are constructed under Section R806.5 of the North Carolina Residential Code.
- (2) The residence contains a mechanical ventilation system that operates on a positive, balanced, or hybrid pressure strategy.
- (3) For residences with air-impermeable insulation installed below the roof deck, exposed portions of the roof rafters are wrapped by a minimum of R-3 insulation unless directly covered by drywall or finished ceiling material. For residences with air-impermeable insulation installed above the roof deck, roof rafters do not require insulation wrapping if air-impermeable insulation installed above the roof deck is continuous.
- (4) The residence obtains an ACH50 blower door test result of less than 3.0.
- (5) The residence contains heating, cooling, and ventilation equipment and ductwork within thermal envelope.

"SECTION 6.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend the R402 Rules to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

"SECTION 6.(e) SECTION 6.(e) Sunset. – This section expires when permanent rules adopted as required by ~~subsection (b)~~ subsection (d) of this section become effective."

IMPLEMENTATION OF CODE REQUIREMENTS DURING INCORPORATION OF 3- AND 4- FAMILY DWELLINGS INTO THE RESIDENTIAL CODE

SECTION 2.7. Section 9 of S.L. 2023-108 reads as rewritten:

"AMEND THE RESIDENTIAL CODE TO INCLUDE THREE-AND FOUR-FAMILY DWELLINGS

"SECTION 9.(a) Definitions. – As used in this section, "Code" means the current North Carolina State Building Code collection and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council as created in Section 1 of this act. As used in this section, a "three- and four-family dwelling" means a single building constructed with three- or four-dwelling units within the building that is two or less stories above grade plane, located solely on an individual lot.

"SECTION 9.(b) The Council shall adopt rules to amend the North Carolina Residential Code to include ~~three family (triplex) and four family (quadplex)~~ three- and four-family dwellings within its scope by modifying, transitioning, and establishing minimum prescriptive requirements to address the design and construction of those dwellings and make conforming changes to the Code in accordance with this section. In amending rules pursuant to this ~~subsection, section,~~ the Council shall not require greater than a 2-hour fire resistance rating for ~~triplex and quadplex~~ three- and four-family dwelling common wall, floor, and ceiling separation assemblies or require automatic fire sprinkler systems within the North Carolina Residential Code. Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the

provisions of this section and subsection (c) of this section as it relates to the construction of three- and four- family dwellings.

"SECTION 9.(c) Implementation. – Three- and four-family dwellings shall be constructed in conformance with the North Carolina Residential Code, and in cases where the North Carolina Residential Code does not address materials, design, or methods of construction unique to three- and four-family dwellings, reasonable materials, design, or methods of construction shall be utilized and approved when in compliance with the intent and provisions of this section, and with reasonable extension of the provisions of the North Carolina Residential Code. Three- and four-family dwellings shall: (i) be required to have a 2-hour fire resistance rating for three- and four-family dwelling common wall, floor, and ceiling separation assemblies; (ii) shall not be required to have automatic fire sprinkler systems installed; and (iii) shall have exits located on an exterior wall or through a common 2-hour fire resistant rated corridor.

"SECTION 9.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend the Code to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

"SECTION 9.(e) Residential Contractor Classification Temporary Expansion. – Notwithstanding G.S. 87-10(b)(1a), 21 NCAC 12A .0202, and G.S. 87-13, a person in the State of North Carolina utilizing a residential contractor general contractor license classification may engage in all construction and demolition activity pertaining to the construction of three- and four-family dwellings, and the State Licensing Board for General Contractors shall not take disciplinary action against a licensee for the unauthorized practice of contracting solely on the basis of exceeding a residential contractor license classification pending the transition of the three- and four-family dwellings to the North Carolina Residential Code pursuant to this section.

"SECTION 9.(e) SECTION 9.(f) Sunset. – This section expires when the permanent rules adopted as required by subsection (b) subsection (d) of this section become effective.

"SECTION 9.(d) SECTION 9.(g) This section is effective when it becomes law."

GROUND FAULT CIRCUIT INTERRUPTER (GFCI) PROTECTION FOR RECREATIONAL VEHICLE SITE EQUIPMENT

SECTION 2.8.(a) Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

SECTION 2.8.(b) Recreational Vehicle Site Equipment GFCI Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Section 551.71(F)(2) of the 2023 North Carolina Electrical Code.

SECTION 2.8.(c) Implementation. – Notwithstanding Section 551.71(F)(2) of the 2023 North Carolina Electrical Code or any provision of the Code or law to the contrary, for receptacles installed in recreational vehicle site equipment, ground-fault circuit-interrupter protection shall only be required for 125-volt, single-phase, 15- and 20-ampere receptacles.

SECTION 2.8.(d) Additional Rulemaking Authority. – The Council shall adopt a rule to amend Section 551.71(F)(2) of the 2023 North Carolina Electrical Code consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become

effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.8.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

EXCLUDE ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE) LOAD FROM FEEDER AND SERVICE LOAD CALCULATIONS FOR DWELLINGS SUBJECT TO THE NORTH CAROLINA RESIDENTIAL CODE

SECTION 2.9.(a) Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

SECTION 2.9.(b) Electric Vehicle Supply Equipment Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Article 220, Branch-Circuit Feeder, and Service Local Calculations, and Section 220.57, Electric Vehicle Supply Equipment (EVSE) Load, of the 2023 North Carolina Electrical Code.

SECTION 2.9.(c) Implementation. – Notwithstanding Article 220, Branch-Circuit Feeder, and Service Local Calculations, and Section 220.57, Electric Vehicle Supply Equipment (EVSE) Load, of the 2023 North Carolina Electrical Code, electric vehicle supply equipment (EVSE) loads shall not be required for the purpose of calculating loads for electrical feeder or service to dwellings subject to the North Carolina Residential Code.

SECTION 2.9.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Article 220, Branch-Circuit Feeder, and Service Local Calculations, and Section 220.57, Electric Vehicle Supply Equipment (EVSE) Load, of the 2023 North Carolina Electrical Code, consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.9.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AMEND EMERGENCY RESPONDER COMMUNICATION COVERAGE EXCEPTION

SECTION 2.10.(a) Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

SECTION 2.10.(b) Emergency Responder Communication Coverage Rule. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Exception 4. of Section 510.1, Emergency Responder Communication Coverage in New Buildings, of the North Carolina Fire Code.

SECTION 2.10.(c) Implementation. – Notwithstanding Exception 4. of Section 510.1, Emergency Responder Communication Coverage in New Buildings, of the North Carolina Fire Code, one-story buildings not exceeding 12,000 square feet with no below-ground areas are excepted from the requirements of Section 510.1.

SECTION 2.10.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend Exception 4. of Section 510.1, Emergency Responder Communication Coverage in New Buildings, of the North Carolina Fire Code, consistent with subsection (c) of this section.

Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 2.10.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PART III. CONSTRUCTION CONTRACTORS AND DESIGN PROFESSIONALS

COURT AWARDS FOR CONTRACTOR VIOLATIONS

SECTION 3.1.(a) G.S. 87-25.1 reads as rewritten:

"§ 87-25.1. Board may seek injunctive relief.

(a) Whenever it appears to the Board that any person, firm or corporation is violating any of the provisions of this Article or of the rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the ~~violation; and the violation.~~ The superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. The court may award the Board its reasonable costs associated with the investigation and prosecution of the violation.

(b) When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars (\$5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation.

(c) Examination applicants who have failed to pay a court award pursuant to subsection (b) of this section shall not be allowed to take any examination offered by the Board until the award has been satisfied."

SECTION 3.1.(b) G.S. 87-48 reads as rewritten:

"§ 87-48. Penalty for violation of Article; powers of Board to enjoin violation.

(a) Any person, partnership, firm, or corporation that violates any of the provisions of this Article or that engages or offers to engage in the business of installing, maintaining, altering, or repairing within North Carolina any electric wiring, devices, appliances, or equipment without first having obtained a license under the provisions of this Article is guilty of a Class 2 misdemeanor.

(b) Whenever it shall appear to the State Board of Examiners of Electrical Contractors that any person, partnership, firm or corporation has violated, is violating, or threatens to violate any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain such practices. If upon such application the court finds that any provision of this Article is being violated, or a violation thereof is threatened, the court shall issue an order restraining and enjoining such violations, and such relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this Article. The venue for actions brought under this subsection shall be the superior court of any county in which such acts are alleged to have been committed or in the county where the defendants in such action reside.

(c) When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars (\$5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation.

(d) Examination applicants who have failed to pay a court award pursuant to subsection (c) of this section shall not be allowed to take any examination offered by the Board until the award has been satisfied."

SECTION 3.1.(c) This section is effective when it becomes law and applies to actions filed or commenced on or after ~~that date~~

AMEND ELECTRICAL CONTRACTOR LICENSURE REQUIREMENTS

SECTION 3.2.(a) G.S. 87-43.3(a)(1) reads as rewritten:

"(1) Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of one hundred thousand dollars (\$100,000) and on which the equipment or installation in the contract is rated at not more than ~~600~~1,000 volts. The limited classification and any special restricted classifications shall require no more than 3,000 hours of experience, of which, no less than 2,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code."

SECTION 3.2.(b) This section becomes effective January 1, 2025.

FUEL GAS CODE REFERENCE FOR ELECTRICAL CONTRACTOR EXEMPTION

SECTION 3.3. G.S. 87-43.1(8) reads as rewritten:

"(8) To the bonding of corrugated stainless steel tubing (CSST) gas piping systems as required under Section 310.1.1 of the ~~2012 N.C.~~North Carolina Fuel Gas Code."

CREATE A BUILDING CODE PERMIT TECHNICIAN CERTIFICATION

SECTION 3.4.(a) G.S. 143-151.12 reads as rewritten:

"§ 143-151.12. Powers.

In addition to powers conferred upon the Board elsewhere in this Article, the Board has the power to do the following:

...
(3a) Certify persons as being qualified under the provisions of this Article to be North Carolina State Building Code Permit Technicians.

...."

SECTION 3.4.(b) Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-151.22. North Carolina State Building Code Permit Technician; certification program; professional development requirements; renewal of certificates; fees; exam waivers.

(a) State Building Code Permit Technician Certification Program. – The Board shall develop a North Carolina State Building Code Permit Technician certification program and North Carolina State Building Code Permit Technician Certificate. To obtain a certificate, a person must pass an examination, as prescribed by the Board, that is based on the North Carolina State Building Code, administrative procedures applicable to permit administration, and relevant topics in support of Code-enforcement officials and local inspection departments. The Board may issue a certificate to each person who successfully completes the examination. The certificate shall bear the signatures of the chairman and secretary of the Board.

(b) Professional Development Standards for Renewal. – The Board may establish professional development requirements for North Carolina State Building Code Permit Technicians as a condition of the renewal of their certificates. The purpose of these professional development requirements is to assist in maintaining professional competence. A certificate holder subject to this section shall present evidence to the Board at each certificate renewal after initial certification that during the 12 months before the certificate expiration date, the certificate holder has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board. The Board may, for good cause shown, grant extensions of time to certificate holders to comply with these requirements.

(c) Renewal Application. – A North Carolina State Building Code Permit Technician Certificate must be renewed annually on or before the first day of July.

(d) Fee Authorization. – The Board shall establish a schedule of fees to be paid by each applicant for initial certification and renewal certification as a North Carolina State Building Code Permit Technician. A fee of not more than twenty dollars (\$20.00), as determined by the Board, must be paid by any applicant to the Board for the issuance of an initial certification. A fee of not more than ten dollars (\$10.00), as determined by the Board, must be paid by any applicant to the Board for the issuance of a renewal certification. The Board is authorized to charge an extra four dollar (\$4.00) late renewal fee for renewal applications made after the first day of July each year.

(e) Qualified Code-Enforcement Official Exam Waiver. – The Board shall, without requiring an examination, grant a certificate pursuant to this section to any person who, at the time of application, possesses a Building Inspector standard certificate issued by the Board and who is in good standing. The Board may assess a fee for a certificate issued pursuant to this subsection, to the extent authorized by subsection (d) of this section for an initial certification.

(f) Comity. – The Board may, without requiring an examination, grant a certificate pursuant to this section to any person who, at the time of application, is similarly certified as a permit technician in good standing by a similar board of another jurisdiction or certified as a permit technician in good standing by the International Code Council, where standards are acceptable to the Board. The certificate granted under this subsection shall expire after one year unless, within that time period, the holder completes a short course, as prescribed by the Board, based on the North Carolina State Building Code and administrative procedures described in subsection (a) of this section. The Board may assess a fee for a certificate issued pursuant to this subsection, to the extent authorized by subsection (d) of this section for an initial certification."

SECTION 3.4.(c) This section becomes effective July 1, 2024.

LOCAL GOVERNMENT REVIEW OF SEALS OF DESIGN

SECTION 3.5. Article 1 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-111. Local government review of affixed seals of design.

Administrative staff, Code-enforcement officials, or other local government personnel charged with reviewing plans required by this Chapter shall not make administrative decisions on the scope of work covered by architect or engineer seals of designs affixed to work as required by Chapter 83A or Chapter 89C of the General Statutes, the North Carolina State Building Code, or as otherwise required by law. Nothing in this section should be construed to prevent a local government from reviewing plans, drawings, specifications, reports, or other work that requires a seal pursuant to Chapter 83A or Chapter 89C of the General Statutes, the North Carolina State Building Code, or other relevant laws, before an architect or engineer seal is affixed, to ensure compliance with applicable codes, ordinances, or other design standards or requirements."

PART IV. ENVIRONMENT AND ENVIRONMENTAL HEALTH

CLARIFY SECTION 13(b) OF S.L. 2023-108, WHICH PROHIBITED LOCAL GOVERNMENTS FROM REQUIRING PAYMENTS FROM OWNERS OF STORMWATER CONTROL SYSTEMS FOR FUTURE MAINTENANCE OR REPLACEMENT COSTS OF A SYSTEM

SECTION 4.1. Section 13(b) of S.L. 2023-108 reads as rewritten:

"**SECTION 13.(b)** If, prior to the effective date of G.S. 160D-925(d1), as enacted by subsection (a) of this section, a local government has required an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of

the owner's stormwater control project or other stormwater control projects within the local government's jurisdiction, ~~in accordance with G.S. 160D-925(d1), as enacted by subsection (a) of this section,~~ the local government ~~shall~~ shall, upon request of the owner of the stormwater control project, immediately refund the monies to the owner of the stormwater control project to make such funds accessible to the owner to cover necessary maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control ~~project~~ project, in accordance with G.S. 160D-925(d1). For stormwater control projects in residential communities, in the event maintenance, repair, replacement or reconstruction of a project is needed, such funds shall be exhausted before the local government may assess costs of the necessary work on individual homeowners within the community, or any applicable owners' association."

MODIFY RECORDATION REQUIREMENTS FOR OPERATION AND MAINTENANCE AGREEMENTS FOR STORMWATER CONTROL MEASURES

SECTION 4.2.(a) Definitions. – For purposes of this section, "Stormwater Control Measure Rule" means 15A NCAC 02H .1050 (Minimum Design Criteria for All Stormwater Control Measures).

SECTION 4.2.(b) Stormwater Control Measure Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Stormwater Control Measure Rule as provided in subsection (c) of this section.

SECTION 4.2.(c) Implementation. – The Commission shall eliminate the requirement that an Operation and Management (O&M) Agreement be referenced on the final plat and recorded with the county Register of Deeds upon final plat approval. In lieu, the Commission shall require that an O&M Agreement be referenced upon any instrument of title recorded with the county Register of Deeds. For the purposes of this subsection, "instrument of title" means any recorded instrument that affects title or constitutes the chain of title to real property, including, but not limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements, rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents evidencing intestate succession.

SECTION 4.2.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Stormwater Control Measure Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AMEND NCDEQ FAST TRACK SEWER CERTIFICATIONS

SECTION 4.3.(a) G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System Extensions and Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

- (1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system extensions and for disposal systems, and for land application of waste, or treatment works which do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. Where the Commission has provided a digital submission option, the submission shall constitute a

written submission. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Prior to acting on a permit application for the land application of bulk residuals resulting from the operation of a wastewater treatment facility, the Commission shall provide notice and an opportunity for comment from the governing board of the county in which the site of the land application of bulk residuals is proposed to be located. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received. If the Commission fails to act on an application for a permit or for a renewal of a permit as specified in this subdivision after the applicant submits all information required by the Commission, the application shall be deemed approved.

- a. Fast-track sewer extensions. – Where a professional engineer provides certification that the design meets or exceeds Minimum Design Criteria developed by the Department applicable to the project, the Commission shall perform a review of a new application for a sewer system extension permit within 45 days of receipt of a complete application. A complete application is defined as an application that includes all the required components described in the application form. The Commission shall perform an administrative review of a new application within 10 days of receipt to determine if all the required information is included in the application. If complete, the Commission shall issue a receipt letter or electronic response stating that the application is complete and that a 45-calendar day technical review period has started as of the original date the complete application was received. If required items or information is not included, the application shall be deemed incomplete, and the Commission shall issue an application receipt letter or electronic response identifying the information required to complete the application package before the technical review begins. When the required information is received, the Commission shall then issue a receipt letter or electronic response specifying that it is complete and that the 45-calendar day review period has started as of the date of receipt of all required information. If additional information is required to complete the technical review, the Commission shall issue a request for additional information required to complete the review, and the review time shall pause until the additional information is received. If the requested additional information is not received within 30 days, the application shall be returned to the applicant. Upon receipt of the requested additional information, the review time shall restart at the same day it was paused by the additional information request. If approved, the Commission shall issue an approval letter or electronic

correspondence indicating approval of the application. After construction of the sewer system is completed, and within 14 days of receiving all necessary certifications from a professional engineer that the sewer system extension complies with all applicable rules and Minimum Design Criteria, the Commission shall issue a receipt of certification. Applications for alternative sewer systems as defined in sub-subdivision b. of this subdivision are not eligible for this fast-track review.

b. "Alternative sewer system" means any sewer system or collection system other than a gravity system or standard pump station and force main. These include pressure sewer systems, septic tank with effluent pump (STEP) sewer systems, vacuum sewer system, and small diameter variable grade gravity sewers.

- (2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 4.3.(b) The Commission shall adopt amendments to its relevant permitting rules to reflect the statutory changes made by subsection (a) of this section.

SECTION 4.3.(c) Subsections (a) and (b) of this section become effective July 1, 2024.

ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS BOARD CHANGES

SECTION 4.4.(a) Article 5 of Chapter 90A of the General Statutes reads as rewritten:

"Article 5.

"Certification of On-Site Wastewater Contractors and Inspectors.

"§ 90A-70. Purpose.

It is the purpose of this Article to protect the environment and public health, safety, and welfare by ensuring the integrity and competence of on-site wastewater ~~contractors~~ contractors, Authorized On-Site Wastewater Evaluators, private compliance inspectors, and point-of-sale inspectors; to require the examination of on-site wastewater ~~contractors~~ contractors, Authorized On-Site Wastewater Evaluators, private compliance inspectors, and point-of-sale inspectors and the certification of their competency to supervise or conduct the construction, installation, ~~repair,~~ repair, evaluation, or inspection of on-site wastewater systems; to establish minimum standards for ethical conduct, responsibility, training, experience, and continuing education for on-site wastewater system ~~contractors~~ contractors, Authorized On-Site Wastewater Evaluators, private compliance inspectors, and point-of-sale inspectors; and to provide appropriate enforcement procedures for rules adopted by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.

"§ 90A-71. Definitions.

The following definitions apply in this Article:

- (1) "Authorized On-Site Wastewater Evaluator" is as defined in G.S. 130A-336.2(a).
- (2) "Board" means the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.

- ~~(2)~~(3) "Contractor" means a person who constructs, installs, or repairs, or offers to construct, install, or repair an on-site wastewater system in the State.
- ~~(3)~~(4) "Conventional wastewater system" ~~has the same meaning as is as defined in~~ G.S. 130A-343(a)(3).
- ~~(4)~~(5) "Department" means the Department of Health and Human Services.
- ~~(4a)~~(6) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that satisfies all of the following criteria:
 - a. Is requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title.
 - b. Meets the minimum requirements established by the Board.
- ~~(5)~~(7) "Inspector" means a person who conducts an inspection in accordance with rules adopted by the Board.
- ~~(6)~~(8) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.
- ~~(7)~~(9) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.
- (10) "Private Compliance Inspector" means a person who is hired by the owner of a wastewater system, contractor, professional engineer, or Authorized On-Site Wastewater Evaluator to perform a compliance inspection of a new on-site wastewater system or for the repair of an existing on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes. The owner or applicant for the wastewater system being constructed or repaired shall sign a Board-approved document accepting the Private Compliance Inspector.
- ~~(8)~~(11) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources.

"§ 90A-72. Certification required; applicability.

(a) Certification Required. – No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of the General Statutes without being certified in accordance with the provisions of this Article. No person shall conduct an evaluation or offer to conduct the services authorized in G.S. 130A-336.2(a) without being certified as an Authorized On-Site Wastewater Evaluator. No person shall conduct or offer to conduct a private compliance inspection of an on-site wastewater system for compliance with the designs of a Construction Authorization issued pursuant to G.S. 130A-335(a5) or a Notice of Intent to Construct issued pursuant to G.S. 130A-336.1 or G.S. 130A-336.2 unless certified as a Private Compliance Inspector or pursuant to G.S. 130A-337(a1). The Private Compliance Inspector shall obtain written consent from the professional engineer pursuant to G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator pursuant to G.S. 130A-336.2 prior to conducting the compliance inspection.

(b) Applicability. – This Article does not apply to the following:

- (1) A person who is employed by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site

wastewater system performed under the direct and personal supervision of the certified contractor or inspector in charge.

- (2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate family who reside in the same dwelling.
- (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building being constructed or who provides corrective services and labor for an on-site wastewater system ancillary to the building being constructed.
- (4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.
- (5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.
- ~~(6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a licensed public utilities contractor who is installing or expanding a wastewater treatment facility, including a collection system, designed by a registered professional engineer.~~
- (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, such as a treatment or pretreatment tank or system, or lines, tanks, or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository. This subdivision shall not be construed to require a plumbing contractor to become certified as a contractor pursuant to this section to install or repair a grease trap, interceptor, or separator upstream from a septic tank or similar depository that complies with the requirements of the local health department.
- (8) A person employed by the Department, a local health department, or a local health district, when conducting a regulatory inspection of an on-site wastewater system for purposes of determining compliance.

...

"§ 90A-75. Expenses and fees.

(a) Expenses. – All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the Board exclusively out of the funds received by the Board as authorized by this Article. No salary, expense, or other obligations of the Board may be charged against the General Fund of the State. Neither the Board nor any of its members or employees may incur any expense, debt, or financial obligation binding upon the State.

(b) Contributions. – The Board may accept grants, contributions, devises, and gifts that shall be kept in the same account as the funds deposited in accordance with this Article and other provisions of the law.

(c) Fees. – All fees shall be established in rules adopted by the Board. The Board shall establish fees sufficient to pay the costs of administering this Article, but in no event shall the Board charge a fee at an annual rate in excess of the following:

- | | | |
|-----|--|-------------------------------------|
| (1) | Application for basic certification <u>grade level II</u> | \$150.00 <u>\$200.00</u> |
| (2) | Application for each <u>grade level IV</u> | \$50.00 <u>\$300.00</u> |

- | | | |
|-----|---|-------------------------------------|
| (3) | Certification renewal <u>for:</u> | <u>\$100.00</u> |
| a. | <u>Contractor or point-of-sale inspector</u> | <u>\$75.00</u> |
| b. | <u>Authorized On-Site Wastewater Evaluator</u> | <u>\$100.00</u> |
| c. | <u>Private Compliance Inspector</u> | <u>\$100.00</u> |
| (4) | Reinstatement of revoked or suspended Certification | \$500.00 |
| (5) | Application for on-site wastewater system inspector | \$200.00 |
| (6) | Application for authorized on-site wastewater evaluator | \$300.00 <u>\$300.00</u> |
| (7) | <u>Application for Private Compliance Inspector</u> | <u>\$300.00.</u> |

(c1) Use of Fees. – All fees collected pursuant to this Article shall be held by the Board and used by the Board for the sole purpose of administering this Article.

(d) Audit. – The Board is subject to the oversight of the State Auditor under Article 5A of Chapter 147 of the General Statutes.

...

"§ 90A-77. Certification requirements.

(a) Certification. – The Board shall issue a certificate ~~of the appropriate grade level~~ to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application with all required supporting documents for the certification being applied for to the Board.
- (3) ~~Completes the basic on-site wastewater education program approved by the Board for the specific grade level.~~ For grade level II contractor certification, applicant shall satisfy the following conditions:
 - a. Complete the basic on-site wastewater education approved by the Board for any level.
 - b. Complete any additional class hours required for grade level II.
- (3a) For grade level IV contractor certification, applicant shall satisfy the following conditions:
 - a. Hold current and satisfactory certification of grade level II for a minimum of two years prior to application for grade level IV.
 - b. Complete any additional class hours required for grade level IV.
- (3b) For inspector certification, applicant shall satisfy the following conditions:
 - a. Complete the point-of-sale inspector education approved by the Board.
 - b. Complete any additional class hours required for point-of-sale inspector certification.
 - c. Hold current and satisfactory certification of grade level IV contractor, or Authorized On-Site Wastewater Evaluator or subsurface operator certification for a minimum of two years.
 - d. In lieu of the experience requirements in this subdivision, an applicant may instead complete the approved education requirements for the grade IV contractor certification as required by the Board.
- (3c) For Authorized On-Site Wastewater Evaluator, applicant shall complete the Authorized On-Site Wastewater Evaluator education approved by the Board.
- (3d) For Private Compliance Inspector, applicant shall satisfy the following conditions:
 - a. Complete the Private Compliance Inspector education approved by the Board.

- b. Complete any additional class hours required by the Board for compliance inspector certification.
 - c. Have a minimum of 5 years of experience as a certified contractor, Authorized On-Site Wastewater Evaluator, subsurface operator, or a registered environmental health specialist with experience in on-site wastewater matters.
 - d. Not be employed by a local health department.
- (4) Repealed by Session Laws 2010-31, s. 13.2(l), effective July 1, 2010.
 - (5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.
 - (6) Pays the applicable fees set by the Board for the particular ~~application and grade level application.~~
 - (7) ~~For the specific grade level, as determined by the Board, passes~~ Passes a written or oral examination that tests the applicant's proficiency in all of the following areas:
 - a. Principles of public and environmental health associated with on-site wastewater systems.
 - b. Principles of construction and safety.
 - c. Technical and practical knowledge of on-site wastewater ~~systems typical to the specified grade level systems.~~
 - d. Laws and rules related to the installation, construction, repair, ~~or inspection point-of-sale inspection, evaluation, or private compliance inspection of the specified on-site wastewater system systems.~~

(b) Location of Examinations. – The Board shall provide a minimum of three examinations each year; one each in the eastern, central, and western regions of the State.

(b1) Any applicant for an exam shall submit the complete package to the Board no later than 15 business days prior to the exam date to be considered eligible for the exam.

(c) Approval of Certification Programs. – The Board may issue a certificate ~~at the appropriate grade level~~ to an applicant who has completed an approved training or continuing education program.

(d) No Degree Required. – An applicant shall not be required to hold or obtain an educational diploma or degree to obtain a certificate. An applicant that meets all the conditions for certification except for passage of the Board examination may take the examination on three successive occasions without having to file for a new application, pay an additional application fee, or repeat any applicable training program. If the applicant fails to pass the Board examination on three successive occasions, the applicant must reapply to the Board, pay an additional application fee, and repeat the training program.

(e) Certificate. – The certification shall show the full name of the certificate holder. The certificate shall provide a unique identification number and shall be signed by the Chair. Issuance of the certificate by the Board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a certified contractor ~~or inspector~~, at the grade level specified on the ~~certificate~~, certificate, inspector, Authorized On-Site Wastewater Evaluator, or Private Compliance Inspector while the certificate remains in effect.

(f) Replacement Certificate. – A new certificate to replace one lost, destroyed, or mutilated shall be issued subject to rules adopted by the Board and with the payment of a fee set by the Board. The fee for a duplicate or replacement certificate shall not exceed twenty-five dollars (\$25.00).

"§ 90A-78. Certification renewal.

(a) Renewal. – All certifications shall expire ~~at intervals determined by the Board on December 31 of each year unless they are renewed. In no event may the interval determined by the Board be less than one year.~~ To renew a certification, a ~~contractor or inspector~~ contractor,

inspector, Authorized On-Site Wastewater Evaluator, or Private Compliance Inspector must meet all of the following conditions:

- (1) Submit an application for renewal on the form prescribed by the ~~Board-Board~~, which includes all supporting documents requested on the renewal form.
 - (2) Meet the following continuing education requirements prescribed by the ~~Board-requirements~~:
 - a. Grade level II contractor: 3 hours per year.
 - b. Grade level IV contractor: 6 hours per year.
 - c. Point-of-sale inspector: 6 hours per year.
 - d. Authorized on-site wastewater evaluator: 12 hours per year.
 - e. Private compliance inspector: 12 hours per year.
 - f. For persons holding more than one certification issued by the Board, the higher annual hours continuing education requirement of all certificates held.
 - (3) Pay the certification renewal fee.
 - (4) Submit the renewal by November 15 annually.
- (b) Late Fee. – A contractor or inspector with an expired certificate may renew the certification within 90 days of its expiration upon payment of a late fee set by the Board. The late fee shall not exceed twenty-five dollars (\$25.00). If a certification is not renewed within 90 days of its expiration, the certification shall not be renewed, and the holder must apply for a new certificate. Late fees shall be payable for any renewable fee paid after the due date.
- (c) Renewal Process for Expired Certifications. – The renewal process for expired certificates for contractors, point-of-sale inspectors, Authorized On-Site Wastewater Evaluators, and Private Compliance Inspectors shall be as follows:
- (1) Within 90 days of its expiration, an expired certificate may be renewed upon payment of the certification renewal fee in G.S. 90A-75(c)(3) and the late fee established pursuant to subsection (b) of this section.
 - (2) Between 91 days and 24 months of its expiration, an expired certificate may be renewed upon submittal of an application for recertification, the certification renewal fee in G.S. 90A-75(c)(3), total of continuing education required annually for certificate, and passing grade for exam required for certificate.
 - (3) After 24 months of its expiration, no certificate may be renewed. The holder of a certificate expired for more than 24 months shall apply for a new certificate.

"§ 90A-79. Continuing education.

(a) Requirements. – The Board shall require continuing education as a condition of certification and renewal. The Board shall determine the number of hours, based on ~~grade levels applied for, certifications held~~, up to a maximum of 12 hours per year, and the subject material for the specified grade level. The Board shall maintain records of continuing education coursework successfully completed by each certified contractor or inspector.

(b) Approval of Continuing Education Programs. – The Board may approve a continuing education program or course if the Board finds that the program or course provides useful educational information or experience that will enhance the construction, installation, ~~repair,~~ repair, evaluation, or inspection of on-site wastewater systems. Request for approval of continuing education programs or courses shall be submitted to the Board for review no later than two weeks prior to a regularly scheduled Board meeting and prior to the class being held. The Board shall not issue retroactive approvals for any continuing education program or course. Approvals shall be granted on an annual calendar year basis. The Board may develop and offer continuing education programs.

"§ 90A-80. Investigation of complaints

(a) Misconduct. – A person may refer to the Board charges of fraud, deceit, negligence, incompetence, or misconduct against any certified contractor or inspector. The charges shall be in writing and sworn to by the complainant and submitted to the Board. These charges, unless dismissed without a hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes. An association that receives professional recognition of its own certification process by the Board shall be responsible for the conduct and competency of its members.

(b) Records. – The Board shall establish and maintain detailed records regarding complaints concerning each certified ~~contractor~~ contractor, Authorized On-Site Wastewater Evaluator, Private Compliance Inspector, or point-of-sale inspector. The records shall include those certified by recognized associations. The records shall also detail the ~~levels of certification~~ held by each ~~contractor~~ contractor, Authorized On-Site Wastewater Evaluator, Private Compliance Inspector, or point-of-sale inspector.

(c) Notification. – The Board shall provide local health departments with notification of changes in certifications, complaints, suspensions, or reinstatements under this Article. This requirement may be satisfied electronically via the Environmental Health Listserv maintained by the Department.

"§ 90A-81. Remedies.

(a) Denial, Suspension, and Revocation of Certification. – The Board may deny, suspend, or revoke a certificate under this Article for:

- (1) A violation of this Article or a rule of the Board.
- (2) The use of fraud or deceit in obtaining or renewing a certificate.
- (3) Any act of gross negligence, incompetence, or misconduct in the construction, installation, repair, or inspection of an on-site wastewater system.
- (4) Failure to satisfactorily complete continuing education requirements prescribed by the Board.

(b) Arbitration. – The Board may establish a voluntary arbitration procedure to resolve complaints concerning a certified contractor or inspector or any work performed by a certified contractor or inspector, or conflicts involving any certified contractor or inspector and the Division of Public Health of the Department or a local health department.

(c) Injunction. – The Board may in its own name seek an injunction to restrain any person, firm, partnership, or corporation from violating the provisions of this Article or rules adopted by the Board. The Board may bring an action for an injunction in the superior court of any county in which the violator resides or the violator's principal place of business is located. In any proceedings for an injunction, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation. Members of the Board shall not be personally or professionally liable for any act or omission pursuant to this subsection. The Board shall not be required to post a bond in connection with any action to obtain an injunction.

(d) Offenses. – A person who commits any one or more of the following offenses is guilty of a Class 2 misdemeanor:

- (1) Engages in or offers to engage in the construction, installation, ~~repair, repair,~~ evaluation, or inspection of an on-site wastewater system without the appropriate certificate for the grade level of on-site wastewater system certification.
- (2) Gives false or forged evidence of any kind in obtaining a certificate.
- (3) Falsely impersonates a certified ~~contractor~~ contractor, Authorized On-Site Wastewater Evaluator, Private Compliance Inspector, or point-of-sale inspector."

SECTION 4.4.(b) This section becomes effective January 1, 2025.

ALLOW PRIVATE COMPLIANCE INSPECTORS TO INSPECT CERTAIN ON-SITE WASTEWATER SYSTEMS

SECTION 4.5.(a) G.S. 130A-337 is amended by adding two new subsections to read:

"(a2) Notwithstanding subsection (a) or (a1) of this section, an applicant may contract with a Private Compliance Inspector certified pursuant to Article 5 of Chapter 90A of the General Statutes to conduct any required verifications or inspections of an on-site wastewater system for compliance with the designs of a Construction Authorization issued pursuant to G.S. 130A-335(a5) or a Notice of Intent to Construct issued pursuant to G.S. 130A-336.1 or G.S. 130A-336.2 when all of the following criteria are met:

- (1) The Private Compliance Inspector is not the contractor of the on-site wastewater system being inspected or employed by the contractor of the on-site wastewater system being inspected.
- (2) The Private Compliance Inspector holds sufficient errors and omissions and general liability insurance for the project being inspected.
- (3) The Private Compliance Inspector obtains written approval from the professional engineer or Authorized On-Site Wastewater Evaluator prior to conducting the compliance inspection.
- (4) The Private Compliance Inspector documents the compliance inspection with the common form developed or approved by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. The compliance inspection document shall show any as-builts as approved at the site and conveyed to the owner or authorized agency.
- (5) The Private Compliance Inspector delivers the completed compliance inspection form to the owner of the on-site wastewater system being inspected, professional engineer, or Authorized On-Site Wastewater Evaluator, as applicable.

(a3) The Department, the Department's authorized agents, and the local health department shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or common law from any claim arising out of or attributed to an on-site wastewater system inspected pursuant to subsection (a2) of this section."

SECTION 4.5.(b) This section becomes effective January 1, 2025.

INCREASE FEES FOR LICENSED SOIL SCIENTISTS

SECTION 4.6. G.S. 89F-25 reads as rewritten:

"§ 89F-25. Fees.

(a) The Board shall determine fees for the following services that shall not exceed the amounts specified in this section:

Application	\$ 50.00 \$80.00
<u>Application for corporate certificate of licensure</u>	<u>\$100.00</u>
<u>Renewal of corporate certificate of licensure</u>	<u>\$100.00</u>
License	85.00 \$185.00
Renewal	85.00 \$180.00
Restoration	110.00 \$125.00
Replacement license	50.00 \$100.00
Seal	30.00 \$75.00.

(b) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for soil scientists, in addition to its other fees."

REGISTERED ENVIRONMENTAL HEALTH SPECIALISTS DEFENSE AND LIABILITY

SECTION 4.7. G.S. 143-300.8 reads as rewritten:

"§ 143-300.8. Defense of local health departments, registered environmental health specialists, registered environmental health specialist interns, and registered environmental health associates.

(a) The following definitions apply in this section:

- (1) Department. – The Department of Health and Human Services.
- (2) Local health department. – Defined in G.S. 130A-2(5).
- (3) Registered environmental health associate. – Defined in G.S. 90A-51(2d).
- (4) Registered environmental health specialist. – Defined in G.S. 90A-51(4).
- (5) Registered environmental health specialist intern. – Defined in G.S. 90A-51(5).

(b) All local health departments shall enter into an annual agreement with the Department to provide environmental health services in accordance with Chapter 130A of the General Statutes. The annual agreement shall include a requirement for quality assurance for all environmental health services.

(c) Any local health department ~~sanitarian~~ Except as provided in subsections (d) and (e) of this section, any registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate enforcing rules of the Commission for Public Health under the ~~supervision authority~~ of the Department of Health and Human Services pursuant to G.S. 130A-4 shall be defended by the Attorney General, subject to the provisions of G.S. 143-300.4, and shall be protected from liability in accordance with the provisions of this Article in any civil or criminal action or proceeding brought against the ~~sanitarian in his~~ registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate in their official or individual capacity, or both, on account of an act done or omission made in the scope and course of enforcing the rules of the Commission for Public Health. The Department of Health and Human Services shall pay half of any judgment against the ~~sanitarian, registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate~~, or any settlement made on ~~his~~ their behalf, subject to the provisions of G.S. 143-300.6. The local health department employing or contracting with the registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate at the time of the underlying act or omission giving rise to the judgment or settlement shall pay half of the judgment or settlement. The Department may agree, in its sole discretion, to an alternate arrangement with the local health department wherein the Department pays more than half of the judgment or settlement depending on the individual circumstances of the case.

(d) Any registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate employed by or contracted to work for a local health department that has not entered into an annual agreement or fails to abide by the annual agreement, as determined by the Department, as required by subsection (b) of this section shall not be defended by the Attorney General or have their judgement or settlement paid by the Department. The local health department shall be required to pay any judgement against the registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate or any settlement on their behalf for any act or omission made in the scope and course of enforcing the rules of the Commission for Public Health.

(e) A registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate shall not be defended by the Attorney General or protected from liability for any claim arising from an act or omission made in the scope and course of enforcing a local rule adopted pursuant to G.S. 130A-335(c).

(f) This section shall apply to actions in which the registered environmental health specialist, registered environmental health intern, or registered environmental health associate,

is named individually as a party, as well as contested cases brought in the Office of Administrative Hearings, pursuant to Chapter 150B of the General Statutes, arising from the alleged acts or omissions of an authorized agent of the Department, during which the Department determines that the best course of action is to resolve the matter with a settlement payment to the petitioner to conclude the contested case and avoid any future litigation."

WATER SUPPLY WELL SETBACK CHANGES

SECTION 4.8.(a) Definitions. – For purposes of this section and its implementation, "Construction Standards Rule" means 15A NCAC 02C .0107 (Standards of Construction: Water Supply Wells).

SECTION 4.8.(b) Construction Standards Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Construction Standards Rule as provided in subsection (c) of this section.

SECTION 4.8.(c) Implementation. – The horizontal separation between a water supply well and potential sources of groundwater contamination that exist at the time the well is constructed shall be no less than 50 feet for any single-family dwelling with a septic tank and drainfield, including the drainfield repair area in saporlite system as described in the 15A NCAC 18E rules.

SECTION 4.8.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Construction Standards Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.8.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

CLARIFY CHANGES TO ON-SITE WASTEWATER STATUTES

SECTION 4.9.(a) If Senate Bill 508, 2023 Regular Session, becomes law, then G.S. 130A-336.1(l), as amended by Section 3.9(a) of that act, reads as rewritten:

"(l) Reporting Requirements. –

- (1) The owner of the wastewater system shall submit the following to the local health department prior to receiving a Certificate of Occupancy from the appropriate inspection department:
 - a. A copy of the professional engineer's report required pursuant to ~~G.S. 130A-336.1(k)(1)~~. G.S. 130A-336.1(k)(1), including a signed document from the licensed soil scientist or licensed geologist releasing their soils report to be used in obtaining a permit pursuant to this section.
 - b. A copy of the operations and management program.
 - c. Repealed by Session Laws 2023-90, s. 3, effective July 10, 2023.
 - d. A letter that documents the owner's acceptance of the system from the professional engineer.
 - e. A copy of the Authorization to Operate.
- (2) The owner of any wastewater system that is subject to subsection (d) of this section shall deliver to the Department copies of the engineer's report, as described G.S. 130A-336.1(k)(1).

- (3) ~~Within two business days of receiving the documentation required pursuant to subdivision (1) of this subsection, the local health department shall notify the appropriate inspections department. If the local health department fails to notify the inspections department within two business days, the owner of the wastewater system may submit the Authorization to Operate to the appropriate inspections department and receive a Certificate of Occupancy. The local health department shall date and stamp as received upon the delivery of the professional engineer's report described in G.S. 130A-336.1(k)(1) by the owner or the owner's legal representative. The local health department shall notify the appropriate inspections department of the acceptance of the professional engineer's report and a Certificate of Occupancy shall be issued."~~

SECTION 4.9.(b) If Senate Bill 508, 2023 Regular Session, becomes law, G.S. 130A-336.2, as amended by Section 3.9(b) of that act, reads as rewritten:

"§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.

...

(l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner shall sign confirming acceptance and receipt of the report. The owner shall then submit the following to the local health department prior to receiving a Certificate of Occupancy from the appropriate inspection department:

- (1) A copy of the Authorized On-Site Wastewater Evaluator's report, including the Authorization to Operate.
- (2) A copy of the operations and management program established for the system by the Authorized On-Site Wastewater Evaluator.
- (3) Repealed.
- (4) A copy of the document confirming acceptance and receipt of the report by the owner.

(l) ~~Within two business days of receiving the documentation required pursuant to subsection (l) of this section, the local health department shall notify the appropriate inspections department. If the local health department fails to notify the inspections department within two business days, the owner of the wastewater system may submit the Authorization to Operate to the appropriate inspections department and receive a Certificate of Occupancy. The local health department shall date and stamp as received upon delivery of the documentation required pursuant to subsection (l) of this section by the owner or the owner's legal representative. The local health department shall notify the appropriate inspections department of the acceptance of the documentation and a Certificate of Occupancy shall be issued.~~

...."

SECTION 4.9.(c) If Senate Bill 508, 2023 Regular Session, becomes law, then G.S. 130A-336.1(o), as amended by Section 3.9(c) of that act, reads as rewritten:

"(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change in ownership of the site for the wastewater system. A Notice of Intent to Construct shall not be transferrable to a new owner without the written consent of the professional engineer. A wastewater system's Authorization to Operate authorized pursuant to this section shall be transferred to a new owner."

SECTION 4.9.(d) If Senate Bill 508, 2023 Regular Session, becomes law, then G.S. 130A-336.2(o), as amended by Section 3.9(d) of that act, reads as rewritten:

"(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change of ownership of the site for the wastewater system. A Notice of Intent to Construct shall not be transferrable to a new owner without the written consent of the Authorized On-Site Wastewater Evaluator. A wastewater system's Authorization to Operate authorized pursuant to this section shall be transferred to a new owner."

SECTION 4.9.(e) This section is effective retroactively to July 10, 2023.

AMEND 18E ON-SITE WASTEWATER RULES

SECTION 4.10.(a) Definitions. – For purposes of this section and its implementation, "Applicability Rule" means 15A NCAC 18E .0102 (Applicability).

SECTION 4.10.(b) Applicability Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Applicability Rule as provided in subsection (c) of this section.

SECTION 4.10.(c) Implementation. – The provisions of 15A NCAC 18E .0206 shall apply to any wastewater system for which an operation permit, authorization to operate, certificate of completion, or an equivalent approval has been issued prior to January 1, 2024. Wastewater systems permitted on or after July 1, 1977, shall comply with the setback requirements in 15A NCAC 18E. When a wastewater system that was installed on or after July 1, 1977, is expanded, modified, or repaired, and the wastewater strength is not increasing, any existing wastewater system components that are not crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed shall not be required to meet the requirements of 15A NCAC 18E. All components shall comply with the setback requirements in 15A NCAC 18E. When a wastewater system that was installed prior to July 1, 1977, is expanded, modified, or repaired, and the wastewater strength is not increasing, any existing wastewater system components that are not crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed shall not be required to meet the requirements of 15A NCAC 18E except as follows: setbacks to drinking water wells shall not be reduced; and setbacks to surface water bodies specified in 15A NCAC 18E .0601. shall not be reduced by more than 50 percent. Existing wastewater systems for which no permit can be found and with no evidence that the wastewater system was installed in violation of Article 11 of Chapter 130A of the General Statutes and the rules in effect at the time of installation shall be considered to have an operation permit or its equivalent in accordance with this Rule.

SECTION 4.10.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Applicability Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.10.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.11.(a) Definitions. – For purposes of this section and its implementation, "Definitions Rule" means 15A NCAC 18E .0105 (Definitions).

SECTION 4.11.(b) Definitions Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Definitions Rule as provided in subsection (c) of this section.

SECTION 4.11.(c) Implementation. – "Artificial drainage systems" shall include foundation drains with cuts greater than two feet. "Collection sewer" shall not include any appurtenances used to transport waste within a wastewater system. "Full kitchen" means a kitchen that contains either domestic or commercial equipment and is used for cooking or preparing foods onsite. "Normal water level" means the water level within a pond, lake, or other type of impoundment, natural or man-made, at the elevation of the outlet structure or spillway, such as the elevation of the permanent pool. "Warming kitchen" means a kitchen that contains

domestic equipment and is used for plating or dispensing food prepared or cooked at another local. The definition of "Stream" shall be deleted. "Intermittent stream" means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the perched or seasonal high water table. The flow of an intermittent stream may be supplemented by stormwater runoff. "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the perched or seasonal high water table for most of the year. Groundwater is the primary source of water for a perennial stream, but perennial streams may also carry stormwater runoff.

SECTION 4.11.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Definitions Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.11.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.12.(a) Definitions. – For purposes of this section and its implementation, "Application Rule" means 15A NCAC 18E .0202 (Application).

SECTION 4.12.(b) Application Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Application Rule as provided in subsection (c) of this section.

SECTION 4.12.(c) Implementation. – Prior to the repair of a wastewater system, an application shall be submitted to the local health department.

SECTION 4.12.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Application Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.12.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.13.(a) Definitions. – For purposes of this section and its implementation, "Improvement Permit Rule" means 15A NCAC 18E .0203 (Improvement Permit).

SECTION 4.13.(b) Improvement Permit Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Improvement Permit Rule as provided in subsection (c) of this section.

SECTION 4.13.(c) Implementation. – An improvement permit shall be applicable to both initial and repair dispersal field areas identified and approved on the improvement permit.

SECTION 4.13.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Improvement Permit Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to ~~this section~~ shall become effective as provided in

G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.13.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.14.(a) Definitions. – For purposes of this section and its implementation, "Construction Authorization Rule" means 15A NCAC 18E .0204 (Construction Authorization).

SECTION 4.14.(b) Construction Authorization Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Construction Authorization Rule as provided in subsection (c) of this section.

SECTION 4.14.(c) Implementation. – The construction authorization shall also specify the initial wastewater system type and layout, location of all initial wastewater system components, and design details and specifications for supply lines and force mains.

SECTION 4.14.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Construction Authorization Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.14.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.15.(a) Definitions. – For purposes of this section and its implementation, "Existing System Approvals for Reconnections and Property Additions Rule" means 15A NCAC 18E .0206 (Existing System Approvals for Reconnections and Property Additions).

SECTION 4.15.(b) Existing System Approvals for Reconnections and Property Additions Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Existing System Approvals for Reconnections and Property Additions Rule as provided in subsection (c) of this section.

SECTION 4.15.(c) Implementation. – The local health department, an Authorized On-Site Wastewater Evaluator, or a certified inspector may issue an existing system approval when there is no increase in design daily flow or wastewater strength for the following: 1) a reconnection for a new or improved facility, or 2) a site modification that requires a building permit, such as a swimming pool or storage shed. Existing system approvals as described in Paragraph (a) of this Rule shall be issued by an authorized agent, Authorized On-Site Wastewater Evaluator, or certified inspector upon determination of the following: 1) there is no current or past uncorrected malfunction of the system as described in 15A NCAC .1303(a)(2); 2) the design daily flow and wastewater strength for the proposed facility do not exceed that of the existing system; and 3) the proposed facility or site modification meets the setbacks in 15A NCAC .0600. The existing system approval expires one year after the date of issuance. When an approval cannot be issued in accordance with this Rule, a signed, written report shall be provided by the authorized agent, Authorized On-Site Wastewater Evaluator, or certified inspector, as applicable, to the applicant describing the reasons for the denial, citing the applicable rule. The local health department shall include notice of the right to appeal under G.S. 130A-24 and Chapter 150B of the General Statutes. Notwithstanding this Rule, the owner of a wastewater system may elect to utilize the Affidavit for Existing Wastewater System Approval offered pursuant to G.S. 160D-1110(h1) to obtain a wastewater system approval and any necessary permits.

SECTION 4.15.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Existing System Approvals for Reconnections and Property Additions Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.15.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.16.(a) Definitions. – For purposes of this section and its implementation, "Alternative Wastewater System Permitting Options Rule" means 15A NCAC 18E .0207 (Alternative Wastewater System Permitting Options).

SECTION 4.16.(b) Alternative Wastewater System Permitting Options Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Alternative Wastewater System Permitting Options Rule as provided in subsection (c) of this section.

SECTION 4.16.(c) Implementation. – An Engineer Option Permit may be used if the wastewater system design requires a professional engineer in accordance with 15A NCAC .0303(a). The Notice of Intent submitted pursuant to this Rule shall include the signed and sealed soils report of the licensed soil scientist or licensed geologist releasing the soils report to be used in the issuance of the Notice of Intent.

SECTION 4.16.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Alternative Wastewater System Permitting Options Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.16.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.17.(a) Definitions. – For purposes of this section and its implementation, "Owners Rule" means 15A NCAC 18E .0301 (Owners).

SECTION 4.17.(b) Owners Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Owners Rule as provided in subsection (c) of this section.

SECTION 4.17.(c) Implementation. – An easement or encroachment agreement shall be required for the permitting of any of the following installations: (1) any part of the wastewater system is located in a common area with other wastewater systems; (2) any part of the wastewater system is located in an area with multiple or third-party ownership or control; (3) any part of the wastewater system is proposed to be in an off-site area; or (4) any part of the wastewater system and the facility are located on different lots or tracts of land and cross a property line or right-of-way. Any necessary easements, rights-of-ways, or encroachment agreements shall specify in a deed by metes and bounds description the area or site required for the wastewater system and repair area, including force mains and supply lines.

SECTION 4.17.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Owners Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section

shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.17.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.18.(a) Definitions. – For purposes of this section and its implementation, "Local Health Department and Department Rule" means 15A NCAC 18E .0302 (Local Health Department and Department).

SECTION 4.18.(b) Local Health Department and Department Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Local Health Department and Department Rule as provided in subsection (c) of this section.

SECTION 4.18.(c) Implementation. – When a local health department issues a notice of violation to an owner of a wastewater system pursuant to this rule, the local health department may pursue legal remedies no sooner than 30 days after the date of the notice of violation, unless the notice of violation specifies a shorter time frame. The local health department shall issue a notice of violation to the owner when an individual advanced pretreatment system at a single site is out of compliance in accordance with 15A NCAC 18E .1302(f). The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is non-compliant with Article 11 of Chapter 130A of the General Statutes, the Rules of this Subchapter, or conditions in the operation permit or authorization to operate. The local health department shall submit a monthly activity report to the Department every month on a form provided by the Department. The monthly activity report collects information on the numbers and types of permits issued by the local health department. The local health department shall adhere to Article 11 of Chapter 130A of the General Statutes, the Rules of this Subchapter, and all written guidance and interpretations from the Department.

SECTION 4.18.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Local Health Department and Department Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.18.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.19.(a) Definitions. – For purposes of this section and its implementation, "Licensed or Certified Professionals Rule" means 15A NCAC 18E .0303 (Licensed or Certified Professionals).

SECTION 4.19.(b) Licensed or Certified Professionals Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Licensed or Certified Professionals Rule as provided in subsection (c) of this section.

SECTION 4.19.(c) Implementation. – A local health department shall not require a North Carolina Professional Engineer to design either of the following: (i) pressure dispersal systems or pressure dosed gravity systems with a design daily flow greater than 600 gallons per day serving a single design unit or (ii) two or more septic tanks or advanced pretreatment units, each serving a separate design unit and served by a common dosing tank. Prior to the issuance of an Improvement Permit or Construction Authorization, a signed and sealed consent from the

licensed soil scientist or licensed geologist required by this Rule shall be attached to the plans and specifications submitted to the local health department.

SECTION 4.19.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Licensed or Certified Professionals Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.19.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.20.(a) Definitions. – For purposes of this section and its implementation, "Design Daily Flow Rule" means 15A NCAC 18E .0401 (Design Daily Flow).

SECTION 4.20.(b) Design Daily Flow Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Design Daily Flow Rule as provided in subsection (c) of this section.

SECTION 4.20.(c) Implementation. – In calculating design daily flow, the designer is not required to use the maximum building occupancy assigned by the local fire marshal. The design daily flow for a recreational park trailer or park model trailer 400 square feet or less in a recreational vehicle park is 120 gallons per space. The design daily flow for a food establishment with multiuse articles is 25 gallons per seat open 6 hours per day or less, or 40 gallons per seat when open 6 to 16 hours per day and shall not be based on square footage of floor space. The design daily flow for a food establishment with single service articles is 20 gallons per seat open 6 hours per day or less, or 30 gallons per seat when open 6 to 16 hours per day and shall not be based on square footage of floor space. The design daily flow for rest homes, assisted living homes, group homes, and nursing homes shall increase by 60 gallons per day per resident employee, regardless of the presence of laundry facilities. The design daily flow for drug rehabilitation, mental health, and other care institutions shall be 12 gallons per day per employee working an 8-hour shift or less or 60 gallons per day per resident employee, increasing by 2 gallons per employee per hour when an employee works more than an 8-hour shift. The design daily flow for fitness center, spas, karate, dance, and exercise shall be 5 gallons per person, increasing by 10 gallons per person if the facility includes showers. The design daily flow for day schools with a gymnasium only shall be 9 gallons per day per student. Day care facilities shall be reclassified as "family child care home or child care centers."

SECTION 4.20.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Design Daily Flow Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.20.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.21.(a) Definitions. – For purposes of this section and its implementation, "Available Space Rule" means 15A NCAC 18E .0508 (Available Space).

SECTION 4.21.(b) Available Space Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection

(d) of this section, the Commission shall implement the Available Space Rule as provided in subsection (c) of this section.

SECTION 4.21.(c) Implementation. – The repair area requirement of Paragraph (a) of this Rule shall not apply to a lot or tract of land if that lot or tract is described in a recorded deed or a recorded plat on or before January 1, 1983. The Department of Health and Human Services shall specify the information required for a wastewater system to be approved with a two-year field demonstration. Wastewater systems that do not have a repair area in accordance with this Paragraph shall only be used to treat DSE, and shall meet a TN effluent standard of 20 mg/l or less. Evidence of TN standards shall be provided by applicable NSF/ANSI testing or approval as a TS-II wastewater system under these Rules and included in the IP, CA, or Notice of Intent.

SECTION 4.21.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Available Space Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.21.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.22.(a) Definitions. – For purposes of this section and its implementation, "Location of Wastewater Systems Rule" means 15A NCAC 18E .0601 (Location of Wastewater Systems).

SECTION 4.22.(b) Location of Wastewater Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Location of Wastewater Systems Rule as provided in subsection (c) of this section.

SECTION 4.22.(c) Implementation. – The minimum setback for a private drinking water well or upslope spring serving a single-family dwelling unit from a wastewater system permitted or installed in saprolite shall be 50 feet. Building foundation and any structural supports requiring a footing or other load bearing construction in the North Carolina Building Code shall have a horizontal setback of five feet. Appurtenant structures, stairs, or landing structures designed specifically to be set directly on the ground and do not require footings; sidewalks; pavers; lighting fixtures; or signage shall have a horizontal setback of 1 foot. Top of slope of embankment or cuts of 2 feet or more vertical height with a slope less than or equal to thirty-three percent (33%) are not required to have a horizontal setback. There shall be no setback to a stormwater collection system. There shall be no horizontal setbacks from underground utilities. Collection sewers, force mains, and supply lines shall be located the minimum setbacks to site features shown in Table IX of this Rule, unless a different minimum setback is specified in Table XII of this Rule. If a supply line or force main is installed under areas subject to vehicular traffic or areas subject to soil disturbance or compaction, one of the following pipe materials shall be used: ductile iron pipe; a minimum of Schedule 40 Polyvinyl Chloride, Polyethylene, or Acrylonitrile-Butadiene-Styrene pipe sleeved in ductile iron pipe; a minimum of Schedule 40 Polyvinyl Chloride, Polyethylene, or Acrylonitrile-Butadiene-Styrene pipe sleeved in Department of Transportation traffic rated culvert pipe; a minimum of Schedule 40 Polyvinyl Chloride, Polyethylene, or Acrylonitrile-Butadiene-Styrene pipe with 30 inches of compacted material provided over the crown of the pipe; or other pipe materials may be proposed when designed, inspected, and certified by a Professional Engineer and approved by the local health department. When a reduced setback to a collection sewer, force main, or supply line is utilized, the piping requirements for the reduced setback shall be extended to comply with the unreduced

setback. Table XII in this Rule shall be renamed Minimum setbacks from collection sewers, force mains, and supply lines to site features. Force main or supply line shall be added with collection sewer in 15A NCAC 18E .0601(l), (m), (n), (o), (p), and Table XII. Wastewater systems may be located closer than 100 feet but never less than 50 feet from water supply wells or an upslope spring for repairs, space limitations, and other site-planning considerations when one of the following conditions is met: 1) the well was constructed prior to July 1, 1993, in accordance with 15A NCAC 18A .1720; or 2) a variance for a reduced well setback has been issued in accordance with one of the following: a) 15A NCAC 02C .0118 for a shared water supply well or for a transient non-community public water supply well; or b) 15A NCAC 18C .0203(b) for a non-transient non-community public water system.

SECTION 4.22.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Location of Wastewater Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.22.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.23.(a) Definitions. – For purposes of this section and its implementation, "Collection Sewers Rule" means 15A NCAC 18E .0701 (Collection Sewers).

SECTION 4.23.(b) Collection Sewers Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Collection Sewers Rule as provided in subsection (c) of this section.

SECTION 4.23.(c) Implementation. – Collection sewers for wastewater systems with a design daily flow greater than 3,000 gallons per day shall be designed and constructed in accordance with the criteria established in this Rule.

SECTION 4.23.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Collection Sewers Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.23.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.24.(a) Definitions. – For purposes of this section and its implementation, "Raw Sewage Lift Stations Rule" means 15A NCAC 18E .0702 (Raw Sewage Lift Stations).

SECTION 4.24.(b) Raw Sewage Lift Stations Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Raw Sewage Lift Stations Rule as provided in subsection (c) of this section.

SECTION 4.24.(c) Implementation. – Raw sewage lift stations for wastewater systems with a design daily flow greater than 3,000 gallons per day shall meet all setbacks for wastewater systems in accordance with Table IX of Rule 15A NCAC 18E .0601. Raw sewage lift stations for wastewater systems with a design daily flow greater than 3,000 gallons per day shall be designed and constructed in accordance with the criteria established in this Rule.

SECTION 4.24.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Raw Sewage Lift Stations Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.24.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.25.(a) Definitions. – For purposes of this section and its implementation, "Pipe Materials Rule" means 15A NCAC 18E .0703 (Pipe Materials).

SECTION 4.25.(b) Pipe Materials Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Pipe Materials Rule as provided in subsection (c) of this section.

SECTION 4.25.(c) Implementation. – The gravity pipe between a septic tank, gravity distribution device, and the dispersal field shall have a minimum fall of 1/8-inch per foot if the installation requirements of Paragraph (b) of this Rule are met.

SECTION 4.25.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Pipe Materials Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.25.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.26.(a) Definitions. – For purposes of this section and its implementation, "Septic Tank Capacity Requirements Rule" means 15A NCAC 18E .0801 (Septic Tank Capacity Requirements).

SECTION 4.26.(b) Septic Tank Capacity Requirements Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Septic Tank Capacity Requirements Rule as provided in subsection (c) of this section.

SECTION 4.26.(c) Implementation. – The minimum septic tank capacity serving two or more dwelling units shall be sized in accordance with Table XV of this Rule. This Rule shall not include any requirements that conflict with the 2018 North Carolina Plumbing Code.

SECTION 4.26.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Septic Tank Capacity Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.26.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.27.(a) Definitions. – For purposes of this section and its implementation, "Tank Leak Testing and Installation Requirements Rule" means 15A NCAC 18E .0805 (Tank Leak Testing and Installation Requirements).

SECTION 4.27.(b) Tank Leak Testing and Installation Requirements Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Tank Leak Testing and Installation Requirements Rule as provided in subsection (c) of this section.

SECTION 4.27.(c) Implementation. – Tanks shall be leak tested when required in the approved plans and specifications for a wastewater system designed by a professional engineer or an Authorized On-Site Wastewater Evaluator, or when the tank is constructed in place at the jobsite by a person not approved by the Department as a tank manufacturer using bricks, blocks, or poured in place in concrete. The local health department shall be required to document the observation of the leak testing. The septic tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, and extending beyond the septic tank outlet by any amount, with no minimum extension required. The septic tank outlet pipe and pump tank outlet pipe shall be placed on undisturbed soil, compacted soil, or bedded in accordance with 15A NCAC 18E .0703(b) to prevent differential settling of the pipe.

SECTION 4.27.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Tank Leak Testing and Installation Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.27.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.28.(a) Definitions. – For purposes of this section and its implementation, "General Design and Installation Criteria for Subsurface Dispersal Systems Rule" means 15A NCAC 18E .0901 (General Design and Installation Criteria for Subsurface Dispersal Systems).

SECTION 4.28.(b) General Design and Installation Criteria for Subsurface Dispersal Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the General Design and Installation Criteria for Subsurface Dispersal Systems Rule as provided in subsection (c) of this section.

SECTION 4.28.(c) Implementation. – The minimum required infiltrative surface area and trench length shall be calculated when high strength effluent is proposed to be discharged to a dispersal field with no advanced pretreatment as required in 15A NCAC .0402(b)(1) or has not been reclassified as domestic strength effluent in accordance with 15A NCAC .0402(c), a licensed professional, if required by Chapters 89C, 89E, or 89F, shall calculate the adjusted long term acceptance rate in accordance with 15A NCAC .0402(b)(2). Wastewater system installation for serial and sequential distribution shall be approved by the authorized agent when the step-down or drop box in an individual trench is constructed to allow full utilization of the upstream trench prior to overflowing to the next downslope trench in accordance with the following criteria: 1) step-downs shall be constructed of a minimum of two feet of undisturbed soil, bedding material, or concrete and the effluent shall be conveyed over the step-down through Schedule 40 Polyvinyl Chloride or other pipe approved in accordance with 15A NCAC .0703(f). Nonperforated corrugated polyethylene tubing may be used on sites with slopes greater than 25%. The installer shall demonstrate that the step-downs perform as designed. The authorized agent shall approve the step-downs when the installation and elevations have been verified in

accordance with the construction authorization; or drop boxes shall be separated from the trench by a minimum of two feet of undisturbed soil and constructed to allow for full utilization of the upstream trench prior to overflowing to the next lower drop box. The installer shall demonstrate that the drop boxes perform as designed. The authorized agent shall approve the drop boxes when the installation and elevations have been verified in accordance with the construction authorization.

SECTION 4.28.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the General Design and Installation Criteria for Subsurface Dispersal Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.28.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.29.(a) Definitions. – For purposes of this section and its implementation, "Conventional Wastewater Systems Rule" means 15A NCAC 18E .0902 (Conventional Wastewater Systems).

SECTION 4.29.(b) Conventional Wastewater Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Conventional Wastewater Systems Rule as provided in subsection (c) of this section.

SECTION 4.29.(c) Implementation. – Aggregate used in trenches shall be clean, washed gravel or crushed stone and graded or sized in accordance with size numbers 4, 467M, 5, 6, 57, or 67 of ASTM D448.

SECTION 4.29.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Conventional Wastewater Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.29.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.30.(a) Definitions. – For purposes of this section and its implementation, "Large Diameter Pipe Systems Rule" means 15A NCAC 18E .0904 (Large Diameter Pipe Systems).

SECTION 4.30.(b) Large Diameter Pipe Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Large Diameter Pipe Systems Rule as provided in subsection (c) of this section.

SECTION 4.30.(c) Implementation. – Large diameter pipe systems shall not be used with food service establishments or other facilities where the fats, oils, and grease exceed the limit of domestic strength effluent when measured as it enters the dispersal product. Backfill shall not be limited to Soil Groups I, II, or III.

SECTION 4.30.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Large Diameter Pipe Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section.

Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.30.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.31.(a) Definitions. – For purposes of this section and its implementation, "Prefabricated Permeable Block Panel Systems Rule" means 15A NCAC 18E .0905 (Prefabricated Permeable Block Panel Systems).

SECTION 4.31.(b) Prefabricated Permeable Block Panel Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Prefabricated Permeable Block Panel Systems Rule as provided in subsection (c) of this section.

SECTION 4.31.(c) Implementation. – Prefabricated permeable block panel systems shall not be used with food service establishments or other facilities where the fats, oil, and grease exceed the limit of domestic strength effluent when measured as it enters the dispersal product.

SECTION 4.31.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Prefabricated Permeable Block Panel Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.31.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.32.(a) Definitions. – For purposes of this section and its implementation, "Sand Lined Trench Systems Rule" means 15A NCAC 18E .0906 (Sand Lined Trench Systems).

SECTION 4.32.(b) Sand Lined Trench Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Sand Lined Trench Systems Rule as provided in subsection (c) of this section.

SECTION 4.32.(c) Implementation. – There shall be no depth requirement for the naturally occurring receiving permeable horizon for any soil or site, nor shall advanced pretreatment be required if the receiving permeable horizon is greater than 60 inches below the naturally occurring soil surface.

SECTION 4.32.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Sand Lined Trench Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.32.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.33.(a) Definitions. – For purposes of this section and its implementation, "Low Pressure Pipe Systems Rule" means 15A NCAC 18E .0907 (Low Pressure Pipe Systems).

SECTION 4.33.(b) Low Pressure Pipe Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Low Pressure Pipe Systems Rule as provided in subsection (c) of this section.

SECTION 4.33.(c) Implementation. – The minimum required dispersal field area and trench length shall be calculated when high strength effluent is proposed to be discharge to a low pressure pipe field with no advanced pretreatment as required in 15A NCAC 18E .0402(b)(1) or has not been reclassified as domestic strength effluent in accordance with 15A NCAC .0402(c), a licensed professional, if required by Chapters 89C, 89E, or 89F of the General Statutes, shall calculate the long term acceptance rate in accordance with 15A NCAC 18E .0402(b)(2).

SECTION 4.33.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Low Pressure Pipe Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.33.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.34.(a) Definitions. – For purposes of this section and its implementation, "Drip Dispersal Systems Rule" means 15A NCAC 18E .0908 (Drip Dispersal Systems).

SECTION 4.34.(b) Drip Dispersal Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Drip Dispersal Systems Rule as provided in subsection (c) of this section.

SECTION 4.34.(c) Implementation. – Drip dispersal systems receiving domestic strength effluent shall meet the soil and site criteria identified in 15A NCAC .0908(c).

SECTION 4.34.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Drip Dispersal Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.34.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.35.(a) Definitions. – For purposes of this section and its implementation, "Fill Systems Rule" means 15A NCAC 18E .0909 (Fill Systems).

SECTION 4.35.(b) Fill Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Fill Systems Rule as provided in subsection (c) of this section.

SECTION 4.35.(c) Implementation. – New fill systems shall only be installed on sites with uniform slopes less than 15 percent.

SECTION 4.35.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Fill Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section

shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.35.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.36.(a) Definitions. – For purposes of this section and its implementation, "Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Less Than or Equal to 1,500 Gallons/Day Rule" means 15A NCAC 18E .1202 (Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Less Than or Equal to 1,500 Gallons/Day).

SECTION 4.36.(b) Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Less Than or Equal to 1,500 Gallons/Day Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Less Than or Equal to 1,500 Gallons/Day Rule as provided in subsection (c) of this section.

SECTION 4.36.(c) Implementation. – Sandy clay loam saprolite may be used with advanced pretreatment meeting NSF/ANSI 40, Treatment Standard I, or Treatment Standard II effluent standards.

SECTION 4.36.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Less Than or Equal to 1,500 Gallons/Day Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.36.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.37.(a) Definitions. – For purposes of this section and its implementation, "Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Greater Than 1,500 Gallons/Day and Less Than or Equal to 3,000 Gallons/Day Rule" means 15A NCAC 18E .1203 (Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Greater Than 1,500 Gallons/Day and Less Than or Equal to 3,000 Gallons/Day).

SECTION 4.37.(b) Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Greater Than 1,500 Gallons/Day and Less Than or Equal to 3,000 Gallons/Day Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Siting and Sizing Criteria for Advanced Pretreatment Systems with a Design Daily Flow Greater Than 1,500 Gallons/Day and Less Than or Equal to 3,000 Gallons/Day Rule as provided in subsection (c) of this section.

SECTION 4.37.(c) Implementation. – Sandy clay loam saprolite may be used with advanced pretreatment meeting NSF/ANSI 40, Treatment Standard I, or Treatment Standard II effluent standards, or with advanced pretreatment with a design daily flow greater than 3,000 gallons per day.

SECTION 4.37.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Siting and Sizing Criteria for Advanced Pretreatment Systems with a

Design Daily Flow Greater Than 1,500 Gallons/Day and Less Than or Equal to 3,000 Gallons/Day Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.37.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.38.(a) Definitions. – For purposes of this section and its implementation, "Advanced Pretreatment Sand Lined Trench Systems Rule" means 15A NCAC 18E .1205 (Advanced Pretreatment Sand Lined Trench Systems).

SECTION 4.38.(b) Advanced Pretreatment Sand Lined Trench Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Advanced Pretreatment Sand Lined Trench Systems Rule as provided in subsection (c) of this section.

SECTION 4.38.(c) Implementation. – Trench length for trench dispersal products approved with a specific dispersal field reduction in area or trench length when receiving domestic strength effluent in accordance with this Subchapter or a provisional Innovative or Accepted approval shall be calculated in accordance with this Subchapter or the provisional Innovative or Accepted approval.

SECTION 4.38.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Advanced Pretreatment Sand Lined Trench Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.38.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.39.(a) Definitions. – For purposes of this section and its implementation, "Operation and Maintenance of Wastewater Systems Rule" means 15A NCAC 18E .1301 (Operation and Maintenance of Wastewater Systems).

SECTION 4.39.(b) Operation and Maintenance of Wastewater Systems Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Operation and Maintenance of Wastewater Systems Rule as provided in subsection (c) of this section.

SECTION 4.39.(c) Implementation. – System Classification Type IIa shall be described as a conventional system with 750 linear feet of trench or less. System Classification Type IIIa shall be deleted.

SECTION 4.39.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Operation and Maintenance of Wastewater Systems Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.39.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.40.(a) Definitions. – For purposes of this section and its implementation, "Local Health Department Responsibilities for Wastewater System Operation and Maintenance Rule" means 15A NCAC 18E .1305 (Local Health Department Responsibilities for Wastewater System Operation and Maintenance).

SECTION 4.40.(b) Local Health Department Responsibilities for Wastewater System Operation and Maintenance Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Local Health Department Responsibilities for Wastewater System Operation and Maintenance Rule as provided in subsection (c) of this section.

SECTION 4.40.(c) Implementation. – The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is not malfunctioning in accordance with 15A NCAC 18E .1303(a)(2), but non-compliant with the Rules of this Subchapter in the operation permit or the authorization to operate.

SECTION 4.40.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Local Health Department Responsibilities for Wastewater System Operation and Maintenance Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.40.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.41.(a) Definitions. – For purposes of this section and its implementation, "System Malfunction and Repair Rule" means 15A NCAC 18E .1306 (System Malfunction and Repair).

SECTION 4.41.(b) System Malfunction and Repair Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the System Malfunction and Repair Rule as provided in subsection (c) of this section.

SECTION 4.41.(c) Implementation. – This Rule identifies the responsibilities of the local health department and the owner when a system is malfunctioning, totally or partially destroyed, or otherwise determined to require repair. Best professional judgment may be used when the improvement permit, construction authorization, notice of intent to construct, or authorization to operate indicates the repair area and system type. The authorized agent, Authorized On-Site Wastewater Evaluator, or Professional Engineer may use their best professional judgment to repair facilities with either a malfunctioning wastewater system installed prior to July 1, 1977 or a wastewater disposal method installed prior to July 1, 1977, if the method has been in continual use and acts as the sole source of wastewater disposal.

SECTION 4.41.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the System Malfunction and Repair Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.41.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.42.(a) Definitions. – For purposes of this section and its implementation, "Plans for Prefabricated Tanks Rule" means 15A NCAC 18E .1401 (Plans for Prefabricated Tanks).

SECTION 4.42.(b) Plans for Prefabricated Tanks Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Plans for Prefabricated Tanks Rule as provided in subsection (c) of this section.

SECTION 4.42.(c) Implementation. – No documentation of proof of design for a tank shall be required prior to approval of the tank by the Department.

SECTION 4.42.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Plans for Prefabricated Tanks Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.42.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.43.(a) Definitions. – For purposes of this section and its implementation, "Tank Design and Construction Rule" means 15A NCAC 18E .1402 (Tank Design and Construction).

SECTION 4.43.(b) Tank Design and Construction Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Tank Design and Construction Rule as provided in subsection (c) of this section.

SECTION 4.43.(c) Implementation. – The location of the tank shall not be required to be visible at finished grade when the top of the septic tank or access riser is below the finished grade.

SECTION 4.43.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Tank Design and Construction Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.43.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.44.(a) Definitions. – For purposes of this section and its implementation, "Tank Material Requirements Rule" means 15A NCAC 18E .1403 (Tank Material Requirements).

SECTION 4.44.(b) Tank Material Requirements Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Tank Material Requirements Rule as provided in subsection (c) of this section.

SECTION 4.44.(c) Implementation. – Reinforced precast concrete tanks shall achieve a minimum 28-day compressive strength of 4,000 pounds per square inch. The concrete shall meet a compressive strength of 3,500 pounds per square inch prior to removal of the tank

from the place of manufacture. The delivery of the tank to the jobsite is considered the certification by the tank manufacturer of these conditions. Authorized agents, professional engineers, or Authorized On-Site Wastewater Evaluators shall follow the requirements of this Rule on any subsequent testing to verify this certification. Readings from a rebound hammer shall not be used to reject a tank at the jobsite. The local health department, professional engineer, or authorized on-site wastewater evaluator shall report test readings taken in accordance with this Rule to the On-Site Water Protection Branch and shall be used to schedule a future random inventory verification by the Department. Rebound hammers shall be used in accordance with the following when checking the strength of a precast concrete tank: 1) the surface of the concrete tank tested should be smooth, dry, and free of honeycombing; 2) the concrete to be tested must be at least four inches thick, readings should be taken around the edges of the tank, tests should not be on trowelled surfaces, and the test locations should be at least one inch from the edge of the tank or the location of another test point. The procedure for testing a tank with a rebound hammer shall be as follows: 1) take a total of 12 readings from around the tank; 2) the rebound hammer shall be directly perpendicular to the surface of the tank; 3) the readings should be from different sides of the concrete tank; 4) take readings from at least two different edges on each tank side, if possible; 5) eliminate the highest and lowest readings taken; 6) average the remaining 10 readings and use that average to determine the concrete compressive strength from the conversion chart on the rebound hammer; and 7) adjust the concrete compressive strength by $\pm 25\%$ to account for the rebound hammer's $\pm 25\%$ error in the reading. The rebound hammer should be calibrated annually.

SECTION 4.44.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Tank Material Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.44.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.45.(a) Definitions. – For purposes of this section and its implementation, "Plans and Specifications for Risers, Effluent Filters, and Pipe Penetration Boots Rule" means 15A NCAC 18E .1404 (Plans and Specifications for Risers, Effluent Filters, and Pipe Penetration Boots).

SECTION 4.45.(b) Plans and Specifications for Risers, Effluent Filters, and Pipe Penetration Boots Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Plans and Specifications for Risers, Effluent Filters, and Pipe Penetration Boots Rule as provided in subsection (c) of this section.

SECTION 4.45.(c) Implementation. – Subsections (a), (b), (c), (d), and (g) of this Rule shall apply to risers, effluent filters, or pipe penetration boots made from plastic or fiberglass. Concrete risers and riser lids shall be able to withstand a minimum uniform live loading of 300 pounds per square foot or a minimum 1,500-pound load applied in a 10 inch by 10 inch area centered on the lid, in addition to all loads to which a riser is normally subjected, such as dead weight of the material and soil cover and active soil pressure on riser walls. Concrete risers shall meet the following requirements: septic tank risers shall have a secondary lid, concrete plug, or other safety device that shall be provided inside the riser for security and to prevent accidental entry; and pump tank risers shall have a secondary safety mechanism that shall be provided with the riser. The secondary safety mechanism shall be a secondary lid, concrete plug, or other safety device to be provided inside the pump tank riser.

SECTION 4.45.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Plans and Specifications for Risers, Effluent Filters, and Pipe Penetration Boots Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.45.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.46.(a) Definitions. – For purposes of this section and its implementation, "Risers, Effluent Filters, and Pipe Penetration Boots Approval Renewal Rule" means 15A NCAC 18E .1405 (Risers, Effluent Filters, and Pipe Penetration Boots Approval Renewal).

SECTION 4.46.(b) Risers, Effluent Filters, and Pipe Penetration Boots Approval Renewal Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Risers, Effluent Filters, and Pipe Penetration Boots Approval Renewal Rule as provided in subsection (c) of this section.

SECTION 4.46.(c) Implementation. – This Rule shall only apply to risers, effluent filters, or pipe penetration boots made from plastic or fiberglass.

SECTION 4.46.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Risers, Effluent Filters, and Pipe Penetration Boots Approval Renewal Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.46.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 4.47.(a) Definitions. – For purposes of this section and its implementation, "Local Health Department Responsibilities Rule" means 15A NCAC 18E .1713 (Local Health Department Responsibilities).

SECTION 4.47.(b) Local Health Department Responsibilities Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Local Health Department Responsibilities Rule as provided in subsection (c) of this section.

SECTION 4.47.(c) Implementation. – The local health department shall not be required to include in its monthly activity reports to the Department the number of new system operations permits for Provisional, Innovative, or Accepted systems, the number of construction authorizations issued for Provisional systems, including system type, for repairs of Provisional, Innovative, Accepted systems, including system type being repaired, or repairs of Accepted systems, including system type being repaired, or repair system type.

SECTION 4.47.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Local Health Department Responsibilities Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall

become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.47.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

CLARIFY THE APPLICABILITY OF STATUTORY BUILT-UPON AREA REQUIREMENTS FOR STATE AND LOCAL GOVERNMENT STORMWATER PROGRAMS AND SPECIFY THAT CERTAIN ARTIFICIAL TURF IS NOT BUILT-UPON AREA

SECTION 4.48.(a) G.S. 143-214.7(b2) reads as rewritten:

~~"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:~~

- ~~(1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.~~
- ~~(2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and this section provided the stormwater runoff from the entire impervious area of the development is collected, treated, and discharged so that it passes through a segment of the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements. For the purpose of this subdivision, the entire impervious area of the development shall not include any portion of a project that is within a North Carolina Department of Transportation or municipal right-of-way.~~
- ~~(3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."~~

SECTION 4.48.(b) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.7D. Limitations on built-upon area requirements.

(a) As used in this section, the term "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil.

(b) For the purposes of implementing State or local government stormwater programs, none of the following surfaces shall be considered "built-upon area" or an impervious or partially impervious surface:

- (1) A slatted deck.
- (2) The water area of a swimming pool.
- (3) A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.
- (4) A trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).
- (5) Landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.
- (6) Artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

(c) The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in subsection (b) of this section.

(d) Except as specifically required by federal law, a local government may not enact, implement, or enforce a local government ordinance, comprehensive plan, or stormwater program that establishes a definition of "built-upon area" or impervious surface that does not comply with subsection (b) of this section. This limitation shall apply regardless of any authority granted by G.S. 143-214.5, G.S. 143-214.7, or Chapters 153A, 160A, or 160D of the General Statutes.

(e) The Commission may adopt rules to implement this section."

SECTION 4.48.(c) Each unit of local government that operates a stormwater program shall update its program to be consistent with G.S. 143-214.7D, as enacted by subsection (b) of this section.

SECTION 4.48.(d) This section is effective when it becomes law.

PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT

SECTION 4.49.(a) Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Miscellaneous.

"§ 162A-900. Limitations on allocating service for residential development.

(a) For purposes of this section, "residential development" means new development of single-family or multifamily housing.

(b) A local government unit, as defined in G.S. 162A-201, shall not require an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions include, without limitation, any of the following:

- (1) Payment of taxes, impact fees or other fees, or contributions to any fund.
- (2) Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).
- (3) Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

(c) A local government unit, as defined in G.S. 162A-201, shall not implement a scoring or preference system to allocate water or sewer service among applicants for water or sewer service for residential development that does any of the following:

- (1) Includes consideration of building design elements, as defined in G.S. 160D-702(b).
- (2) Sets a minimum square footage of any structures subject to regulation under the North Carolina Residential Code.
- (3) Requires a parking space to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.
- (4) Requires additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code."

SECTION 4.49.(b) This section is effective when it becomes law.

ESTABLISH A TIME LIMIT FOR REVIEW OF APPLICATIONS SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR WATER DISTRIBUTION SYSTEMS TO CONSTRUCT OR ALTER A PUBLIC WATER SYSTEM

SECTION 4.50.(a) G.S. 130A-328 is amended by adding a new subsection to read:

"(c1) The Department shall perform a review of an application for a water distribution system authorization subject to the following requirements:

- (1) The Department shall review the application within 45 days of receipt of a complete application when a professional engineer provides certification that the design meets or exceeds the Minimum Design Criteria developed by the Department applicable to the project. For purposes of this section, a complete application is defined as an application that includes all of the required components described in the application form.
- (2) The Department shall perform an administrative review of a new application within 10 days of receipt to determine if all required information is included in the application. If the application is complete, the Department shall issue a receipt letter or electronic response stating that the application is complete and that a 45-calendar day technical review period has started as of the date on which the Department received the complete application. If required items or information are not included in the application, the application is incomplete, and the Department shall issue an application receipt letter or electronic response identifying the information required to complete the application before the technical review begins. When the Department receives the required information, the Department shall issue a receipt letter or electronic response specifying that the application is complete and that the 45-calendar day review period has started as of the date on which the Department received the remaining required information.
- (3) If additional information is required to complete the technical review, the Department shall issue a request for additional information required to complete the review, and the 45-calendar day technical review period shall pause until the additional information is received. If the Department does not receive the requested additional information from the applicant within 30 calendar days, the Department shall return the application to the applicant.
- (4) If the Department receives the additional information from the applicant within 30 days, the technical review period review time shall restart, and the Department shall complete its review within the number of days that remained

in the technical review period on the date the technical review period was paused by the request for additional information.

- (5) Should the Department not complete its review of the application within the 45-day technical review period, the application shall be considered deemed approved."

SECTION 4.50.(b) This section becomes effective December 1, 2024, and applies to applications submitted on or after that date.

CLARIFY SCOPE OF PUBLIC SWIMMING POOL LAWS TO EXEMPT PRIVATE POOLS OFFERED FOR USE THROUGH A SHARING ECONOMY PLATFORM

SECTION 4.51.(a) G.S. 130A-280 reads as rewritten:

"§ 130A-280. Scope.

This Article provides for the regulation of public swimming pools in the State as they may affect the public health and safety. As used in this Article, the term "public swimming pool" means any structure, chamber, or tank containing an artificial body of water used by the public for swimming, diving, wading, recreation, or therapy, together with buildings, appurtenances, and equipment used in connection with the body of water, regardless of whether a fee is charged for its use. The term includes municipal, school, hotel, motel, apartment, boarding house, athletic club, or other membership facility pools and spas, spas operating for display at temporary events, and artificial swimming lagoons. As used in this Article, an "artificial swimming lagoon" means any body of water used for recreational purposes with more than 20,000 square feet of surface area, an artificial liner, and a method of disinfectant that results in a disinfectant residual in the swimming zone that is protective of the public health. This Article does not apply to ~~a~~any of the following:

- (1) A private pool serving a single family dwelling and used only by the residents of the dwelling and their guests.
- (2) A private pool serving a single family dwelling meeting the minimum requirements of this subdivision which is offered to, and used by, individuals on a temporary basis utilizing a sharing economy platform. For the purposes of this subdivision, a sharing economy platform means an online platform used to facilitate peer-to-peer transactions to acquire, provide, or share access to goods and services. For the purposes of this subdivision, a pool must meet all of the following minimum requirements:
 - a. Pools must have proper fencing and barriers to prevent unsupervised access, especially by children. The fence should be at least 4 feet high with a self-latching gate.
 - b. Pools must have clear and conspicuous signage posted around the pool area specifying pool rules, depth markers, and any potential hazards.
 - c. Pools must be equipped with basic lifesaving equipment, including life rings and reaching poles.
 - d. Pool decks and surrounding areas must have non-slip surfaces.
 - e. Pools must have properly fitted covers for all submerged suction outlets.
 - f. Pools must be well-maintained with proper chemical balance and cleanliness to ensure safe and healthy swimming conditions.
- (3) ~~This Article also does not apply to therapeutic~~ Therapeutic pools used in physical therapy programs operated by medical facilities licensed by the Department or operated by a licensed physical therapist, nor to therapeutic chambers drained, cleaned, and refilled after each individual use."

SECTION 4.51.(b) This section becomes effective July 1, 2025.

PART V. REORGANIZE BUILDING CODE COUNCIL

SECTION 5.1.(a) G.S. 143-136 reads as rewritten:

"§ 143-136. Building Code Council created; membership, committees.

(a) ~~Creation; Membership; Terms.~~Creation. – There is hereby created a Building Code Council, which shall be composed of ~~17~~13 members appointed ~~by the Governor, consisting of the following:~~as follows:

- ~~(1) Two licensed architects.~~
- ~~(2) One licensed general contractor.~~
- ~~(3) One licensed general contractor specializing in residential construction.~~
- ~~(4) One licensed general contractor specializing in coastal residential construction.~~
- ~~(5) One licensed engineer practicing structural engineering.~~
- ~~(6) One licensed engineer practicing mechanical engineering.~~
- ~~(7) One licensed engineer practicing electrical engineering.~~
- ~~(8) One licensed plumbing and heating contractor.~~
- ~~(9) One municipal or county building inspector.~~
- ~~(10) One licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and appliances.~~
- ~~(11) One representative of the public who is not a member of the building construction industry.~~
- ~~(12) One licensed electrical contractor.~~
- ~~(13) One licensed engineer on the engineering staff of a State agency charged with approval of plans of State-owned buildings.~~
- ~~(14) One municipal elected official or city manager.~~
- ~~(15) One county commissioner or county manager.~~
- ~~(16) One active member of the North Carolina fire service with expertise in fire safety, as recommended by the North Carolina State Firefighters' Association.~~
- (1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in multifamily construction.
- (2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in structural engineering.
- (3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in commercial construction.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in electrical engineering.
- (5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold a license as an attorney-at-law under Chapter 84 of the General Statutes and specializes in construction law.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold an unlimited electrical contractor license under Chapter 87 of the General Statutes.

- (7) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold a general contractor license under Chapter 87 of the General Statutes and specializes in the construction of buildings greater than 75 feet in height.
- (8) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in mechanical engineering.
- (9) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold an unlimited plumbing and heating contractor license under Chapter 87 of the General Statutes and specializes in plumbing contracting.
- (10) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold an unlimited plumbing and heating contractor license under Chapter 87 of the General Statutes and specializes in mechanical contracting.
- (11) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall be a Level III Code-enforcement official employed by a municipality or county.
- (12) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall be a North Carolina certified Level III Fire Code Official.
- (13) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution as a representative of the fuel-gas industry.

(a1) ~~In selecting the municipal and county members, preference should be given to members who qualify as either a licensed architect, licensed engineer, or licensed general contractor.~~ Terms; Removal; Vacancies; Chair. – Of the members initially appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the Governor, three shall serve for terms of two years each, ~~three~~ two shall serve for terms of four years each, and ~~three~~ two shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any Each appointing authority may remove any member of the Council appointed by that appointing authority from office for misfeasance, malfeasance, or nonfeasance. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor shall be filled by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution. The Governor shall designate one member of the Council as chair. ~~None~~ of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during ~~his~~ their term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit ~~his~~ their membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

~~The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above.~~

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are initially appointed or are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Compensation. – Members of the Building Code Council other than any who are employees of the State shall receive seven dollars (\$7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(c) Repealed by Session Laws 2023-108, s. 1(b), effective January 1, 2025.

~~(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina Residential Building Code. The committee shall be composed of the following nine members of the Building Code Council:~~

- ~~(1) One of the licensed architects appointed by the chairman of the Building Code Council.~~
- ~~(2) The licensed engineer practicing mechanical engineering.~~
- ~~(3) The licensed engineer practicing electrical engineering.~~
- ~~(4) The licensed engineer practicing structural engineering.~~
- ~~(5) The municipal elected official.~~
- ~~(6) The fire service representative.~~
- ~~(7) The municipal or county building inspector.~~
- ~~(8) The State agency engineer.~~
- ~~(9) The licensed general contractor.~~

~~The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee~~ The Building Code Council shall meet upon the call of the chairman to review and consider any proposal for revision or amendment to the North Carolina State Building Code, including provisions applicable to the North Carolina Energy Conservation Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, the North Carolina Existing Building Code, Code volumes, as specified in G.S. 143-138(a), and any other code applicable to commercial or multi-family construction, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee construction. The Council shall also oversee the process by which the Council conducts its revision of the codes as specified in G.S. 143-138(a) and applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee The Council shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes Code volumes, as set forth in G.S. 143-138(a), and codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or issue an

interpretation. ~~In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane."~~

SECTION 5.1.(b) In order to establish overlapping terms, initial appointments pursuant to G.S. 143-136(a), as amended by subsection (a) of this section, shall be made effective January 1, 2025, or as soon as feasible thereafter, and expire as follows:

- (1) The initial appointments made by the Governor:
 - a. Pursuant to G.S. 143-136(a)(7) shall expire January 1, 2027.
 - b. Pursuant to G.S. 143-136(a)(8) shall expire January 1, 2027.
 - c. Pursuant to G.S. 143-136(a)(9) shall expire January 1, 2027.
 - d. Pursuant to G.S. 143-136(a)(10) shall expire January 1, 2029.
 - e. Pursuant to G.S. 143-136(a)(11) shall expire January 1, 2029.
 - f. Pursuant to G.S. 143-136(a)(12) shall expire January 1, 2031.
 - g. Pursuant to G.S. 143-136(a)(13) shall expire January 1, 2031.
- (2) The initial appointments made by the General Assembly upon recommendation of the Speaker of the House of Representatives:
 - a. Pursuant to G.S. 143-136(a)(1) shall expire January 1, 2027.
 - b. Pursuant to G.S. 143-136(a)(3) shall expire January 1, 2029.
 - c. Pursuant to G.S. 143-136(a)(5) shall expire January 1, 2031.
- (3) The initial appointments made by the General Assembly upon recommendation of the President Pro Tempore of the Senate:
 - a. Pursuant to G.S. 143-136(a)(2) shall expire January 1, 2027.
 - b. Pursuant to G.S. 143-136(a)(4) shall expire January 1, 2029.
 - c. Pursuant to G.S. 143-136(a)(6) shall expire January 1, 2031.

SECTION 5.1.(c) G.S. 143-137 reads as rewritten:

"§ 143-137. Organization of Building Code Council; rules; meetings; staff; fiscal affairs.

(a) First Meeting; Organization; Rules. – Within 30 days after its appointment, the Building Code Council shall meet on call of the State Fire Marshal. ~~The Council shall elect from its appointive members a chairman and such other officers as it may choose, for such terms as it may designate in its rules.~~ The Council shall adopt such rules ~~not inconsistent herewith~~ as it may deem necessary for the proper discharge of its duties. The ~~chairman-chair~~ may establish and appoint members to ~~such~~ committees as the work of the Council may require. In addition, the ~~chairman-shall chair~~ may establish and appoint ad hoc code revision committees to consider and prepare revisions and amendments to the Code ~~volumes.~~ volumes, as specified in G.S. 143-138(a). Each ad hoc committee shall consist of members of the Council, licensed contractors, and design professionals most affected by the Code volume for which the ad hoc committee is responsible, and members of the public. ~~The subcommittees~~ Ad hoc committees shall meet upon the call of their respective chairs and shall report their recommendations to the Council.

(b) Meetings. – The Council shall meet regularly, at least once every six months, at places and dates to be determined by the Council. Special meetings may be called by the ~~chairman-chair~~ on his own initiative and must be called by ~~him~~ the chair at the request of two or more members of the Council. All members shall be notified by the ~~chairman-chair~~ in writing of the time and place of regular and special meetings at least seven days in advance of such meeting. ~~Seven members shall constitute a quorum.~~ All meetings shall be open to the public.

(c) Staff. – Personnel of the Division of Engineering of the Department of Insurance shall serve as a staff for the ~~Council.~~ Such staff shall Council, and have the duties of following duties:

- (1) Keeping an accurate and complete record of all meetings, hearings, correspondence, laboratory studies, and technical work performed by or for

the Council, and making these records available for public inspection at all reasonable ~~times;~~times.

(2) Handling correspondence for the Council.

(d) Fiscal Affairs of the Council. – All funds for the operations of the Council and its staff shall be appropriated to the Department of Insurance for the use of the Council. All such funds shall be held in a separate or special account on the books of the Department of Insurance, with a separate financial designation or code number to be assigned by the Department of Insurance or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as the expenditure of any other Department of Insurance funds. The Office of the State Fire Marshal may hire such additional personnel as may be necessary to handle the work of the Building Code Council, within the limits of funds appropriated to the Department of Insurance for the Council and with the approval of the Council.

(e) Quorum; Voting; No Proxy Vote. – Nine members shall constitute a quorum for the transaction of business and an affirmative vote of nine members present shall be necessary to approve any action of the Building Code Council, including any amendment or revision to Code volumes, as specified in G.S. 143-138(a). No member may vote by proxy."

SECTION 5.1.(d) This section becomes effective January 1, 2025.

MISCELLANEOUS CHANGES TO IMPLEMENT BUILDING CODE COUNCIL AND RESIDENTIAL CODE COUNCIL REORGANIZATION

SECTION 5.2.(a) G.S. 143-136.1 reads as rewritten:

"§ 143-136.1. Residential Code Council created; membership.

(a) Creation; Membership. – There is hereby created a Residential Code Council, which consists of 13 members appointed as follows:

- (1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold an unlimited or intermediate general contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold a plumbing contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold a heating contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited, intermediate, or limited general contractor license under Chapter 87 of the General Statutes and specializes in coastal construction.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold an unlimited, intermediate, or limited general contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (7) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall hold an electrical contractor license under Chapter 87 of the General Statutes.

- (8) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a licensed professional engineer under Chapter 89C of the General Statutes and specializes in residential construction.
- (9) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a Level I or Level II Code-enforcement official employed by a municipality or county.
- (10) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a member of the public-at-large.
- (11) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a representative of the natural gas industry.
- (12) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a fire service representative.
- (13) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall hold a general contractor license under Chapter 87 of the General Statutes and specializes in residential foundations or concrete placement.

(b) Terms; Removal; Vacancies; Chair. – Of the members initially appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the Governor, two shall serve for a term of two years, two shall serve for a term of four years, and three shall serve for a term of six years. Thereafter, all appointments shall be for terms of six years. Each appointing authority may remove any member of the Council appointed by that appointing authority from office for misfeasance, malfeasance, or nonfeasance. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor shall be filled by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution. The Governor shall designate one member of the Council as chair.

(b1) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are initially appointed or are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(c) Compensation. – Members of the Residential Code Council, other than any who are employees of the State, shall receive seven dollars (\$7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage

and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(d) Duties. – The Residential Code Council shall review and consider any proposal for revision or amendment to the North Carolina Residential Code, ~~including applicable provisions from the North Carolina Energy Conservation Code, North Carolina Electrical Code, North Carolina Fuel Gas Code, North Carolina Plumbing Code, North Carolina Mechanical Code, North Carolina Existing Building Code,~~ and any other code applicable to residential construction. This construction as set forth in G.S. 143-138(a). The Council shall oversee revision of the North Carolina Residential Code and codes applicable to dwellings subject to the North Carolina Residential Code pursuant to G.S. 143-138(d). The Council shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to the North Carolina Residential Code volumes, as specified in G.S. 143-138(a), and make disposition of the appeal or issue an interpretation."

SECTION 5.2.(b) G.S. 143-137.1 reads as rewritten:

"§ 143-137.1. Organization of Residential Code Council; rules; meetings; staff; fiscal affairs; quorum.

(a) First Meeting; Organization; Rules. – Within 30 days after its appointment, the Residential Code Council shall meet on call of the State Fire Marshal. The Council shall adopt rules it may deem necessary for the proper discharge of its duties. The chair may establish and appoint members to any committees the work of the Council may require. In addition, the chair may establish and appoint ~~an~~ ad hoc code revision ~~committee~~ committees to consider and prepare revisions and amendments to the North Carolina Residential Code. ~~The~~ Each ad hoc committee shall consist of members of the Council, licensed contractors, and design professionals most affected by the North Carolina Residential Code, and members of the public. Committees shall meet upon the call of their respective chairs and shall report their recommendations to the Council.

(b) Meetings. – The Residential Code Council shall meet regularly, at least once every six months, at places and dates to be determined by the Council. Special meetings may be called by the chair and must be called by the chair at the request of two or more members of the Council. All members shall be notified by the chair in writing of the time and place of regular and special meetings at least seven days in advance of such meeting. All meetings shall be open to the public.

(c) Staff. – Personnel of the Division of Engineering of the Department of Insurance shall serve as ~~a~~ staff for the Residential Code Council. ~~This staff shall~~ Council, and have the following duties:

- (1) Keeping an accurate and complete record of all meetings, hearings, correspondence, laboratory studies, and technical work performed by or for the Council, and making these records available for public inspection at all reasonable times.
- (2) Handling correspondence for the Council.

(d) Fiscal Affairs of the Council. – All funds for the operations of the Residential Code Council and its staff shall be appropriated to the Department of Insurance for the use of the Council. These funds shall be held in a separate or special account on the books of the Department of Insurance, with a separate financial designation or code number to be assigned by the Department of Insurance or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as the expenditure of any other Department of Insurance funds. The Department of Insurance may hire any additional personnel necessary to handle the work of the Council, within the limits of funds appropriated for the Council and with the approval of the Council.

(e) Quorum; Voting; No Proxy Vote. – Nine members shall constitute a quorum for the transaction of business and an affirmative vote of nine members present shall be necessary to approve any action of the Council, ~~including any amendment or revision to the North Carolina~~

~~Residential Code.~~ Code volumes, as specified in G.S. 143-138(a). No member may vote by proxy."

SECTION 5.2.(c) G.S. 143-138 reads as rewritten:

"§ 143-138. North Carolina State Building Code.

(a) Preparation and Adoption. – The Building Code Council and Residential Code Council may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. The Building Code Council shall oversee codes applicable to commercial or multi-family construction and contained in Code volumes, as specified in subdivisions (1) through (9) of this subsection, that apply to commercial and multi-family construction. The Residential Code Council shall oversee codes applicable to residential construction and contained in Code volumes, as specified in subdivisions (1) through (10) of this subsection, that apply to residential construction. Before the adoption of any volume of the Code, or any part of the Code, the responsible Council shall hold at least one public hearing. A notice of the public hearing shall be published in the North Carolina Register at least 15 days before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., any volume, or any part, of the North Carolina State Building Code as adopted by the Building Code Council or Residential Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes. For the purposes of this Article, "North Carolina State Building Code" or "Code" shall collectively refer to all Code volumes, as revised or amended, prepared and adopted by the Building Code Council or Residential Code Council pursuant to this ~~Article, including Article.~~ The North Carolina State Building Code shall consist of the following Code volumes:

- (1) North Carolina Administrative Code and Policies.
- (2) North Carolina Building Code.
- (3) North Carolina Electrical Code.
- (4) North Carolina Energy Conservation Code.
- (5) North Carolina Existing Building Code.
- (6) North Carolina Fire Code.
- (7) North Carolina Fuel Gas Code.
- (8) North Carolina Mechanical Code.
- (9) North Carolina Plumbing Code.
- (10) North Carolina Residential Code.

...

(d) Amendments of the Code. – The Building Code Council and Residential Code Council may periodically revise and amend those parts of the North Carolina State Building Code for which those Councils are responsible, either on their own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the responsible Council, the Residential Code Council shall perform a comprehensive review and revise or amend the North Carolina Residential Code, ~~including provisions applicable to dwellings covered by the North Carolina Residential Code, from the North Carolina Energy Conservation Code, North Carolina Electrical Code, North Carolina Fuel Gas Code, North Carolina Plumbing Code, and North Carolina Mechanical Code~~ only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision by the Residential Council under this subsection shall be adopted to become effective January 1, 2031, and every six years thereafter. After its appointment pursuant to G.S. 143-136.1, the Residential Code Council shall review the North Carolina Energy Conservation Code, the North Carolina Fuel Gas Code, and the North Carolina Mechanical Code as applicable to residential construction and may amend ~~the those codes and any~~ relevant chapters of the North Carolina Residential Code, affected by that review, by January 1, 2026. Following the adoption of amendments to the North Carolina Residential Code affected by that review, ~~the North Carolina Residential Code~~ shall also be

subject to the first six-year revision under this subsection. In adopting any amendment, the Building Code Council and Residential Code Council shall comply with the same procedural requirements and the same standards for adoption of the Code. The Building Code Council and Residential Code Council, through the Office of the State Fire Marshal, shall publish in the North Carolina Register all appeal decisions made by the responsible Code Council and all formal opinions at least semiannually. The Building Code Council and Residential Code Council, through the Office of the State Fire Marshal, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate website address and information on how to find additional commentary and interpretation of the Code.

...."

SECTION 5.2.(d) In performing its review of the North Carolina State Building Code to amend relevant chapters of the North Carolina Residential Code after its appointment pursuant to G.S. 143-136.1, as required by G.S. 143-138(d), the Residential Code Council shall include relevant provisions from the North Carolina Administrative Code and Policies volume, as appropriate and modified by the Residential Code Council, in its amendment to the Residential Code.

SECTION 5.2.(e) G.S. 143-139 reads as rewritten:

"§ 143-139. Enforcement of Building Code.

...

(b1) Remedies. – In case any building or structure is maintained, erected, constructed, or reconstructed or its purpose altered, so that it becomes in violation of this Article or of the North Carolina State Building Code, either the local enforcement officer or the State Fire Marshal or other State official with responsibility under this section may, in addition to other remedies, institute any appropriate action or proceeding to: (i) prevent the unlawful maintenance, erection, construction, or reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct, or abate the violation, or (iii) prevent the occupancy or use of the building, structure, or land until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-175 and G.S. 153A-123, a county, city, or other political subdivision authorized to enforce the North Carolina State Building Code within its jurisdiction may, for the purposes stated in (i) through (iii) of this subsection, levy a civil penalty for violation of the ~~fire prevention code~~ North Carolina Fire Code of the North Carolina State Building Code, which penalty may be recovered in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after the offender has been cited for the violation. If the State Fire Marshal or other State official institutes an action or proceeding under this section, a county, city, or other political subdivision may not institute a civil action under this section based upon the same violation. Appeals from the imposition of any remedy set forth herein, including the imposition of a civil penalty by a county, city, or other political subdivision, shall be as provided in G.S. 160D-1127.

...."

SECTION 5.2.(f) G.S. 143-140 reads as rewritten:

"§ 143-140. Hearings before enforcement agencies as to questions under the North Carolina State Building Code.

(a) Any person desiring to raise any question under this Article or under the North Carolina State Building Code shall be entitled to a technical interpretation from the appropriate enforcement agency, as designated in ~~the preceding section, G.S. 143-139.~~ Upon request in writing by any such person, the enforcement agency through an appropriate official shall within a reasonable time provide a written interpretation, setting forth the facts found, the decision reached, and the reasons therefor. In the event of dissatisfaction with such decision, the person affected shall have the options of:

- (1) Appealing to the ~~Building Code Council or the Residential Code Council~~ responsible Code Council for the subject matter or code provision in question.

(2) Appealing directly to the Superior Court, as provided in G.S. 143-141.

(b) If an interpretation under this section or under G.S. 143-141(b) changes after a building permit is issued, the permit applicant may choose which version of the interpretation will apply to the permit, unless such a choice would cause harm to life or property."

SECTION 5.2.(g) G.S. 87-10 reads as rewritten:

"§ 87-10. Application for license; examination; certificate; renewal.

...

(b) An applicant shall identify an individual who has successfully passed an examination approved by the Board who, for purposes of this section, shall be known as the "qualifier" or the "qualifying party" of the applicant. If the qualifier or the qualifying party seeks to take an examination, the examination shall establish (i) the ability of the applicant to make a practical application of the applicant's knowledge of the profession of contracting; (ii) the qualifications of the applicant in reading plans and specifications, knowledge of relevant matters contained in the North Carolina State Building Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction, and liens; and (iv) the applicant's knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the qualifier or qualifying party passes the examination, upon review of the application and all relevant information, the Board shall issue a license to the applicant to engage in general contracting in the State of North Carolina, which may be limited as follows:

- (1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all types.
- (1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the ~~residential building code~~ North Carolina Residential Code adopted by the ~~Building Residential~~ Code Council pursuant to G.S. 143-138.
- (2) Highway contractor.
- (3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:
 - a. Water and sewer mains, water service lines, and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations.
 - b. Water and wastewater treatment facilities and appurtenances thereto.
 - c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer.
 - d. Public communication distribution facilities.
 - e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies.
- (4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license, by any board or commission pursuant to the laws of the State of North Carolina.

...."

SECTION 5.2.(h) G.S. 130A-248 reads as rewritten:

"§ 130A-248. Regulation of food and lodging establishments.

...

(g) All hotels, motels, tourist homes, and other establishments that provide lodging for pay shall comply with the requirements of G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code official responsible for enforcing the ~~NC State Building~~ North Carolina Fire Code (Fire Prevention) in accordance with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued pursuant to this section in accordance with G.S. 130A-23."

SECTION 5.2.(i) G.S. 143-151.8 reads as rewritten:

"§ 143-151.8. Definitions.

- (a) The following definitions apply in this Article:
- (1) Board. – The North Carolina Code Officials Qualification Board.
 - (2) Code. – Consists of all of the following:
 - a. The North Carolina State Building Code adopted by the Building Code Council and Residential Code Council under G.S. 143-138.
 - b. Local building rules approved by the Building Code ~~Council~~ Council and Residential Code Council.
 - c. Any resolution adopted by a federally recognized Indian Tribe in which the Tribe adopts the North Carolina State Building Code and related local building rules.
 - d. The standards adopted by the State Fire Marshal under G.S. 143-143.15(a).
 - (3) Code enforcement. – The examination and approval of plans and specifications, the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and their components, or the enforcement of fire code regulations by any of the following, to assure compliance with the North Carolina State Building Code and related local building rules:
 - a. An employee of the State or local government, except an employee of the State Department of Labor engaged in the administration and enforcement of sections of the Code that pertain to boilers and elevators.
 - b. An employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands.
 - c. An individual contracting with the State, a local government, or a federally recognized Indian Tribe to perform inspections on tribal lands.
 - d. An individual who is employed by a company contracting with a county or a city to conduct inspections.
 - e. A person who is contracting with a local government to perform third-party plan review under G.S. 160D-1110.1(d).
 - f. A person who is contracting with a permit applicant to perform third-party plan review under G.S. 160D-1110.1(e).
 - (4) Local inspection department. – The agency or agencies of local government, or any government agency of a federally recognized Indian Tribe, with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State, a local government, or a federally recognized Indian Tribe.

(5) Qualified Code-enforcement official. – A person qualified under this Article to engage in the practice of Code enforcement.

(b) For purposes of this Article, the population of a city or county is determined according to the most current federal census, unless otherwise specified.

(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, includes any of the following:

- (1) Enforcing a Code requirement in areas or circumstances not specified in the requirement.
- (2) Refusing to accept an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Office of the State Fire Marshal to comply with the Code under the conditions or circumstances set forth in the Office of the State Fire Marshal's decision for that appeal.
- (3) Refusing to allow an alternative construction method currently included in the Building Code under the conditions or circumstances set forth in the Code for that alternative method.
- (4) Enforcing a requirement that is more stringent than or otherwise exceeds the Code requirement.
- (5) Refusing to implement or adhere to an interpretation of the North Carolina State Building Code issued by the Building Code ~~Council~~ Council, Residential Code Council, or the Office of the State Fire Marshal.
- (6) Habitually failing to provide requested inspections in a timely manner.
- (7) Enforcing a Code official's preference in the method or manner of installation of heating ventilation and air-conditioning units, appliances, or equipment if it is not required by the State Building Code and is in contradiction of a manufacturer's installation instructions or specifications."

SECTION 5.2.(j) G.S. 143-151.13 reads as rewritten:

"§ 143-151.13. Required standards and certificates for Code-enforcement officials.

...
(f) The Board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

- (1) Architect, registered pursuant to Chapter 83A;
- (2) General contractor, licensed pursuant to Article 1 of Chapter 87;
- (3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;
- (4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,
- (5) Professional engineer, registered pursuant to Chapter 89C;

provided the person successfully completes a short course, as prescribed by the Board, relating to the North Carolina State Building Code regulations and Code-enforcement administration. The standard certificate shall authorize the person to practice as a qualified Code-enforcement official in a particular type of position at the level determined by the Board, based on the type of license or registration held in any profession specified above.

...."

SECTION 5.2.(k) G.S. 143-151.14 reads as rewritten:

"§ 143-151.14. Comity.

...
(c) The certificates granted under subsections (a) and (b) of this section shall expire after three years unless within that time period the holder completes a short course, as prescribed by the Board, relating to the North Carolina State Building Code regulations and Code-enforcement administration.

...."

SECTION 5.2.(l) G.S. 143-151.17 reads as rewritten:

"§ 143-151.17. Grounds for disciplinary actions; investigation; administrative procedures.

(a) The Board has the power to suspend, revoke, demote to a lower level, or refuse to grant a certificate issued under this Article to any person to whom any of the following applies:

- (1) Has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State.
- (2) Has obtained certification through fraud, deceit, or perjury.
- (3) Has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the North Carolina State Building Code or any building codes adopted by a federally recognized Indian Tribe.
- (4) Has defrauded the public or attempted to do so.
- (5) Has affixed his or her signature to a report of inspection or other instrument of service if no inspection has been made by him or her or under his or her immediate and responsible direction.
- (6) Has been guilty of willful misconduct, gross negligence, or gross incompetence.

...."

SECTION 5.2.(m) G.S. 153A-123 reads as rewritten:

"§ 153A-123. Enforcement of ordinances.

...

(c1) An ordinance may provide for the recovery of a civil penalty by the county for violation of the ~~fire prevention code~~ North Carolina Fire Code of the North Carolina State Building Code as authorized under G.S. 143-139.

...."

SECTION 5.2.(n) G.S. 160A-175 reads as rewritten:

"§ 160A-175. Enforcement of ordinances.

...

(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the ~~fire prevention code~~ North Carolina Fire Code of the North Carolina State Building Code as authorized under G.S. 143-139.

...."

SECTION 5.2.(o) G.S. 58-6-25 reads as rewritten:

"§ 58-6-25. Insurance regulatory charge.

...

(d) Use of Proceeds. – The Insurance Regulatory Fund is created as an interest-bearing special fund to which the proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly, and the Fund is subject to the provisions of the State Budget Act. All money credited to the Fund shall be used to reimburse the General Fund for the following:

...

- (7) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with providing staff support for State boards and commissions, including the North Carolina Manufactured Housing Board, State Fire and Rescue Commission, North Carolina Building Code Council, North Carolina Residential Code Council, North Carolina Code Officials Qualification Board, Public Officers and Employees Liability Insurance Commission, North Carolina Home Inspector Licensure Board, and the Volunteer Safety Workers' Compensation Board.

...."

SECTION 5.2.(p) G.S. 58-78A-1 reads as rewritten:

"§ 58-78A-1. Office of the State Fire Marshal.

...

- (b) The Office of the State Fire Marshal shall be responsible for all of the following:
- (1) State Fire and Rescue Commission, Article 78 of this Chapter.
 - (2) Investigation of Fires and Inspection of Premises, Article 79 of this Chapter.
 - (3) State Volunteer Fire Department, Article 80 of this Chapter.
 - (4) Pyrotechnics Training and Permitting, Article 82A of this Chapter.
 - (5) Management of Aqueous Film-Forming Foams, Article 82B of this Chapter.
 - (6) Local Firefighters' Relief Funds, Article 84 of this Chapter.
 - (7) Statewide Firefighters' Relief Fund, Article 85 of this Chapter.
 - (8) State Fire Protection Grant Fund, Article 85A of this Chapter.
 - (9) North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, Article 86 of this Chapter.
 - (10) Volunteer Safety Workers Assistance, Article 87 of this Chapter.
 - (11) Rescue Squad Workers' Relief Fund, Article 88 of this Chapter.
 - (12) Building Code Council and ~~Building Code~~, Residential Code Council, Article 9 of Chapter 143 of the General Statutes.
 - (13) North Carolina Manufactured Housing Board-Manufactured Home Warranties, [Article 9A of Chapter 143 of the General Statutes].
 - (14) Uniform Standards Code for Manufactured Homes, Article 9B of this Chapter [Article 9B of Chapter 143 of the General Statutes].
 - (15) North Carolina Code Officials Qualification Board, Article 9C of this Chapter [Article 9C of Chapter 143 of the General Statutes].
 - (16) North Carolina Home Inspector Licensure Board, Article 9F of this Chapter [Article 9F of Chapter 143 of the General Statutes].
 - (17) Engineering and Building Codes Division in the Department of Insurance.
 - (18) Risk Management Division in the Department of Insurance.
 - (19) Community Risk Reduction Division in the Department of Insurance.

...."

SECTION 5.2.(q) G.S. 58-78A-16 reads as rewritten:

"§ 58-78A-16. State Fire Marshal to inspect State property.

(a) The State Fire Marshal shall, as often as is required in the ~~fire code~~ North Carolina Fire Code adopted by the North Carolina Building Code Council or more often if the State Fire Marshal considers it necessary, visit, inspect, and thoroughly examine every State property to analyze and determine its protection from fire, including the property's occupants or contents. The State Fire Marshal shall notify in writing the agency or official in charge of the property of any defect noted by the State Fire Marshal or any improvement considered by the State Fire Marshal to be necessary, and a copy of that notice shall be forwarded by the State Fire Marshal to the Department of Administration.

(b) No agency or person authorized or directed by law to select a plan or erect a building comprising 20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the State Fire Marshal as to the safety of the proposed building from fire, including the property's occupants or contents.

(c) Repealed by Session Laws 2009-474, s. 1, effective October 1, 2009."

SECTION 5.2.(r) G.S. 150B-21.5 reads as rewritten:

"§ 150B-21.5. Circumstances when notice and rule-making hearing not required; circumstances when submission to the Commission not required.

(a) Amendment. – An agency is not required to publish a notice of text in the North Carolina Register, hold a public hearing, or submit the amended rule to the Commission for review when it proposes to amend a rule to do one of the following:

- (1) Reletter or renumber ~~the rule or~~ subparts of the rule.

- (2) Substitute one name for another when an organization or position is renamed.
- (3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
- (4) Change information that is readily available to the public, such as an address, email address, a telephone number, or a Web site.
- (5) Correct a typographical error.
- (6) Repealed by Session Laws 2019-140, s. 1(a), effective July 19, 2019.

(a1) Response to Commission. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to change the rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial.

(b) Repeal. – An agency is not required to publish a notice of text in the North Carolina Register or hold a public hearing when it proposes to repeal a rule as a result of any of the following:

- (1) The law under which the rule was adopted is repealed.
- (2) The law under which the rule was adopted or the rule itself is declared unconstitutional.
- (3) The rule is declared to be in excess of the agency's statutory authority.

(c) Repealed by Session Laws 2023-134, s. 21.2(e), effective October 3, 2023 and applicable to rules adopted on or after that date.

(d) North Carolina State Building Code. – The Building Code Council ~~is or Residential Code Council, as applicable, is not~~ required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council ~~is or Residential Code Council, as applicable, is required~~ to publish a notice in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The notice must include all of the following:

- (1) A statement of the subject matter of the proposed rule making.
- (2) A short explanation of the reason for the proposed action.
- (3) A citation to the law that gives the agency the authority to adopt a rule on the subject matter of the proposed rule making.
- (4) The person to whom questions or written comments may be submitted on the subject matter of the proposed rule making.

The Building Code Council ~~is or Residential Code Council, as applicable, is~~ required to submit to the Commission for review a rule for which notice of text is not required under this subsection. In adopting a rule, the responsible Council shall comply with the procedural requirements of G.S. 150B-21.3.

(e) An agency that adopts or amends a rule pursuant to subsection (a) of this section shall notify the Codifier of Rules of its actions. When notified of an agency action taken pursuant to subsection (a) of this section, the Codifier of Rules shall make the appropriate change to the North Carolina Administrative Code."

SECTION 5.2.(s) G.S. 150B-21.21 reads as rewritten:

"§ 150B-21.21. Publication of rules of North Carolina State Bar, Building Code Council, Residential Code Council, and exempt agencies.

(a) State Bar. – The North Carolina State Bar must submit a rule adopted or approved by it and entered in the minutes of the North Carolina Supreme Court to the Codifier of Rules for inclusion in the North Carolina Administrative Code. The State Bar must submit a rule within 30 days after it is entered in the minutes of the Supreme Court. The Codifier of Rules must compile, make available for public inspection, and publish a rule included in the North Carolina Administrative Code under this subsection in the same manner as other rules in the Code.

(a1) Building Code Council and Residential Code Council. – The Building Code Council and Residential Code Council, as applicable, shall publish the North Carolina State Building Code as provided in G.S. 143-138(g). The Codifier of Rules is not required to publish the North Carolina State Building Code in the North Carolina Administrative Code.

(b) Exempt Agencies. – Notwithstanding any other provision of law, an agency that is exempted from this Article by G.S. 150B-1 or any other statute must submit a temporary or permanent rule adopted by it to the Codifier of Rules for inclusion in the North Carolina Administrative Code. These exempt agencies must submit a rule to the Codifier of Rules within 30 days after adopting the rule.

(c) Publication. – A rule submitted to the Codifier of Rules under this section must be in the physical form specified by the Codifier of Rules. The Codifier of Rules must compile, make available for public inspection, and publish a rule submitted under this section in the same manner as other rules in the North Carolina Administrative Code."

SECTION 5.2.(t) G.S. 150B-38 reads as rewritten:

"§ 150B-38. Scope; hearing required; notice; venue.

(a) The provisions of this Article shall apply to:

- (1) Occupational licensing agencies.
- (2) The State Banking Commission, the Commissioner of Banks, and the Credit Union Division of the Department of Commerce.
- (3) The Department of Insurance and the Commissioner of Insurance.
- (4) The State Chief Information Officer in the administration of the provisions of Article 15 of Chapter 143B of the General Statutes.
- (5) The North Carolina State Building Code Council, Council and Residential Code Council, Article 9 of Chapter 143 of the General Statutes.
- (5a) The Office of the State Fire Marshal and the State Fire Marshal.
- (6) Repealed by Session Laws 2018-146, s. 4.4(b), effective December 27, 2018.

(b) Prior to any agency action in a contested case, the agency shall give the parties in the case an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall include all of the following:

- (1) A statement of the date, hour, place, and nature of the hearing.
- (2) A reference to the particular sections of the statutes and rules involved.
- (3) A short and plain statement of the facts alleged.

(c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be deemed to have been given on the delivery date appearing on the return receipt, copy of proof of delivery provided by the United States Postal Service, or delivery receipt. If notice cannot be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3), then notice shall be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) A party that has been served with a notice of hearing may file a written response with the agency. If a written response is filed, a copy of the response shall be mailed to all other parties not less than 10 days before the date set for the hearing.

(e) All hearings conducted under this Article shall be open to the public. A hearing conducted by the agency shall be held in the county where the agency maintains its principal office. A hearing conducted for the agency by an administrative law judge requested under G.S. 150B-40 shall be held in a county in this State where any person whose property or rights are the subject matter of the hearing resides. If a different venue would promote the ends of justice or better serve the convenience of witnesses, the agency or the administrative law judge may designate another county. A person whose property or rights are the subject matter of the hearing waives an objection to venue by ~~proceeding~~ in the hearing.

(f) Any person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24. In addition, any person interested in a contested case under this Article may intervene and participate to the extent deemed appropriate by the agency hearing officer.

(g) When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending before an agency, the agency may order a joint hearing of any matters at issue in the cases, order the cases consolidated, or make other orders to reduce costs or delay in the proceedings.

(h) Every agency shall adopt rules governing the conduct of hearings that are consistent with the provisions of this Article.

(i) Repealed by Session Laws 2021-88, s. 16(c), effective July 22, 2021."

SECTION 5.2.(u) This section becomes effective January 1, 2025.

PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SEVERABILITY CLAUSE

SECTION 6.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 6.2. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 3:03 p.m. this 11th day of September, 2024.

s/ Mr. James White
House Principal Clerk

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SENATE BILL 166
RATIFIED BILL**

AN ACT TO AMEND VARIOUS DEVELOPMENT REGULATIONS; TO AMEND VARIOUS NORTH CAROLINA STATE BUILDING CODES; TO AMEND VARIOUS CONSTRUCTION CONTRACTORS AND DESIGN PROFESSIONALS REGULATIONS; TO AMEND VARIOUS ENVIRONMENT AND ENVIRONMENTAL HEALTH REGULATIONS; AND TO REORGANIZE THE BUILDING CODE COUNCIL.

The General Assembly of North Carolina enacts:

PART I. DEVELOPMENT REGULATIONS

PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY PUBLIC WATER SYSTEMS

SECTION 1.1.(a) Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-330. Local authority to require backflow preventers; testing.

(a) No public water system owned or operated by a local government unit, as that term is defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an existing nonresidential or residential connection, including multifamily dwellings, not otherwise required by State or federal law except where the degree of hazard from the customer's connection is determined to be high by the Department.

(b) The limitation established in subsection (a) of this section shall not be construed to prohibit requirements for installation of backflow preventers pursuant to the North Carolina Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's plumbing, facility addition on the customer's property, or change in use of the property served by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited to the service line between the home or building and the meter, and without a change in use or facility addition, does not necessitate a backflow preventer. An increase in the flow of water to the home or building, without a change in use or facility addition, does not necessitate a backflow preventer.

(c) A public water system owned or operated by a local government unit, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury arising out of or relating to the backflow of water into potable water supply systems where a backflow preventer is not required by State or federal law, or where the degree of hazard from the customer's connection is not determined to be high by the Department.

(d) The Department shall determine whether the degree of hazard for a service connection is high when the installation of a backflow preventer is not otherwise required by State or federal law. The Department shall provide notice of such determinations on its website.

(e) Nothing in this section shall prohibit a public water system owned or operated by a local government unit from requiring the installation of a backflow preventer if the system pays all costs associated with the backflow preventer, including the device, installation, and appropriate landscaping.

(f) No public water system owned or operated by a local government unit shall require periodic testing more frequently than once every three years for backflow preventers on residential irrigation systems that do not apply or dispose chemical feeds.

(g) A public water system owned or operated by a local government, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury resulting from compliance with the limitations on periodic testing provided in subsection (f) of this section.

(h) A public water system owned or operated by a local government unit may accept the results of backflow preventer testing conducted by a plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester approved by the public water system.

(i) For purposes of this section, the following definitions apply:

(1) "Backflow preventer" means an assembly, device, or method that prohibits the backflow of water into potable water supply systems.

(2) "Certified backflow prevention assembly tester" means a person who holds a certificate of completion from a training program in the testing and repair of backflow preventers.

(3) "High hazard" means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects."

SECTION 1.1.(b) G.S. 150B-2 reads as rewritten:

"§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

...

(8a) Rule. – Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

...

m. Determinations by the Department of Environmental Quality of high hazards pursuant to G.S. 130A-330.

...."

SECTION 1.1.(c) This section is effective when it becomes law and applies to requirements for installation or testing of backflow preventers made by a public water supply on or after that date.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 11, 2025

Item Details

Presenter(s): Steve Adams, Utilities Acquisition Specialist

Department(s): Transportation & Infrastructure Development

Requested Motion

Motion to approve the acquisition of property located at 8300 Jenks Road in Apex, North Carolina, for a purchase price of \$3,500,000, ratify the Agreement for Purchase and Sale of Real Property executed by the Town Manager, and authorize the Town Manager and Finance Director, or their designees, to execute any other associated legal documents related to this acquisition.

Approval Recommended?

Yes

Item Details

The Town is planning to construct a new electric substation at 8300 Jenks Road. The portion of the property not used for the substation will be used for other Town infrastructure and facilities.

Capital Project Ordinance Amendment 2025-11 allocates \$400,000 of interest earnings already in the Electric capital project fund and \$2.2 million in bond revenue for the purchase of property needed for future electric substation construction.

Attachments

- CN7-A1: Agreement for Purchase and Sale of Real Property - Property Acquisition 8300 Jenks Road - Apex, North Carolina
- CN7-A2: Recorded Plat - Property Acquisition 8300 Jenks Road (Lot 4) - Apex, North Carolina
- CN7-A3: Capital Project Ordinance Amendment 2025-11



STATE OF NORTH CAROLINA
COUNTY OF WAKE

AGREEMENT FOR PURCHASE AND
SALE OF REAL PROPERTY

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (the "Agreement") is made and entered into this 17th day of October, 2024 (the "Effective Date"), by and between PAN-EDUCATIONAL SERVICES, INC, a North Carolina non-profit company (the "Seller"), and THE TOWN OF APEX NORTH CAROLINA, a political subdivision of the State of North Carolina and municipal corporation (the "Purchaser").

RECITALS

A. Defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth.

B. Purchaser desires to purchase the Property and Seller desires to sell, assign, and convey the Property, all upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Purchaser to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Purchaser and Seller agree as follows:

1. Property. The real property which is the subject of this Agreement consists of approximately 10.02 acres, located at 8300 Jenks Road, Apex, NC 27523, as shown on Book of Maps 1986, Page 0319 of the Wake County Registry, Wake County Real Estate ID 0148941, PIN # 0722-57-1169 (the "Property"), together with (i) all improvements located thereon; (ii) all easements and rights-of-way affecting the Property and all of Seller's right to use same; (iii) all rights of ingress and egress to and from the Property; (iv) any and all right, title and interest of Seller in and to any and all roads, streets and rights-of-way affecting or bounding the Property; and (v) any and all development rights, including the present or future use thereof, relating to the Property, including sanitary sewer capacity, drainage, water and other utility facilities to the extent they pertain to or benefit the Property. The specific boundaries of the Property will be determined pursuant to a mutually agreeable survey and subdivision plat, which subdivision plat shall be recorded at or prior to Closing.

2. Purchase Price. The "Purchase Price" for the Property shall be Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000.00). The total Purchase Price amount shall be increased or decreased by prorations and adjustments as herein provided. The Purchase Price shall be payable in the form of United States currency by way of federal wire transfer or other immediately available funds as provided for in this Agreement or otherwise provided at Closing (as defined in Section 4 herein). The entire Purchase Price, subject to any credits, adjustments and pro-rations as

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provided in this Agreement including any credits for the Earnest Money, shall be paid to Seller at Closing.

In no event shall there be any adjustment to the Purchase Price on account of any appraisal or any survey determination of acreage. _____

3. Earnest Money. Within fifteen (15) days of the Effective Date, Purchaser shall deliver to _____ (the "Escrow Agent"), the sum of *One Hundred Seventy-Five Thousand and 00/100 Dollars* as earnest money ("Earnest Money"), to hold in an escrow or trust account, subject to the terms and conditions of this Agreement. The Earnest Money shall either be (a) disbursed to the settlement agent as a partial payment of and credit towards the Purchase Price at Closing or (b) disbursed as otherwise expressly provided in this Agreement.

4. Closing. Subject to the terms and conditions set forth herein, the closing or settlement ("Closing") of the Property and the transaction contemplated hereby shall be held in the offices of Purchaser's legal counsel during regular business hours, on or before thirty (30) days following the expiration of the Investigation Period (the "Closing Date").

5. Closing Costs and Prorations. Seller shall pay any and all rollback, delinquent, or deferred property taxes and other taxes, including interest and penalties, the property transfer tax applicable to the sale of the Property to Purchaser pursuant to the terms of this Agreement, and any other governmental assessments. Purchaser shall pay for the preparation of the Deed, the cost of recording the Deed, and any other documents to be recorded at Closing, and the costs of its title examination, title insurance, any other inspections and investigations of the Property undertaken by Purchaser under this Agreement. All utilities, property taxes assessed against the Property for the year in which Closing occurs, and any other assumed liabilities, shall be prorated as of the date of Closing on a calendar year basis, with Purchaser deemed to solely "own" the date of Closing for purposes of all prorations. Each party shall pay its own attorneys' fees in connection with this transaction.

6. Documents. At or prior to Closing, each party shall deliver to the other party appropriate evidence to establish the authority of such party to enter into and close the transaction contemplated hereby. At Closing, Seller shall deliver to Purchaser (i) the Deed, which shall include the execution by Seller's spouses, if any, (ii) an owner's affidavit with respect to the Property in form reasonably satisfactory to Purchaser and its title insurer to issue title insurance without exception for mechanic's or materialmen's or other statutory liens or for the rights of parties in possession other than Seller, (iii) an affidavit in order to meet the requirements of Internal Revenue Code Section 1445 (non-foreign affidavit), (iv) such information as is necessary and required for the closing attorney to comply with the reporting requirements of Internal Revenue Code Section 1099, and (v) such other reasonable documentation as is requested by Purchaser or its counsel. The parties shall also deliver to one another any other documents reasonably necessary to complete and evidence the transaction contemplated hereby.

7. Title. At the Closing, Seller shall convey good, marketable, fee simple title to its entire interest in the Property to Purchaser by general warranty deed (the "Deed"). The title to the Property may be subject to future ad valorem property taxes, public rights-of-way, general utility easements of record serving the Property, and zoning, municipal land use rules, regulations, ordinances and statutes, other matters of title and matters of survey that are not objected to by Purchaser prior to the end of the Investigation Period (collectively, the "Permitted Exceptions").

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For the purposes of this Agreement, “good, marketable fee simple title” shall mean fee simple ownership which is: (i) free of all claims, liens and encumbrances of any kind or nature whatsoever other than the Permitted Exceptions, herein defined; and (ii) insurable by a title insurance company reasonably acceptable to Purchaser, at then current standard rates under the standard form of ALTA owner’s policy of title insurance, with the standard or printed exceptions therein deleted and without exception other than for the Permitted Exceptions. Purchaser shall have until the expiration of the Investigation Period to examine title to the Property and to notify Seller in writing of any title and survey defects or objections (“Title Objections”) which Purchaser may have. If Purchaser fails to give notice of such Title Objections to Seller on or before the expiration of the Investigation Period, Purchaser shall be deemed to have waived this right to object to any such Title Objections, except for any which may arise after the end of the Investigation Period but prior to Closing. If Purchaser does give Seller notice of any Title Objections, Seller shall then have the right, but not the obligation, for a period of ten (10) days after receipt of such notice within which to cure or satisfy any such Title Objections, or agree to satisfy any such Title Objections that can only be satisfied at Closing. If any Title Objection is not so satisfied by Seller, then Purchaser shall have the right either to (a) terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and neither party shall have any further rights, obligations or duties under this Agreement except for any provisions that survive the expiration or termination of this Agreement, or (b) proceed to Closing subject to any such uncured Title Objections without reduction to the Purchase Price, except in the case of a monetary lien granted by the Seller, in the event of which Purchaser may deduct from the proceeds of sale due to Seller the amount necessary to satisfy and cancel of record such monetary lien. If Seller does so cure or satisfy the Title Obligations, then this Agreement shall continue in full effect. Purchaser shall have the right at any time to waive any Title Objections that it may have made and thereby to preserve this Agreement in effect. Seller shall not further encumber in any way Seller’s title to the Property after the Effective Date, without the prior written consent of Purchaser.

8. Investigation Period. The Purchaser’s obligations under this Agreement are subject to and conditional upon Purchaser’s satisfaction as to the overall economic feasibility of Purchaser’s potential use and development of the Property as an electrical sub-station (the “Intended Use”). Beginning on the Effective Date and continuing for a period of ninety (90) days after the Effective Date of this Agreement (the “Investigation Period”), Purchaser, Purchaser’s authorized agents, assigns, representatives, contractors and employees, as well as others authorized by Purchaser, shall have full and complete access to the Property and shall be entitled to enter upon the Property and make such architectural, engineering, site planning, topographical, hydrological, geological, soil, subsurface, environmental, water drainage, traffic and any other investigations, inspections, evaluations, studies, tests and measurements, including, but not limited to, a Phase I environmental assessment (collectively, the “Physical Investigations”) as Purchaser, in its sole discretion, deems necessary or advisable. In the event this Agreement is terminated prior to the expiration of the Investigation Period, Purchaser agrees to return the Property to a condition substantially similar to its condition prior to its Physical Investigations. Purchaser agrees to indemnify and hold Seller harmless from and against any and all claims, costs, expenses and liabilities, including reasonable attorneys’ fees, arising out of or by reason of the Physical Investigations of Purchaser or Purchaser’s agents, employees or others authorized by Purchaser prior to Closing or other termination of this Agreement; provided, however, such indemnification obligations shall exclude any claims, costs, expenses and liabilities arising out of the negligence

or intentional acts of Seller or Seller's employees, contractors or agents. The indemnification obligations of Purchaser under this Section 8 shall survive the Closing or earlier termination of this Agreement.

Purchaser shall have the unqualified right at any time during the Investigation Period to terminate this Agreement by giving written notice thereof to Seller prior to the expiration of the Investigation Period, and Purchaser shall not be required to give any reason or basis for such termination. Purchaser may inform Seller in writing, including by regular mail, electronic mail, or national overnight delivery service, of Purchaser's intent not to proceed with this Agreement on or prior to 11:59 p.m. on the last day of the Investigation Period. If Purchaser elects to terminate this Agreement as provided in this Section 8, the Earnest Money shall be promptly returned by Escrow Agent to Purchaser, whereupon the parties hereto shall have no further rights, obligations or liabilities with respect to each other hereunder, except for any provisions that survive the expiration or termination of this Agreement. Unless otherwise provided by this Agreement, if Purchaser does not terminate this Agreement prior to the end of the Investigation Period, then the Earnest Money shall become non-refundable, Purchaser shall have no right (absent a default and failure to cure within all allotted time periods by Seller) to terminate this Agreement. In addition, if Purchaser does not terminate this Agreement prior to the end of the Investigation Period, Purchaser and Purchaser's authorized agents, assigns, representatives, contractors and employees, as well as others authorized by Purchaser, shall continue to have full and complete access to the Property and shall be entitled to enter upon the Property in order to conduct investigations of the Property.

Within five (5) days after the Effective Date, Seller shall furnish to Purchaser all Seller Diligence Items which Seller possesses, or which Seller may reasonably obtain, and Seller shall continue to furnish to Purchaser within five (5) business days following Seller's receipt of same, all Seller Diligence Items which Seller acquires possession subsequent to the Effective Date. For each day's delay in delivering the Seller Diligence Items, the Investigation Period shall be extended by one (1) day. If this Agreement is terminated prior to Closing, Purchaser shall promptly return the Seller Diligence Items to Seller. For purposes of this Agreement, the "Seller Diligence Items" shall include without limitation: (i) surveys; (ii) title reports, commitments and policies; (iii) zoning documents and applications; (iv) existing, proposed, or draft site plans, plats, and development/improvement plans (including, without limitation, any approved master development site plan, off-site improvements plans, and final plat), whether prepared by Seller or by a third party; (v) reports, documents and surveys regarding rock tests and other soil conditions; (vi) environmental studies; (vii) threatened and endangered species reports; (viii) wetland delineation studies; (ix) other reports, studies and other materials that pertain to environmental hazards, wetlands, flood studies or any aspect of the physical or environmental condition of the Property and the property in the vicinity of the Property; and (x) proposed or existing leases, licenses, easements and agreements affecting the Property.

9. Conditions Precedent to Purchaser's Obligation to Close. In addition to any other conditions precedent to the performance of Purchaser's obligations under this Agreement, the obligations and liabilities of Purchaser hereunder shall in all respects be conditioned upon satisfaction of each of the following conditions precedent as of Closing (any of which may be waived by written notice from Purchaser to Seller) (collectively, the "Conditions"):

- a. All of the representations and warranties made by Seller in Section 10 herein being true and correct as of the date of Closing;
- b. Seller owning fee simple title to the Property, as required by Section 7 hereof, subject only to the Permitted Exceptions, including that Seller has exercised its Purchase Option with the Fee Owner for the Property and has received fee simple, insurable title from the Fee Owner;
- c. (i) Seller entering into or recording no instrument that affects the title to the Property after the Effective Date which shall survive Closing and be binding on the Purchaser without the prior written consent of Purchaser; and (ii) neither Seller nor the Property shall be subject to any pending litigation or administrative proceeding which, if determined adversely to Seller or the Property would in any way adversely affect the Property or which would in any way be binding upon Purchaser, or affect or limit Purchaser's full use and enjoyment of the Property or which would limit or restrict in any way Seller's right or ability to enter into this Agreement and consummate the transaction contemplated hereby; and
- d. All charges and assessments (other than ad valorem property taxes for the year of Closing, which will be prorated on a calendar year basis to the date of Closing) for sewer, water, streets and the like by any governmental authority affecting the Property, whether or not due and payable prior to Closing, shall have been paid.

Except as otherwise specifically provided in this Agreement, Purchaser shall have no obligation to close on the purchase of the Property for so long as any of the above-referenced Conditions precedent remains unsatisfied. In the event Purchaser does not waive any such unsatisfied Conditions precedent prior to Closing, Purchaser may (i) terminate this Agreement, whereupon the Escrow Agent shall release the Earnest Money to Purchaser and this Agreement shall be of no further force and effect, except with regard to any provisions that survive the expiration or termination of this Agreement, or (ii) elect to extend the date of Closing by up to thirty (30) days to allow Seller (or Purchaser, as the case may be) to satisfy such condition(s) precedent. Election by Purchaser of option (ii) above shall not preclude Purchaser from later electing option (i) above at any time that the Conditions precedent remain unsatisfied.

10. Representations, Warranties and Covenants of Seller. To induce Purchaser to enter into this Agreement and to purchase the Property, Seller hereby makes the following representations, warranties and covenants, as applicable, with respect to the Property, upon each of which Seller acknowledges and agrees that Purchaser is entitled to rely and has relied:

- a. Seller is not a "foreign person" which would subject Purchaser to the withholding tax provisions of Section 1445 of the Internal Revenue Code of 1986, as amended;

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- b. From the Effective Date until the Closing, Seller covenants that Seller shall pay prior to delinquency Seller's real and personal property taxes, assessments, sewer and water charges, other governmental levies when due, utility charges, and generally all expenses incurred by Seller in the operation of the Property of every nature, which may arise out of or accrue due to the ownership or operation of the Property;
- c. Seller has no knowledge of any current or threatened litigation, arbitration or claim involving the Property;
- d. There is not pending or threatened any (A) condemnation proceeding or other litigation relating to or otherwise affecting Seller and/or any or all of the Property, or (B) reclassification of any or all of the Property for local zoning purposes, or (C) reassessment or reclassification of any or all of the Property for state or local real property taxation purposes.
- e. To Seller's actual knowledge, there is not pending or threatened, from any federal, state, city or local authority, (A) any notice, suit or judgment relating to any violation at the Property; and (B) there is no condition existing with respect to the Property that violates any statute, ordinance, law or code regarding zoning, building, fire, air pollution, or health law.
- f. To Seller's actual knowledge, there are no existing private restrictions to the development of the Property.
- g. The execution and delivery of this Agreement by Seller, the execution and delivery of every other document and instrument delivered pursuant hereto by or on behalf of Seller, and the consummation of the transactions contemplated hereby will not (A) constitute or result in the breach of or default under any oral or written agreement to which Seller is a party or which affects the Property; (B) constitute or result in a violation of any order, decree, or injunction with respect to which Seller and/or the Property is bound; (C) cause or entitle any party to have a right to accelerate or declare a default under any oral or written agreement to which Seller is a party or which affects the Property; and/or (D) violate any provision of any municipal, state or federal law, statutory or otherwise, to which Seller or the Property is or may be subject. *However, Seller's obligation to close the intended sale is contingent upon approval of the Office of the North Carolina Attorney General pursuant to North Carolina General Statutes Section 55A-12-02.*
- h. Seller has not entered into any other contracts, agreements or understandings, verbal or written, for the sale or transfer of any portion of the Agreement or the Property. Between the Effective Date of this Agreement and Closing, no portion of the Agreement will be alienated, encumbered or transferred by Seller except as contemplated by this Agreement.
- i. That Seller has full authority to enter into this Agreement, to consummate the transactions that are contemplated hereby and that no further approvals or signatures are required for Seller to be bound by this Agreement;

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- j. Seller is not in bankruptcy, nor is the Property in receivership;
- k. That to Seller's knowledge Seller has not released or disposed of any Hazardous Substance at the Property and has not conducted or authorized the generation, transportation, disposal, storage or treatment at the Property of any Hazardous Substance. For purposes of this Agreement, "Hazardous Substance" means any matter giving rise to liability under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., under any applicable federal, state, county, municipal, administrative or other environmental, hazardous waste or substance, health and/or safety laws, ordinances, rules, regulations and requirements, or under any common law theory based on nuisance or strict liability.
- l. To Seller's knowledge, there are no cemeteries, grave sites or burial sites located on or immediately adjacent to the Property and there are no historically or archeologically significant artifacts located on or immediately adjacent to the Property that might affect the use or development of the Property or that would require any type of preservation, excavation or mitigation.

All representations and warranties of Seller contained in this Agreement, whether under this Section 10 or elsewhere, shall be true in all material respects as of the Effective Date and the Closing Date as if they were made at such time and shall survive the Closing Date, and, if requested, Seller agrees to execute and deliver to Assignee at Closing an affidavit certifying that all of the representations and warranties made by it in this Agreement are true and accurate as of the Closing Date.

11. Escrow Agent. In performing any of its duties hereunder, the Escrow Agent shall not incur any liability to anyone for any damages, losses or expenses, except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect to (i) any action taken or omitted in good faith upon advice of its counsel or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which the Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this Agreement. The Escrow Agent is hereby specifically authorized to refuse to act except upon the written consent of both parties, or pursuant to lawful order issued by a court of competent jurisdiction. The parties hereby agree to indemnify and hold harmless the Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including reasonable costs of investigation and counsel fees and disbursements, which may be imposed upon the Escrow Agent or incurred by the Escrow Agent in connection with its acceptance or the performance of its duties hereunder as Escrow Agent, including any litigation arising from this Agreement or involving the subject matter hereof. In the event of a dispute between any of the parties hereto sufficient in the discretion of the Escrow Agent to justify its

doing so, the Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction all money or property in its hands under this Agreement, together with such legal pleadings as it deems appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Any such legal action may be brought in such court as the Escrow Agent shall determine to have jurisdiction thereof. The parties shall bear all costs and expenses of any such legal proceedings. It is expressly understood and acknowledged by Seller that the named Escrow Agent also serves as legal counsel for Purchaser.

12. Notices. Unless otherwise provided herein, each notice required or permitted to be given in this Agreement must comply with the requirements of this Section. Each such notice shall be in writing and sent by (a) personal hand delivery, (b) depositing it with the United States Postal Service, certified or registered mail, return receipt requested, with adequate postage prepaid, or (c) overnight delivery by a nationally recognized overnight carrier in a trackable package, addressed to the appropriate party (and marked to a particular individual's attention) as provided herein. Each such notice shall be effective upon being so delivered or deposited, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run (i) on the date on which the notice is received, if notice is given by personal delivery, (ii) on the first business day following deposit with an overnight carrier, if used, and (iii) on the third (3rd) day following deposit in the U.S. Mail, if notice is mailed. Rejection or other refusal by the addressee to accept delivery or the inability of the United States Postal Service or overnight delivery service to deliver because of a changed address of which no notice was given shall be deemed to be the receipt of the notice sent. Notices shall be sent to the following addresses:

If to Purchaser:	Pan-Educational Services, Inc. 1220 Goodwin Road Apex, NC 27523 Attn: Jane Pan
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If to Seller:	Town of Apex PO Box 250 Apex, NC 27502 Attn: Marty Stone
---------------	---

Any party shall have the right from time to time to change the address to which notices to it shall be sent by giving to the other party at least five (5) days prior written notice of the changed address. Any notice provided for hereunder may be given by a party's attorney or other representative.

13. Remedies.

- a. If Purchaser defaults under any of the terms of this Agreement and does not cure the same within ten (10) days following written notice thereof from Seller, or fails or refuses to consummate the purchase of the Property pursuant to the terms and conditions of this Agreement for any reason after Seller has performed or tendered performance of all of its obligations in accordance with this Agreement, then at the election of Seller, and as Seller's sole and exclusive

remedy: (i) this Agreement shall terminate; (ii) the Earnest Money shall be paid to and retained by Seller; and (iii) except for the obligations of the parties which expressly survive the expiration or termination of this Agreement, Seller and Purchaser shall have no further obligations to each other. Seller and Purchaser acknowledge and agree that damages would be difficult if not impossible to ascertain, that the Earnest Money shall be and represent liquidated damages for any default on the part of the Purchaser and shall be the full extent of the liability of the Purchaser with respect to any default hereunder, except for Purchaser's indemnity obligations contained herein and any provisions that survive the expiration or termination of this Agreement. Seller shall have no other right, claim or cause of action against Purchaser.

- b. If Seller defaults under any of the terms of this Agreement and does not cure same within ten (10) days following written notice thereof from Purchaser, Purchaser may (i) demand, or compel by legal proceedings, specific performance of this Agreement, but only to the extent of conveyance of the Property in accordance with the terms of this Agreement, (ii) consider the Agreement terminated, in which event the Earnest Money shall be returned to Purchaser, but such return shall in no way limit the other rights and remedies available to Purchaser, and/or (iii) seek, prove and recover (to the extent proven) monetary damages from Seller in an amount equal to all actual out-of-pocket costs and expenses paid or incurred by Purchaser in connection with its execution of and entry into this Agreement and its proposed acquisition of the Property and development of the Property for Purchaser's Intended Use, including, without limitation, (i) attorney's fees and disbursements in connection with the negotiation and execution of this Agreement, the examination of title to the Property, Purchaser's due diligence, and efforts to obtain Approvals for the Property, (ii) any examinations, investigations, tests and inspections, undertaken by Purchaser with respect to the Property (iii) any costs, expenses, and fees to engineers, architects, surveyors, site planners, etc., concerning the acquisition of the Property or the proposed development of the Property for Purchaser's Intended Use, and (iv) any application fees to governmental agencies or municipalities to obtain the Approvals.

14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser, and their respective successors and assigns. Purchaser shall have the right to assign this Agreement, and all of Purchaser's rights and obligations under this Agreement, to a third party without recourse and without the consent of Seller, and upon the assignment of this Agreement the Purchaser shall be released from all obligations and responsibilities pursuant to this Agreement.

15. Risk of Loss. Until the Closing, the risk of loss or damage to the Property shall be borne by Seller. In the event the Property is damaged so that the Property cannot be conveyed in substantially the same condition as it exists on the Effective Date, Purchaser may either (a) terminate this Agreement whereupon this Agreement shall be of no further force and effect except with regard to any provisions that survive the expiration or termination of this Agreement, and

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Purchaser shall receive a return of the Earnest Money, (b) in the event Purchaser elects not to terminate this Agreement, Seller shall pay to Purchaser at Closing all insurance proceeds it has received by reason of any casualty or condemnation and assign to Purchaser any rights to future insurance proceeds, and subsequently proceed to Closing and purchase the Property without reduction of the Purchase Price.

16. Force Majeure. Whenever a period of time is prescribed for action by either Party, such Party will not be responsible for, and there will be excluded from the computation of such period of time, any delays due to any (a) adverse and inclement weather, fire, explosion, flood, act of a public enemy, war, blockade, insurrection, riot, or civil disturbance, (b) labor dispute, strike, work slowdown or work stoppage, (c) order or judgment of any entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise) whether now or hereafter in existence, if not the result of willful or negligent action of the performing Party, (d) adoption of or change in any applicable laws after the date of execution of this Lease, (e) any actions by the other Party which may cause delay, (f) national or global pandemics, including but not limited to the pandemic commonly known as the "coronavirus" or "COVID-19" or "COVID", including any quarantines or closures ordered by governmental entities or agencies, inability of a vendor, agent, lender, title insurer, attorney, insurance company, utility, or governmental agency whose cooperation is required to perform or provide a necessary service or approval, or any similar impediment related to the national or global pandemic that is outside the reasonable control of the delayed Party; (g) any actions by the other Party which may cause delay, or (h) any other similar cause or similar event beyond the reasonable control of the performing Party (collectively, "Force Majeure").

17. Confidentiality. Seller agrees, on behalf of its employees, agents, and representatives, not to disclose the terms of this Agreement to any third party except (i) legal counsel to Seller, (ii) as required by applicable law or other similar legal process, or (iii) for financial reporting purposes.

18. Weekends; Holidays. If any date provided for under this Agreement falls on a Saturday, Sunday or legal holiday observed by national banks located in Raleigh, North Carolina, such date shall be extended to the next day not falling on a Saturday, Sunday or legal holiday observed by national banks located in Raleigh, North Carolina.

19. Entire Agreement. This Agreement constitutes the entire agreement of the parties and may not be amended except by written instrument executed by Purchaser and Seller. Escrow Agent need not be a party to amendments to this Agreement, but such amendments shall not affect or impair its rights or duties hereunder.

20. Headings. The Section headings are inserted for convenience only and are in no way intended to interpret, define or limit the scope of content of this Agreement or any provision hereof.

21. Possession. Seller shall relinquish actual possession of the Property at Closing in accordance with the terms and conditions of this Agreement.

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22. Applicable Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of North Carolina.

23. Execution in Multiple Counterparts. This Agreement may be executed in any number of counterparts (including electronic, .pdf, or facsimile counterparts) and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument.

24. Tax-Deferred Exchange. In the event Purchaser or Seller desires to effect a tax-deferred exchange in connection with conveyance of the Property, Purchaser and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Purchaser shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

[Signature pages follows]

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IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be duly executed as of the date and year indicated next to their signatures (the last such date of execution by Seller or Purchaser being inserted at the beginning of this Agreement as the "Effective Date").

SELLER:

PAN-EDUCATIONAL SERVICES, INC.

a North Carolina non-profit corporation

Signed by:
By: Jane C Pan
3DFD1CFBDA43457...
Name: Jane C Pan
Title: President

Date Signed by Seller:

10/9/2024 | 09:35 PDT
, 2024

PURCHASER:

TOWN OF APEX NORTH CAROLINA, LLC

a political subdivision of the State of North Carolina and
municipal corporation

DocuSigned by:
By: Randal E. Vosburg
4F2B7C4B5FA3479...
Name: Randal E. Vosburg
Title: Town Manager

Date Signed by Purchaser:

10/17/2024 | 3:36 PM EDT
, 2024

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:
Antwan Morrison
C1FC1A957C74408...
Antwan Morrison, Finance Director

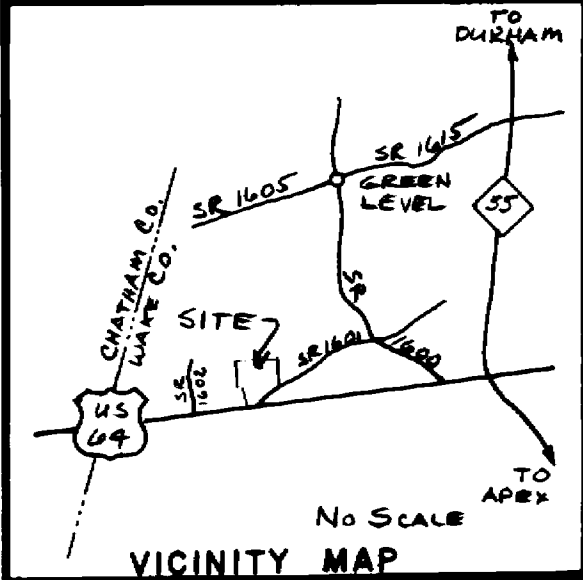
Agreed to for purposes of serving as Escrow Agent hereunder and we hereby acknowledge receipt of the Earnest Money for the purposes set forth herein.

ESCROW AGENT

By: _____

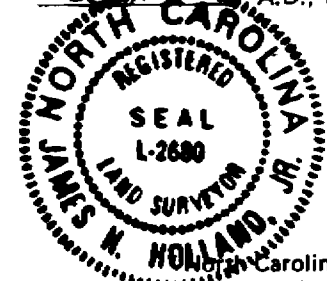
Date signed by Escrow Agent:

_____, 2024



WAKE COUNTY CERTIFICATION
I hereby certify that this record plat has been found to comply with the Subdivision Ordinance of Wake County, North Carolina, and that this plat has been approved for recording in the office of the Register of Deeds of Wake County.
2-19-86 *[Signature]*

"I, JAMES H. HOLLAND, JR., certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book _____, page _____) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, page _____; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, registration number and seal this 18th day of SEPTEMBER, A.D., 1985.

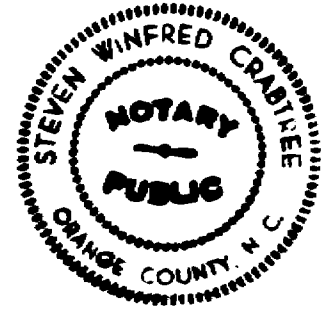


[Signature]
Surveyor
L-2680
Registration Number
CLOSURE 1: 10,000 +

I, a Notary Public of the County and State aforesaid, certify that *[Signature]* a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 18th day of Sept, 1985.

[Signature]
Notary Public

My commission expires APRIL 4th 1990.

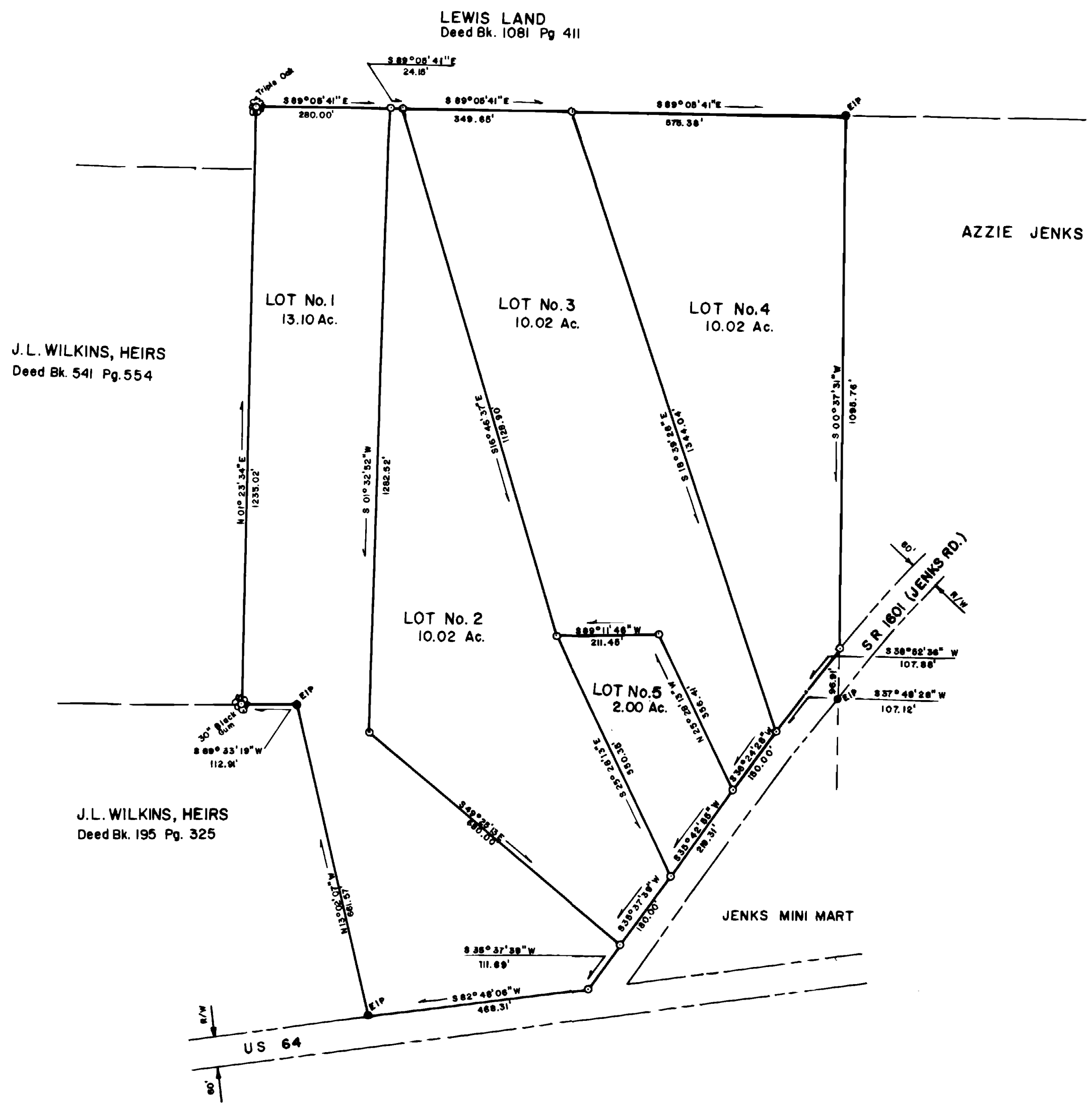


NORTH CAROLINA - WAKE COUNTY
The foregoing certificate of *[Signature]*
Notary (y) (ies) (are) certified to be correct. This instrument was presented for registration and recorded in this office.
This 20 day of Feb. 1986, at 3:55 o'clock P.M.
Kenneth C. Wilkins, Register of Deeds
By *[Signature]*
Deputy Register of Deeds

- LEGEND
- Existing Iron Pipe
 - Iron Pipe Set (Unless otherwise designated)
 - Existing Concrete Monument
 - Concrete Monument Set

Zone Highway District
Tax Parcel TM 594 PARCEL 14

RECORDED WAKE COUNTY BOOK 1986 VOL. - PAGE 319

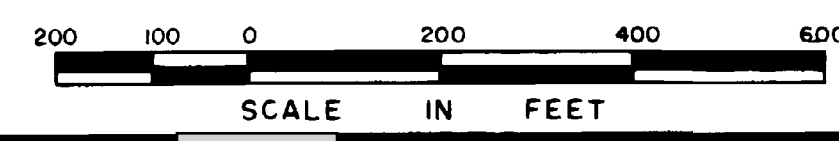


REFERENCES:
Deed Bk. 987 Pg. 252

NOTE:
All areas by D.M.D.

PROPERTY OF
MALLIE G. JENKS
WHITE OAK TWP., WAKE CO., N.C.
SCALE: 1"=200'—SEPT. 18, 1985

HOLLAND LAND SURVEYS
J.H. Holland, Jr. RLS
Chapel Hill, N.C.





Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2025-11

320 - Electric Capital Project Fund

BE IT ORDAINED, by the Council of the Town of Apex that the Capital Project Ordinance previously entitled "Electric Capital Project Fund" be amended as follows:

SECTION 1: The project authorized by this ordinance consists of electric utility capital projects.

SECTION 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

SECTION 3: The following revenues are anticipated to be available to complete these projects:

Type	Increase/(Decrease)	Amended Fund Totals
Interest Earned	400,000	593,274
Interest Earned - Debt Proceeds	-	130,000
Bond Proceeds	2,200,000	12,200,000
Transfer from Electric Fund	-	13,010,183
Transfer from W/S Fund	-	108,363
Total Revenues		\$26,041,820

SECTION 4: The following amounts are appropriated for the project funds:

Type	Increase/(Decrease)	Amended Fund Totals
Electric Capital Project Expenditures	2,600,000	26,041,820
Total Expenditures		\$26,041,820

SECTION 5: The Finance Officer hereby directed to maintain within the project funds detailed accounting records.

SECTION 6: The Budget Officer is directed to include a detailed analysis of the past and future costs and revenues on this capital project in every budget submission made to the Town Council.

SECTION 7: The Town Manager is authorized to amend expenditures within the fund for expenditures that are authorized per section I of this ordinance that do not change the total appropriation within the fund.

SECTION 8: Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project within five (5) days after adoption.

SECTION 9: All ordinances in conflict with this ordinance are hereby repealed or amended to reflect the controlling nature of this Ordinance.

Adopted this the 11th day of February, 2025.

Attest:

Jacques K. Gilbert, Mayor

Christina C. Gilbert, CMC, NCCCC, Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 11, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to approve the Apex Tax Report dated January 2, 2025.

Approval Recommended?

Yes

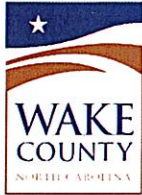
Item Details

The Wake County Board of Commissioners, in regular session on February 3 2025, approved and accepted the enclosed tax report for the Town of Apex, dated January 2, 2025 for the period of December 1, 2025 through December 31, 2024.

Attachments

- CN8-A1: Tax Report for December 2024





Board of Commissioners

P.O. Box 550 • Raleigh, NC 27602

TEL 919 856 6180
FAX 919 856 5699

DON MIAL, VICE-CHAIR
VICKIE ADAMSON
SUSAN EVANS
CHERYL STALLINGS
SHINICA THOMAS
TARA WATERS

February 4, 2025

Mr. Allen Coleman
Town Clerk
Town of Apex
Post Office Box 250
Apex, North Carolina 27502

Dear Mr. Coleman:

The Wake County Board of Commissioners, in regular session on February 3, 2025, approved and accepted the enclosed tax report for the Town of Apex.

The attached adopted actions are submitted for your review; no local board action is required.

Sincerely,

Yvonne Gilyard
Clerk to the Board
Wake County Board of Commissioners

Enclosure(s)

WAKE COUNTY TAX ADMINISTRATION

12/01/2024 - 12/31/2024

Rebate Detail Report

APEX

DATE 01/02/2025
TIME 3:00:43 PM

REBATE NUM	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	FOR YEAR	BILLING TYPE	OWNER
BUSINESS ACCOUNTS											
902544	115.28	0.00	11.53	0.00	126.81	12/6/2024	0006487917	2024	2024	000000	CHO, CHE KWANG
904007	106.25	0.00	10.63	0.00	116.88	12/27/2024	0007020617	2024	2024	000000	MUSIC & ARTS CENTER
SUBTOTALS FOR BUSINESS ACCOUNTS	221.53	0.00	22.16	0.00	243.69	243.69			2	Properties Rebated	

BUSINESS REAL ESTATE ACCOUNTS

902260	67.53	0.00	0.00	0.00	67.53	12/4/2024	0000358982	2024	000000	CTO21 APEX LLC
902648	2,797.02	0.00	0.00	0.00	2,797.02	12/6/2024	0000490738	2024	000000	APEX INDUSTRIAL OWNER 3 LLC
902798	1,715.84	0.00	0.00	0.00	1,715.84	12/9/2024	0000439043	2024	000000	APEX POINTE LLC
902971	1,098.34	0.00	0.00	0.00	1,098.34	12/10/2024	0000436595	2024	000000	KEPEI STC WEST LLC
902992	4,416.70	0.00	0.00	0.00	4,416.70	12/11/2024	0000013256	2024	000000	SALEM STREET PROMENADE LLC
904021	1,681.41	0.00	0.00	0.00	1,681.41	12/19/2024	0000479345	2024	000000	KITE REALTY PEAKWAY AT 55 LLC
902258	5,246.21	0.00	0.00	0.00	5,246.21	12/4/2024	0000358979	2024	000000	CTO21 APEX LLC
902259	13,527.60	0.00	0.00	0.00	13,527.60	12/4/2024	0000358980	2024	000000	CTO21 APEX LLC
904010	1,903.85	0.00	0.00	0.00	1,903.85	12/19/2024	0000225249	2024	000000	HJ & J LLC
904005	43,165.82	0.00	0.00	0.00	43,165.82	12/19/2024	0000484154	2024	000000	BIN - BD1201 LLC
904000	10,413.52	0.00	0.00	0.00	10,413.52	12/19/2024	0000451620	2024	000000	1701 PINNACLE CENTER LLC
903985	1,457.99	0.00	0.00	0.00	1,457.99	12/19/2024	0000251333	2024	000000	EUPHORIA INVESTMENT LLC
903821	377.96	0.00	0.00	0.00	377.96	12/18/2024	0000157470	2024	000000	EAST JORDAN IRON WORKS INC
903509	8,491.50	0.00	0.00	0.00	8,491.50	12/16/2024	0000508919	2024	000000	503 PROPERTIES LLC
902566	4,142.87	0.00	0.00	0.00	4,142.87	12/6/2024	0000159890	2024	000000	G&I IX LAKE CAMERON LLC
902056	19.55	0.00	0.00	0.00	19.55	12/3/2024	0000047514	2024	000000	CTO21 APEX LLC
903154	1,927.89	0.00	0.00	0.00	1,927.89	12/11/2024	0000352048	2024	000000	D & T NC LLC
903147	4.91	0.00	0.00	0.00	4.91	12/11/2024	0000070648	2024	000000	BLD PROPERTIES LLC

SUBTOTALS FOR BUSINESS REAL ESTATE ACCOUNTS	102,456.51	0.00	0.00	0.00	102,456.51	102,456.51	18 Properties Rebated			
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INDIVIDUAL PROPERTY ACCOUNTS

903496	104.87	30.00	10.49	0.00	145.36	12/17/2024	0006946601	2024	2024	000000	DWD LOGISTICS LLC
902043	103.27	0.00	10.33	0.00	113.60	12/3/2024	0006986299	2024	2024	000000	MCGRATH, EVAN THOMAS
902330	3.40	0.00	0.34	0.00	3.74	12/5/2024	0006955255	2024	2024	000000	HAMMER, NICHOLAS RYAN
902331	6.86	0.00	0.69	0.00	7.55	12/5/2024	0006924637	2024	2024	000000	WHITFILL, CRAIG EVERETT
SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS				218.40	30.00	21.85	0.00	270.25	270.25	4 Properties Rebated	

INDIVIDUAL REAL ESTATE ACCOUNT

903140	6,023.92	0.00	0.00	0.00	6,023.92	12/11/2024	0000059586	2024	2024	000000	STEVENS, DON PAUL TRUSTEE
902483	1,098.30	0.00	0.00	0.00	1,098.30	12/5/2024	0000367743	2024	2024	000000	SCOTT, JANET
902568	198.89	0.00	0.00	0.00	198.89	12/6/2024	0000174744	2024	2024	000000	LANUTI, DEBORAH JO
902623	313.35	0.00	0.00	0.00	313.35	12/6/2024	0000449151	2024	2024	000000	SEFEIN, SABRY NAGUIB
902092	71.67	0.00	0.00	0.00	71.67	12/3/2024	0000186775	2024	2024	000000	GAERTNER, ANGIE E
902579	182.76	0.00	0.00	0.00	182.76	12/6/2024	0000219238	2024	2024	000000	BURT, KATRINA
901899	86.53	0.00	0.00	0.00	86.53	12/2/2024	0000468954	2024	2024	000000	WANG, HUIJUN
903156	385.96	0.00	0.00	0.00	385.96	12/11/2024	0000218290	2024	2024	000000	LEABO, KAREN SINGLETARY
SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS				8,361.38	0.00	0.00	0.00	8,361.38	8,361.38	8 Properties Rebated	

WILDLIFE BOAT ACCOUNTS

902609	116.60	0.00	0.00	0.00	116.60	12/6/2024	0004210857	2024	2024	000000	ALBRIGHT, STEVEN MICHAEL
902951	335.39	0.00	0.00	0.00	335.39	12/20/2024	0004218143	2024	2024	000000	CAVALLO, CHRISTOPHER JOHN
SUBTOTALS FOR WILDLIFE BOAT ACCOUNTS				451.99	0.00	0.00	0.00	451.99	451.99	2 Properties Rebated	
TOTAL REBATED FORAPEX				111,709.81	30.00	44.01	0.00	111,783.82	111,783.82	34 Properties Rebated for City	

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 11, 2025

Item Details

Presenter(s): Councilmember Terry Mahaffey, Sponsor
Barbara Conroy Co-Founder and President of Apex Public School Foundation

Department(s): Governing Body
Apex Public School Foundation

Requested Motion

Presentation of the Peak S.T.A.R. Award for the 2nd Quarter of the 2024-2025 School Year.

Approval Recommended?

N/A

Item Details

The Apex Town Council is pleased to work in partnership with the Apex Public School Foundation (APSF) to present the Peak S.T.A.R. Award to a deserving Apex school staff member, teacher, or someone in school administration. This award will be presented quarterly by the Apex Town Council and the APSF.

Attachments

- N/A





"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Engineering Day and National Engineer's Week 2025

from the Office of the Mayor

WHEREAS, National Engineer's Week was founded in 1951 by the National Society of Professional Engineers to recognize the vital role engineers play in advancing society and creating the systems and technologies we rely on every day; and,

WHEREAS, The Town of Apex is proud to employ 15 professional engineers and many other staff who participate in and support engineering tasks, whose work ensures the town provides safe drinking water, robust stormwater control, reliable electricity, and safe transportation infrastructure that keeps our community connected; and,

WHEREAS, Engineers perform their duties to an incredibly high professional and ethical standard, and the town is grateful to our engineer's dedication to their craft, attention to detail, and commitment to safety; and,

WHEREAS, The 2025 Engineer's Week theme, "Design Your Future," serves as a call to action and a celebration of the limitless possibilities in engineering, inviting us to dream boldly, innovate relentlessly, and build a future shaped by human ingenuity; and,

WHEREAS, The Forge Initiative, in partnership with the Town of Apex, is proud to host Engineering Day on February 22nd, 2025, at the John M. Brown Community Center, which will explore the power of engineering through interactive demonstrations, hands-on design challenges, and mentorship from local engineers, encouraging curiosity and interest in STEM careers.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim February 16th-February 22nd, 2025 as "National Engineer's Week", and February 22nd, 2025, as "Engineering Day" in the Town of Apex, and encourage residents to join in the celebrations of all that Engineering has done and will continue to do.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 11th day of February 2025

Jacques Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 11, 2025

Item Details

Presenter(s): Benjamin Howell, AICP, Wake Transit Program Manager

Katie Schwing, Senior Long-Range Planner

Department(s): Capital Area Metropolitan Planning Organization (CAMPO)

Planning Department

Requested Motion

Receive information regarding the current Wake Transit Plan update led by CAMPO, including the Phase II Public Engagement effort.

Approval Recommended?

N/A

Item Details

The Wake Transit Plan (WTP) outlines the county-wide transit investment strategy by guiding how funding from a half-cent sales tax and other sources will be spent on services and projects that are shaping our transit future. Every four years, the Wake Transit Plan is updated to confirm the region's ten-year transit vision. The 2026-2035 update, underway now, will guide how we will invest nearly \$1 billion to make it easier for people in Wake County to use public transportation to meet their transportation needs.

Last summer, over 2,000 people took a survey that asked them to share their ideas and priorities for making public transportation better in Wake County. That feedback is helping the project team develop an investment strategy.

The goal of Phase II of engagement, which ran December-January 31st, was to share ideas about how to accomplish these goals and to decide which projects should come first. This presentation will provide a brief overview of the Phase II engagement tactics and initial results.

Attachments

- PR3-A1: Wake Transit Plan Update Phase II PowerPoint Presentation
- PR3-A2: Wake Transit Plan Update Phase I Engagement Summary
- PR3-A3: Wake Transit Plan Update Market Analysis – with Apex Community Profile only





Wake Transit Plan Update

Apex Town Council February 11, 2025

Agenda

- 1 State of the Plan
- 2 Market Analysis
- 3 Plan Development Public Engagement – Phase 2
- 4 Next Steps



State of the Plan



1

Wake Transit Plan

- **Wake Transit Plan is a revenue stream for public transportation investment**
 - Voters approved funding package in 2016
 - Wake Transit Plan started funding new transit service in August 2017
 - More service on weekends, in the evenings, and more frequent bus routes.
- **Wake Transit Plan is updated every four years**
 - Community and stakeholder preferences and priorities
 - Financial and technical data about performance and outcomes



Wake Transit Plan

Four Big Moves



Connect Regionally

- Commuter Rail
- Work with Existing and Planned Train Service
- More Regional Bus Service



Connect all Wake County Communities

- More Connections to Raleigh, Cary, and RTP
- More Town to Town Bus Service
- Funding to Towns



Create Frequent, Reliable, Urban Mobility

- Bus Only Lanes
- More Night and Weekend Service
- More Frequent Bus Service



Enhance Access to Transit

- Improve Amenities at Bus Stops
- Make Sidewalks, Crosswalks, and Bike Lanes
- Expand On-Demand Transit Program

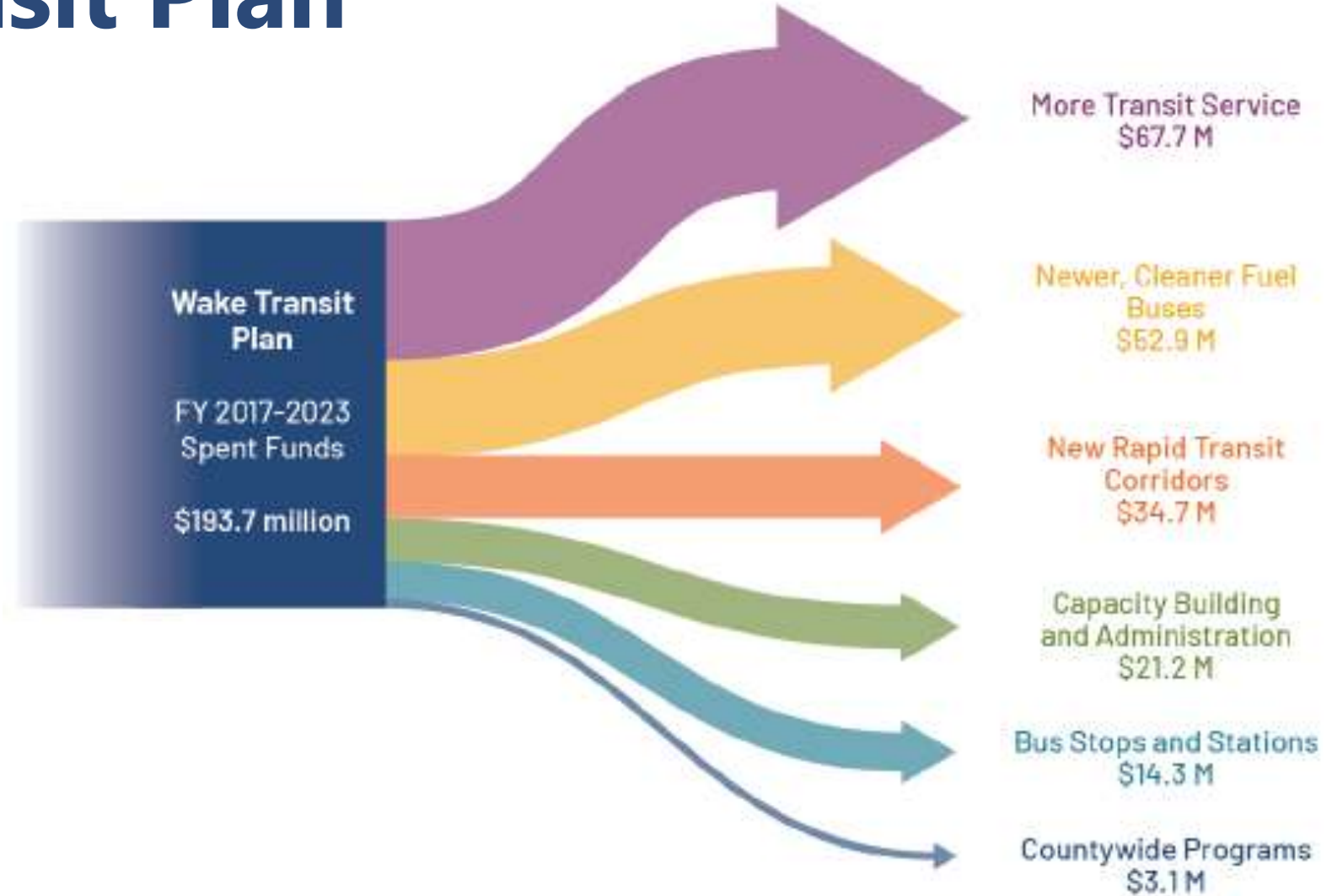
State of the Plan

- Wake Transit Plan revenues have been consistently strong
 - Raised nearly \$750 million to date (2017 – 2023)
- The Wake Transit Plan is expected to raise another \$700 million to \$1 billion over next ten years (2024 – 2035)
- **What are your transit priorities for the next ten years?**



Wake Transit Plan

**\$200 million
invested since
2017.**

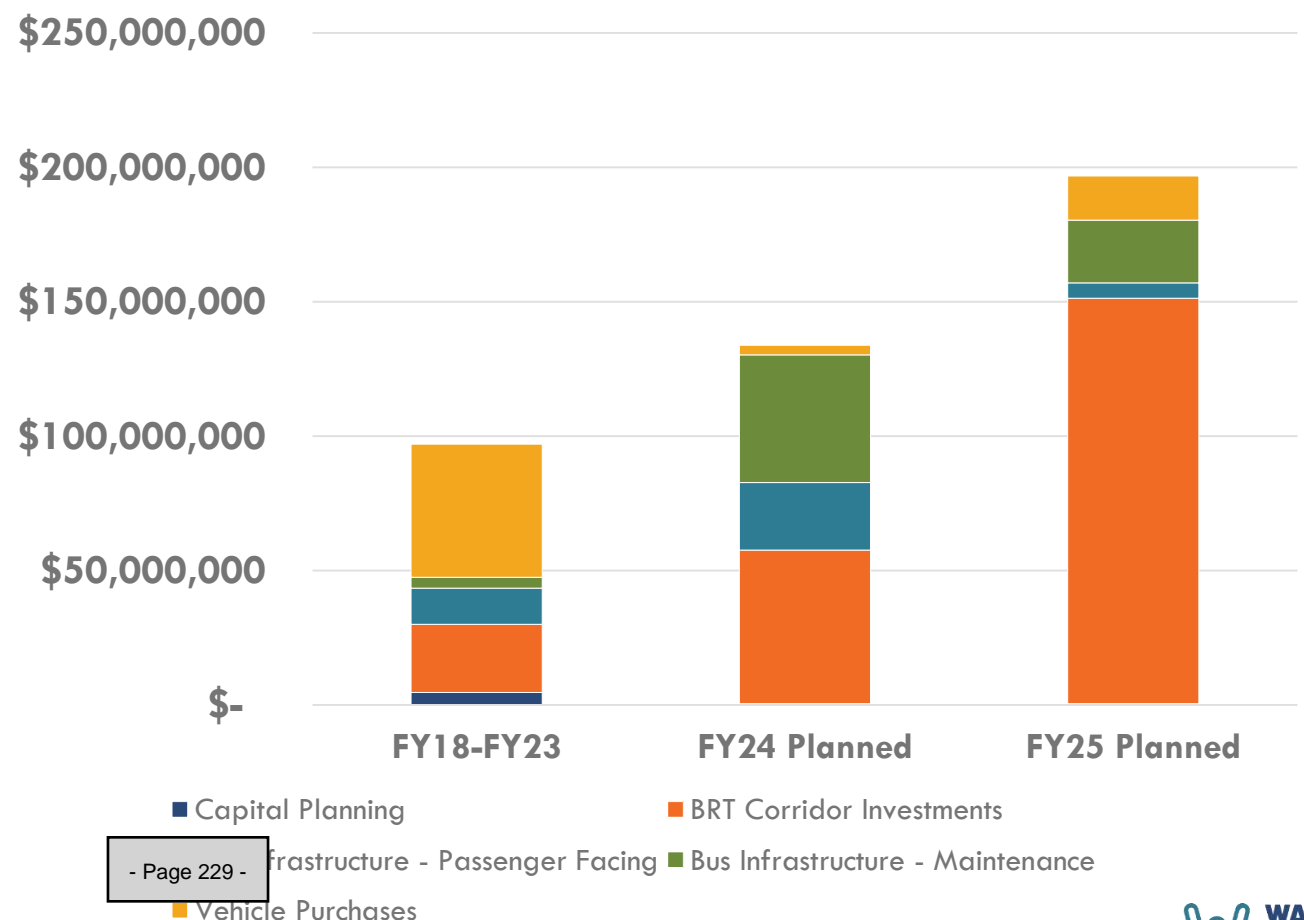


Wake Transit Plan

\$350 million will be spent in next few years.

Major projects include:

- New Bern BRT
- Design Southern BRT
- Design Western BRT
- GoRaleigh/GoWake Access ADA Maintenance Facility and Call Center
- Cary Multimodal Center
- RUS Bus



Market Analysis



2

Key Findings: Community Profiles

Key findings from the Community Profile analysis include:

1. **Suburban Towns in Wake County are growing at an unprecedented rate**, with many communities experiencing population growth rates of 30% to 50% since the Wake Transit Plan was approved in 2016. In many cases, growth is on top of a small baseline population, but the pace of growth suggests communities are changing.
2. **Towns in Wake County are actively planning for growth** with most communities recently completing comprehensive transportation plans, strategic plans and/or transit plans. In almost all cases, these plans are calling for investments in multi-modal infrastructure, including sidewalks and shared use paths.
3. **All but two Wake County communities have participated in the Community Funding Area program.** Towns are using grants to plan, design and operate local transit services as well as investments like sidewalks and bus stop improvements.
4. Data on recent and planned development shows that **most new projects are single use development largely on the outskirts of downtown centers and often near highways.** Most developments in Wake County towns do not follow best practices for creating walkable, compact communities. Suburban style master planned developments are difficult to serve with transit.
5. **Development patterns suggest on-demand microtransit style service is likely the most effective solution for local mobility.** On-demand microtransit services work in low density, suburban style development by picking up and dropping off riders at or close to their destination. The services can attract riders by providing a viable option, but the cost of microtransit on a per trip basis is high, with experience showing trips can cost between \$30 and \$50 per ride.
 - While microtransit is an effective strategy in the short term, if communities continue to add population by building low density residential development the cost to maintain microtransit service levels may become prohibitive. Providing on-demand service to a larger, more distributed population will require increasingly levels of investment or slower response times/reduced levels of service.
6. **Potential for sub-regional solutions.** Wake County is a geographically large region covering 857 square miles. Unique characteristics within Wake Region suggest potential for different solutions in different parts of the County:
 - **Apex is a “sub-regional hubs” in southwest Wake County.** There are nearly 100,000 in Apex and Holly Springs, plus another 35,000 in Fuquay-Varina. Apex already functions as an economic activity center with regional transportation access. Creating a mini-transit hub in Apex that is connected to neighboring towns with fast, frequent services to regional destinations is a potential future model.
 - **Northwest Wake County also has nearly 100,000 people** but is more rural, spread out over a larger area and further from Raleigh and regional employment centers. Emerging solutions in this part of Wake County include on-demand service models that connect to Wake Forest as the sub-regional hub.
 - **Garner** has more in common with the City of Raleigh than other parts of Wake County and the planned BRT stations will change transit access. Local transit solutions may focus on first mile/last mile connections and more transit-oriented style development as compared with other parts of Wake County.

Apex: Overview

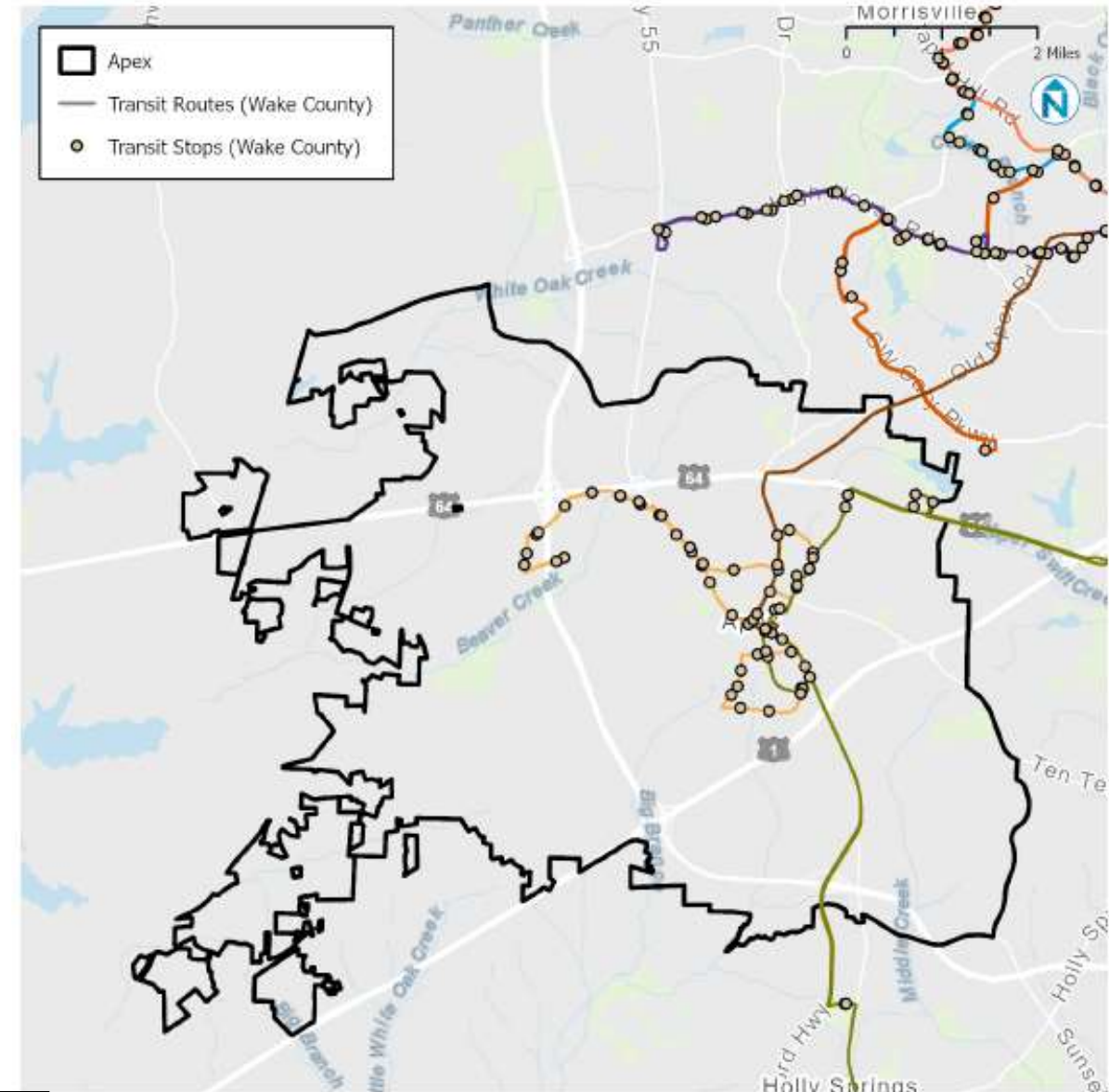
The Town of Apex is one of the largest towns in Wake County with a population of nearly 100,000 and it is also one of the fast-growing communities, increasing its population by 49% between 2016 and 2022. This compares with employment, which grew by 18% over the same period. Apex's larger population contributes to a denser population as compared with Wake County overall. In terms of demographic characteristics, Apex is wealthier, less diverse and younger as compared with the Wake County population overall.

Apex has three regional bus routes although one route (Route 311) was suspended during COVID and has not yet been re-instated.

- Apex-Cary Express (ACX) that connects Apex and Cary with peak period service on weekdays.
- Route 305: Connects Apex with North Carolina State University and Raleigh with hourly service during peak periods on weekdays. A handful of morning and evening trips extend to Holly Springs.
- Route 311: Apex-RTC that provides peak-only connections between Apex and Research Triangle Park. This service was suspended in 2020 and is planned to start again in FY27.

A fourth route – GoApex Route 1 – provides local circulation within the Town of Apex. It operates hourly on weekdays and Saturdays from 6 AM to 10 AM and is fare free.

Apex is actively pursuing several planning efforts and has been one of the largest participants in the Community Funding Area program. Funded projects include a Transit Prioritization Study, bus stop improvements, GoApex Route 1 and sidewalk improvements.



Apex: Key Statistics



Population Density
(Persons/Acre): 2.65

Wake County: 2.06



Employment Density (Jobs/Acre):
0.71

Wake County: 1.19



Zero Vehicle Households:
1.9%

Wake County: 4.0%

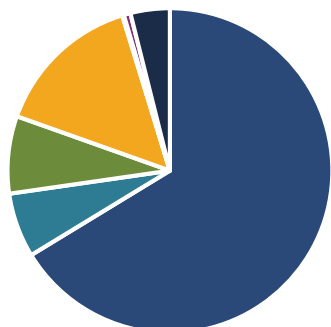


Median Household Income:
\$129,688

Wake County: \$96,806



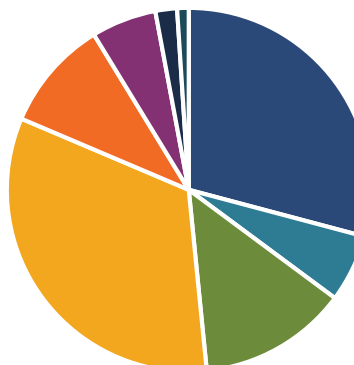
Race and Ethnicity



- White Alone
- Hispanic or Latino
- Black Alone
- Asian Alone
- American Indian Alone
- Other Race Alone
- Two or More Races



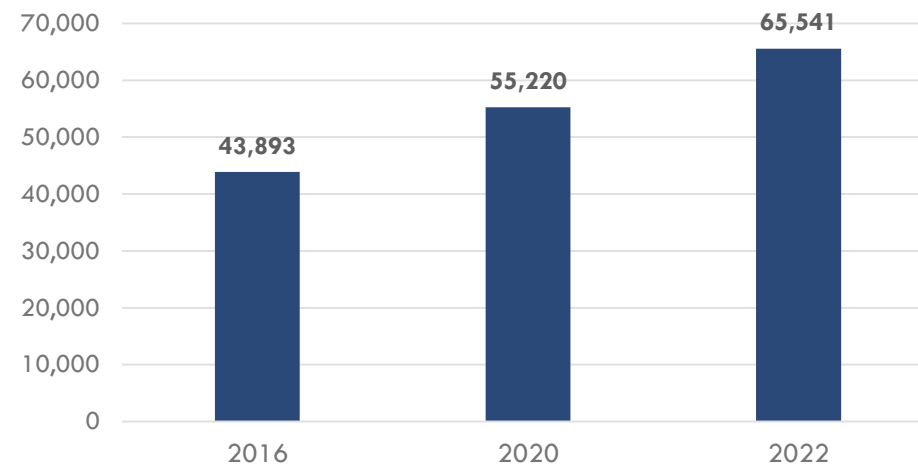
Age Groups



- Under 18
- 18 to 24
- 25 to 34
- 35 to 54
- 55 to 64
- 65 to 74
- 75 to 84
- 85 years and over

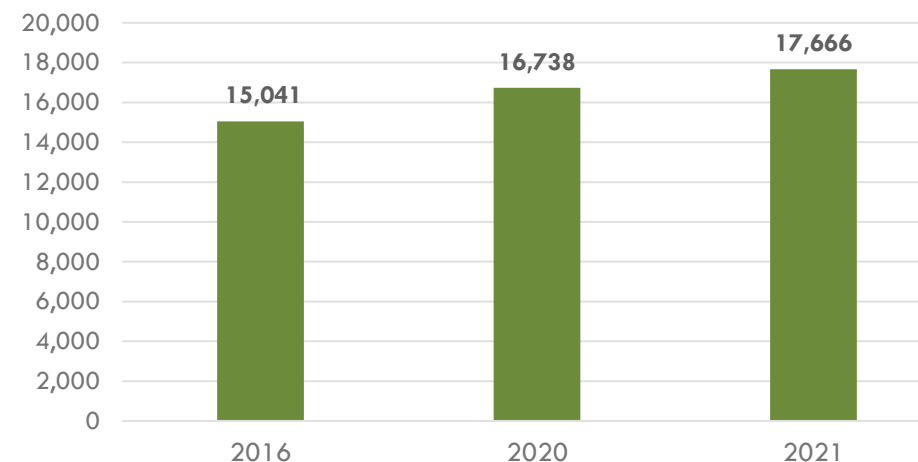
Population Growth, 2016 to 2022: **49%**

Wake County: 13%



Employment Growth, 2016 to 2021: **18%**

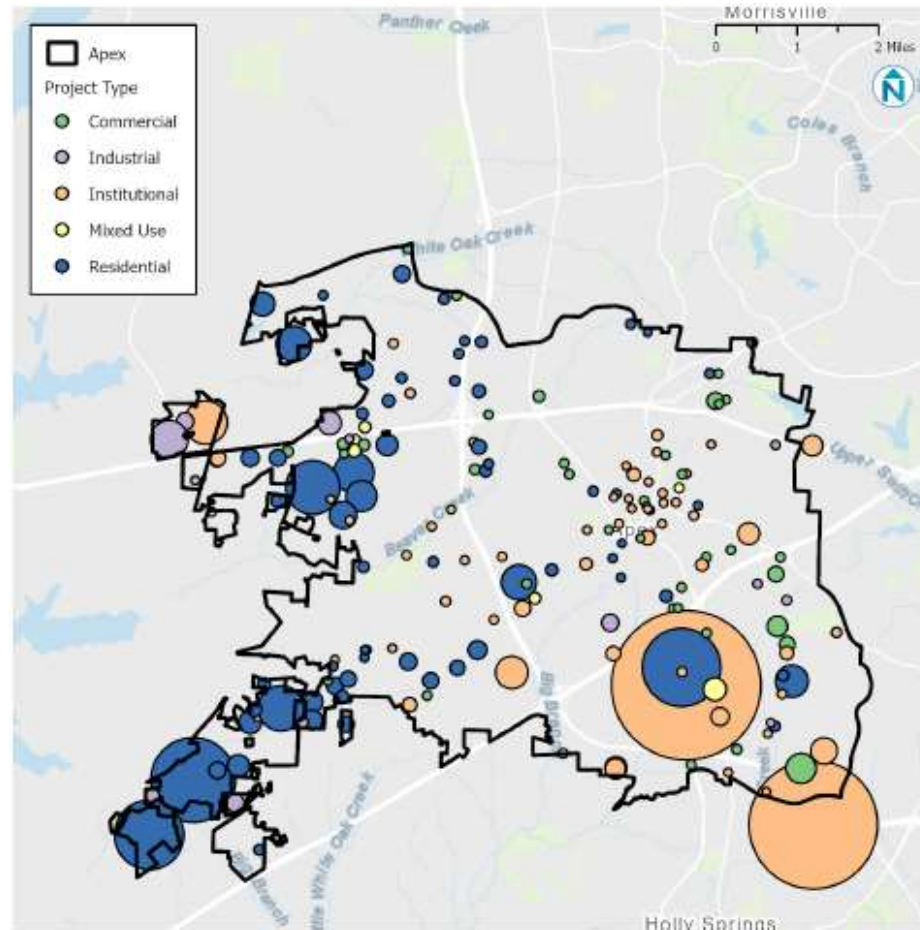
Wake County: 8%



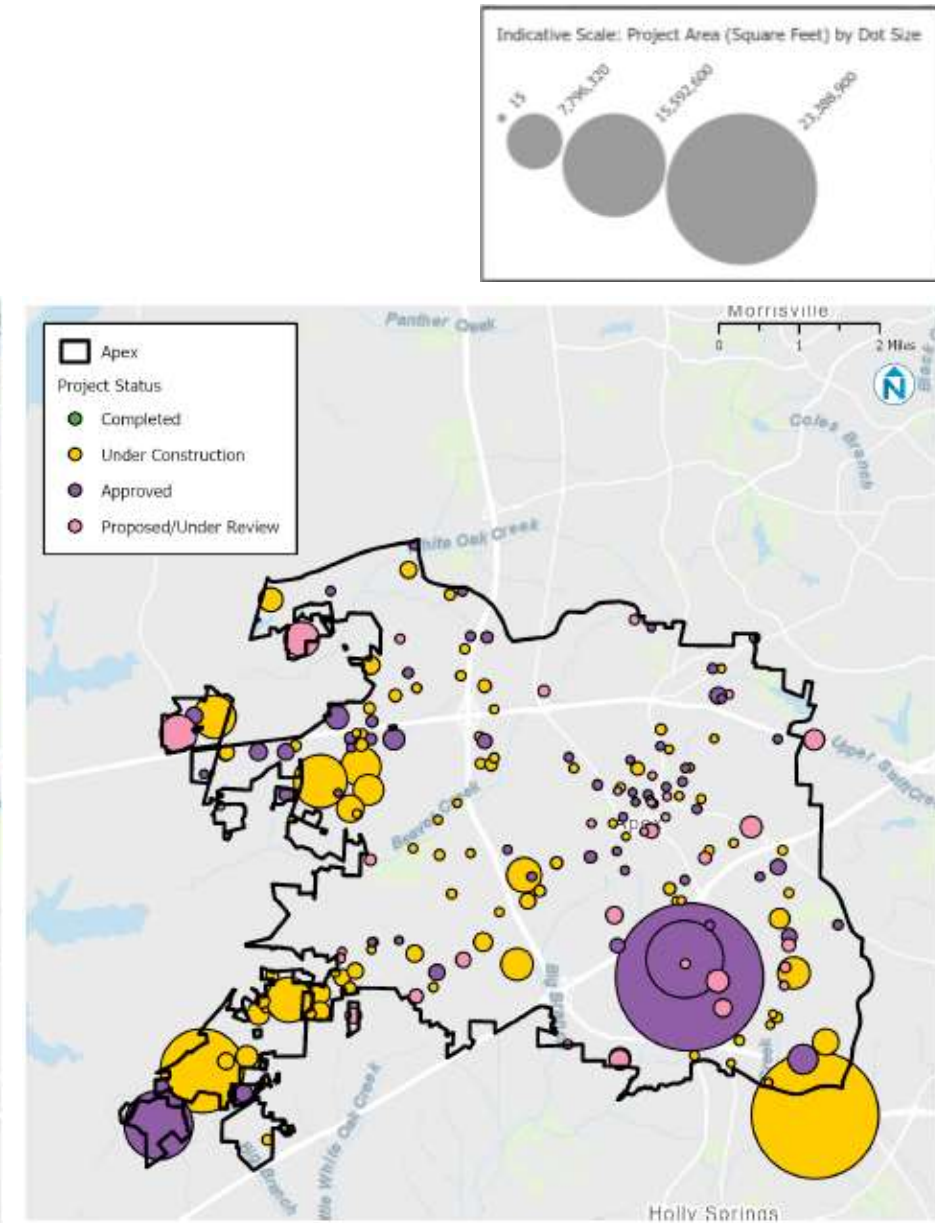
Apex: Development

Data collected in 2024 shows Apex has a multitude of projects in various stages of development. Most projects are residential, although a handful of large institutional projects are under construction or recently completed. Most new projects are not located within walking distance of existing transit services, including GoApex Route 1. This suggests that future connections will be needed.

Apex's future rail station, combined with the Town's strategic location south and west of Raleigh mean it has potential to function as a regional transit hub for both Apex residents but also people traveling to/from Cary, Holly Springs and Fuquay Varina. Identifying a location and a facility for a future hub is a potential project.



Development by Type and Size



Development by Status and Size

Phase 2 Engagement



3

Engagement Goals

- 1. Share information on planned WTP rail investments between FY26 – FY35**
 - Lots of rail investment planned, but near term will not include commuter rail
 - Feasibility studies show commuter rail is too expensive and takes too long to implement
 - Instead, WTP will leverage investments in regional rail to strengthen local connections.
 - Region may revisit CRT in future.
 - 2. Discuss concept of using BRT to connect Raleigh and Durham**
 - 3. Ask what projects people want to see completed first**
 - Serve more people (invest in service frequency)
 - Serve more places (invest in regional connections and infrastructure)
 - 4. Share on-going Wake Transit Plan projects and investments**
- Feedback will shape direction for Wake Transit Plan 10-year Investment Strategy**



Engagement Strategy



What	Online	In person	Focus Groups	Presentations
Approach	<ul style="list-style-type: none"> • Social media and email distribution lists • Banners on trip planning apps • Posters, flyers, etc. 	<ul style="list-style-type: none"> • Over 20 “pop-ups” throughout Wake County 	<ul style="list-style-type: none"> • Six Focus Groups with target audiences 	<ul style="list-style-type: none"> • Work with partners to schedule and support
Materials	<ul style="list-style-type: none"> • Short, simple questions/feedback form • Click to learn more 	<ul style="list-style-type: none"> • Quick, focused exercise • Boards • FAQs with more information (QR codes to learn more) 	<ul style="list-style-type: none"> • Used Boards to frame conversation • Dive into details and understand concerns 	<ul style="list-style-type: none"> • Presentation materials • Hand-outs/boards as relevant

Engagement Timeline

We are here!



**Finalize/Update
Materials**

**Engagement
Launch**

Holiday Break

Ongoing Activities

**October –
November**

- Finalize materials
- Train the Trainer
- Schedule FG and Pop-ups

December 2 - 20

- Website
- Social media
- Focus groups
- Six "Core" pop-up locations

**December 23 –
January 3**

- Website stays active
- No active messaging or outreach

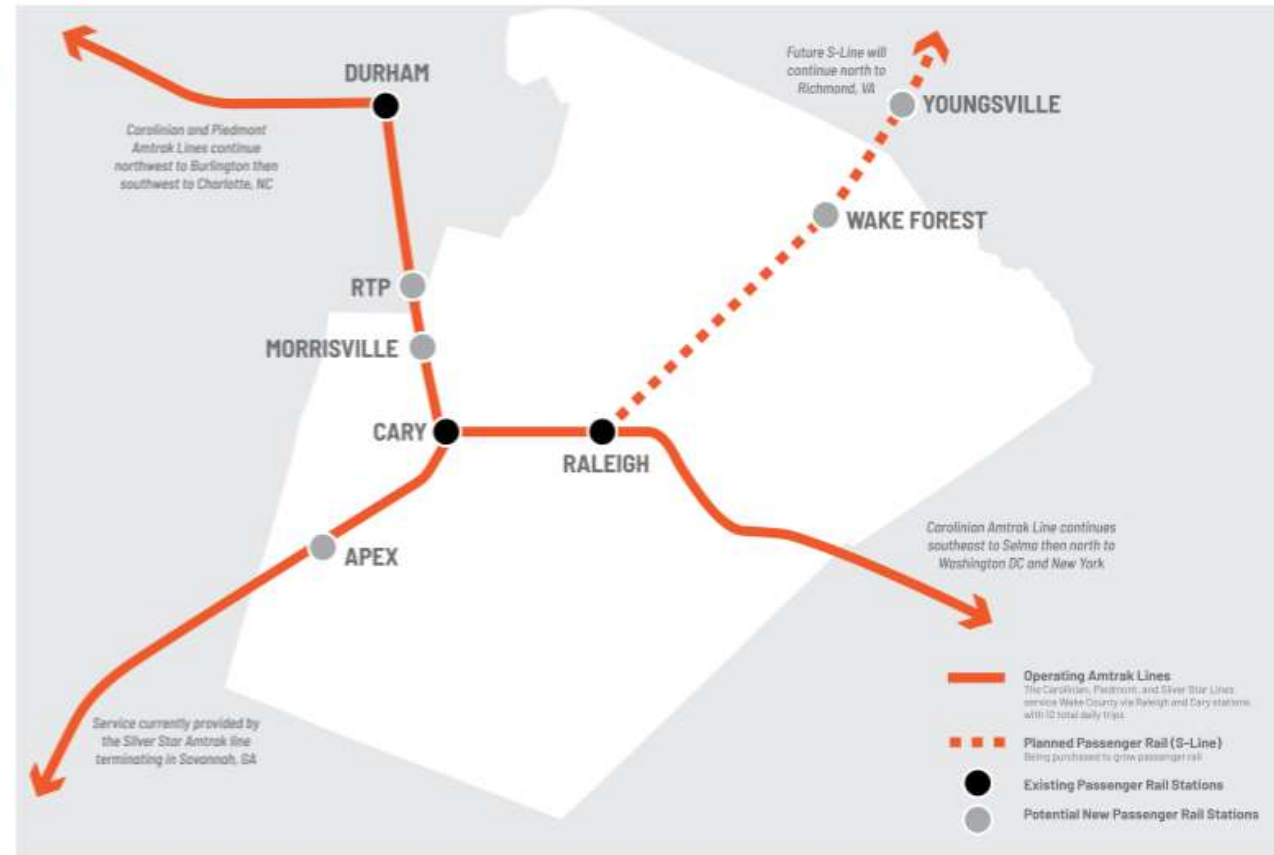
**January 6 –
January 31**

- Social media
- More pop-ups
- Presentations
- Email distribution
- Adjustments / corrections as needed

You told us you would like rail service in Wake County.

Here's what's happening.

- ▶ Amtrak is and will continue to operate passenger rail service in Wake County. These trains provide regional connections with stops in Durham, Cary, and Raleigh.
- ▶ There are a lot of rail projects planned in Wake County, including plans to purchase and/or upgrade tracks between:
 - Raleigh and Wake Forest.
 - Raleigh, Cary and RTP.
 - Raleigh and Apex.
- ▶ The Wake Transit Plan could help improve the existing services or help new projects happen sooner by:
 - Providing funding for additional trains in Wake County.
 - Improving train infrastructure (tracks, stations, etc.).



What do you think? Is this a good way of building rail service in Wake County?



You told us you want fast, reliable connections between Raleigh and Durham.

Here's what we can do.

- The region could build Bus Rapid Transit (BRT) along I-40 to provide fast, frequent, reliable connections between Raleigh and Durham. This service could include:
 - Buses every 15 minutes all day, every day.
 - Widening and improving highway shoulders so buses can travel faster for the full way between Raleigh and Durham.
 - Making it easier and faster for buses to get on and off I-40.
 - Building new transfer points, including an Airport transit hub close to the on/off ramp.



	Time to Get Started	Estimated Travel Time (One-way peak period Raleigh to Durham)	Weekday Service	Weekend Service
Express Bus Service	Expansion starts in 2026 and 2027	60-70 minutes	15 minutes peak 30 minutes evenings	Every 15 minutes
BRT on I-40	5-10 years	50-60 minutes	30 minutes daytime 60 minutes evening	Every 20 minutes

How often do you travel between Raleigh and Durham?

Every day

Once a week or so

Every month or so

Rarely or Never

Do you think BRT will be a good way to connect Raleigh and Durham?



Here's what we can do.

Different Ways of Building a Transit Network

What should we do **first**?

OPTION 1

Expand bus service in Cary and Raleigh, so buses come more often and are available for longer hours and more days.

*This option would serve more **people**.*



OPTION 2

Build mobility hubs in Wake County Towns and create new (or expand existing) connections to Cary, Raleigh, and other regional destinations.

*This option would serve more **places**.*



Here's what we are doing.

Current and planned projects that are funded by the Wake Transit Plan



Connecting The Region

- Investment in existing and planned rail services
- Express bus service from Raleigh to RDU, RTP, Durham and Chapel Hill
- Bus Rapid Transit (BRT) connecting to Durham and Johnston Counties
 - » Cary to RTP
 - » Garner to Clayton



Connecting All Wake County Communities

- Town-to-Town direct connections
- Projects that support seniors and people with disabilities
- On-demand and door-to-door service in Wake County's small towns
- More transit service to/from Wake County towns
- Funding for local projects provided by Community Funding Area program



Create Frequent, Reliable, Urban Mobility

- More buses that come more often
- Longer hours each day and more weekend bus service
- Bus Rapid Transit (BRT) routes serving
 - » Raleigh
 - » Garner
 - » Cary



Enhance Access to Transit

- Better technology and new apps that make it easier to plan and use transit.
- Safe and comfortable bus stops
- Sidewalks, crosswalks and bike lanes to bus stops
- Improving bus stops so they are accessible for everyone

Bus Rapid Transit

- Frequent, reliable, convenient transit
- Key elements of service:
 - Dedicated lanes, stations, traffic signal priority, frequency, off-board fare collection, branding, etc.
- Provides regional and local connections
- Currently building 4 corridors: New Bern, Southern, Western, Northern



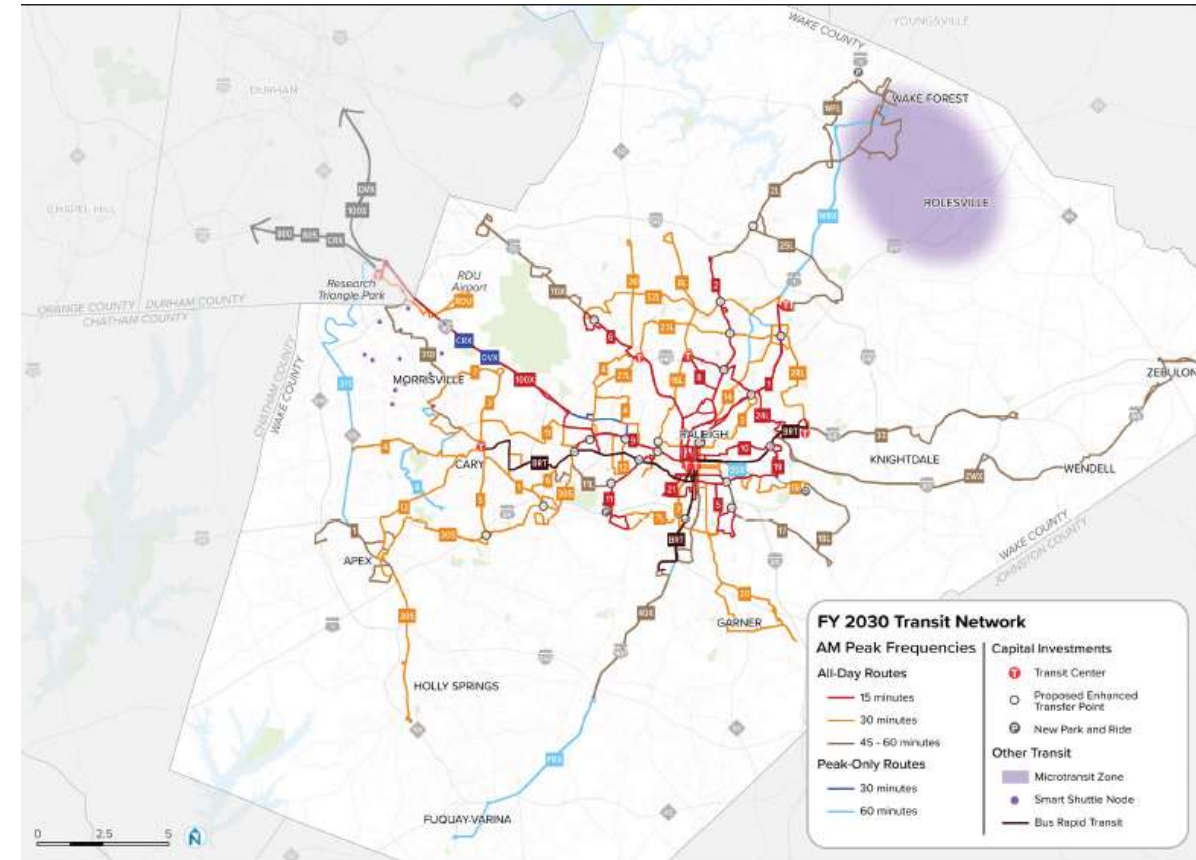
Source: City of Raleigh, NC

Wake Transit Plan Funded BRT Network



Invest in Service Frequency and Span

- **Wake Transit Plan will make buses more convenient by operating service more often and for longer hours/more days**
 - Wake Transit Plan defines frequent service as 15-minutes or better and span service runs at least 17 hours a day
 - By 2030, Wake will have
 - 14 frequent bus routes
 - 122 miles of frequent service



Source: Wake Bus Plan

Community Infrastructure: Mobility Hubs

- **Community transportation hubs**
 - People can find and transfer to different types of transportation
 - Car share
 - Bike Share
 - Bus
 - Uber/Lyft/Taxi
 - Local services can connect with regional services
 - Services available will vary by location
- Raleigh Union Station Bus Facility is under construction, and the Triangle Mobility Hub are already funded and planned to open by 2030



Commuter and Passenger Rail

• Commuter Rail

- Connects suburban communities to employment centers
- Operated by transit agencies, typically weekdays and sometimes on weekends
- Identified in the original Wake Transit Plan. Feasibility studies show it is too expensive and will take too long to implement

• Inter-city Passenger Rail

- Amtrak operates most passenger rail in US
- Fewer trips throughout the day (outside of major cities)
- Wake Transit Plan could increase train frequency between key points across the region



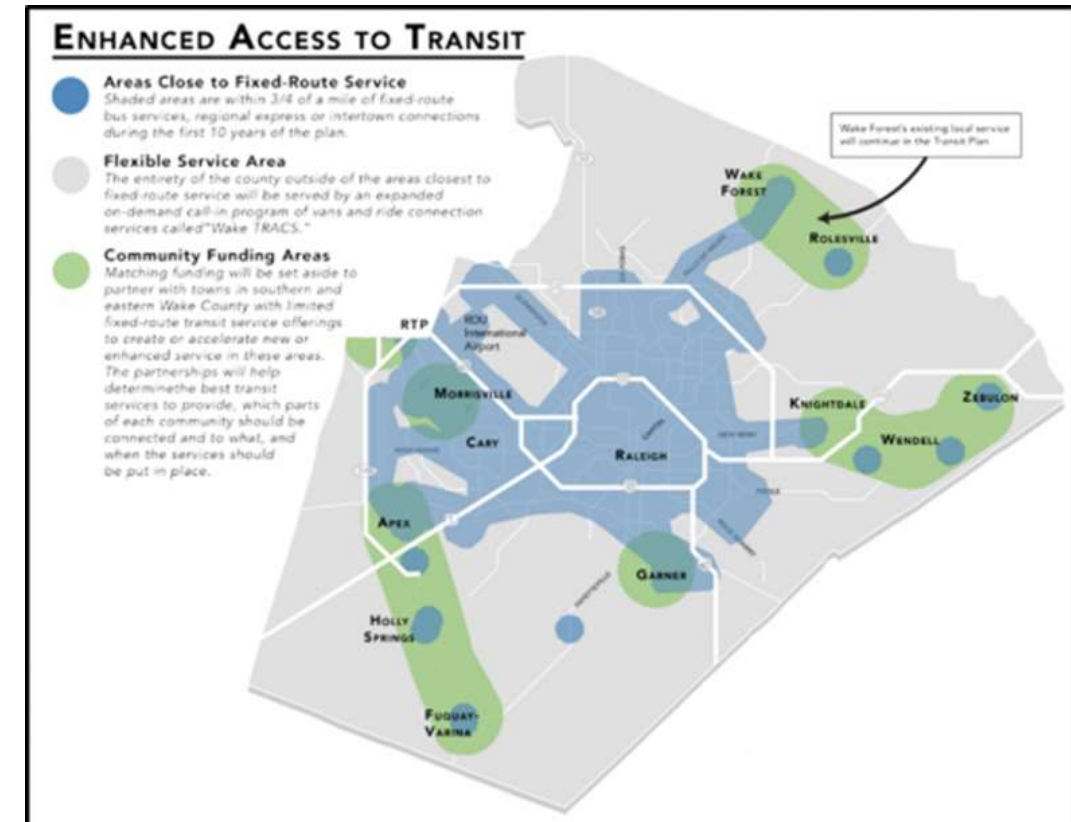
Improving infrastructure and access

- **Improved infrastructure and access impacts the decision to use transit**
- **Investing in Infrastructure**
 - Purchased and retrofitted 180 buses
 - Improved bus stops and transit centers
 - Purchased clean fuel vehicles
 - Leveraged \$30M in Wake Transit funds to get over \$133M in federal funds
- **Safe Access to Transit**
 - Crosswalks
 - ADA accessibility
 - Continuous connecting sidewalks



Investing in Communities

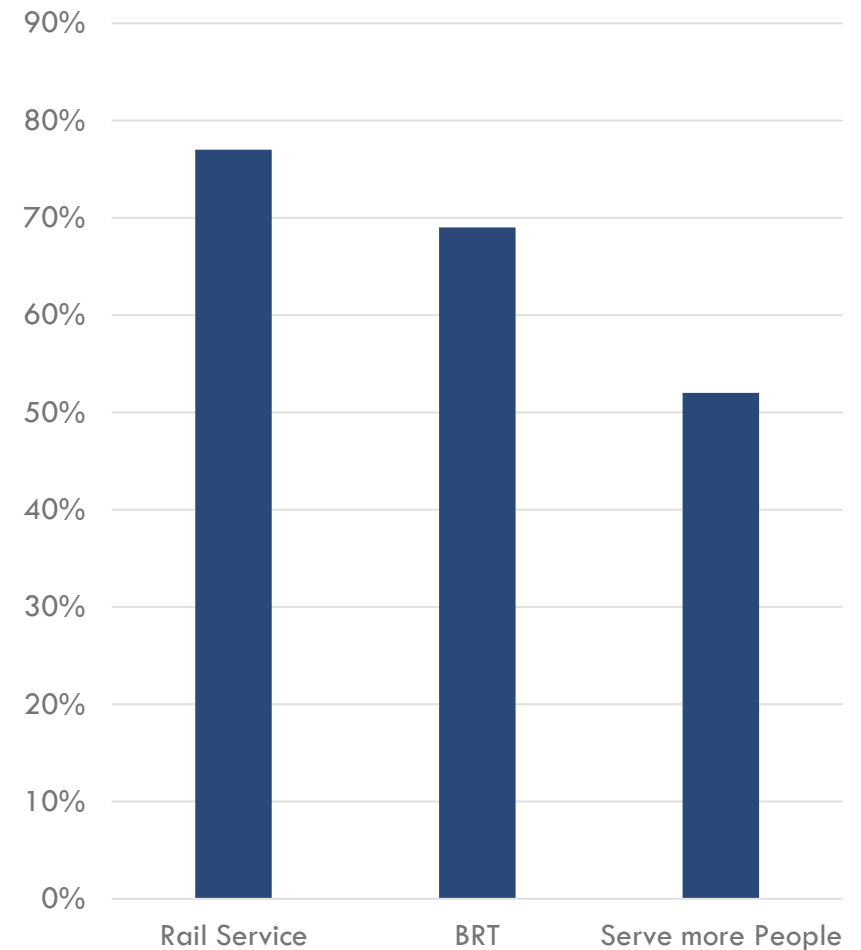
- **Community Funding Area (CFA) Program**
 - Fund eligible projects in 10 municipalities and Research Triangle Park
- **Eligible Project Types**
 - Planning/Technical Assistance
 - Operating Projects
 - Fixed-Route
 - Demand-Response
 - Flex-Route/Microtransit
 - Capital Projects
- **Increased Funding for CFA**
 - Current Financial Model allocates approximately \$19.59 Million from FY26 – FY35
 - Wake Transit Plan Update proposing to allocate approximately \$40 Million for CFA Program from FY26-FY35



Findings from Public Engagement

- As of Thursday, January 30th
 - 4,435 views of website
 - Over 970 survey responses
- Profile of responses
 - 51% male
 - 53% rarely or never use transit
 - 13% represent minority race
 - 5% of respondents' households receives one or more of these benefits: Medicaid, TANF, SNAP, FNS, LIEAP, or similar

Agree with Approach / “Serve More People”



Next Steps



4

Wake Transit Plan Update

We are here!



State of the Wake
Transit Plan

Goals, Priorities &
Strategic Direction

Financial Capacity &
Scenario Development

2035 Wake Transit
Plan Update



Winter –
Spring 2024

Summer 2024

Fall 2024 –
Winter 2025

Spring 2025

Engagement
May – June

Evaluate Priorities
for Future
Investment

Investment
Scenarios

Recommendations
Final Engagement

Engagement
December 2024 -
January 2025

Finish Study

Early 2025

- Community Engagement ended January 31st
- Partner Staff Workshop – January 30-31
 - Policy Discussion (Including CFA Program Management Plan)
 - Draft Investment Strategy
- Partner Staff Meeting - February
 - Engagement Findings
 - Discuss Recommendations
- Stakeholder Advisory Committee – Early March
 - Recommendations Workshop
- Draft Wake Transit Plan by mid-March 2025

Schedule Goals

1. Engagement May 2025
2. Finalize Wake Transit Plan by June 30, 2025



Thank you!



Phase 1 | Engagement Summary

Wake Transit Plan

September 2024



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3 Open House.....	3-8
4 Pop-Up Events	4-9
5 Stakeholder Advisory Committee.....	5-13
6 Lessons Learned.....	6-4

1 OVERVIEW

Summary

In 2024, Wake Transit Plan (WTP) stakeholders initiated an update to revisit the strategic direction and investment priorities established in the 2016 Wake Transit Plan. This plan—the WTP Update—was designed to include significant public and stakeholder engagement throughout the process.

The first phase of the engagement, which was held during Spring and Summer 2024 was specifically focused on educating stakeholders and the public about the status of the plan and asking for feedback on current investment priorities. While the Phase 1 engagement strategy included several activities, it was centered around a transit priorities survey that asked participants to spend a limited budget across a list of 12 different transit investments. In addition to order of magnitude cost information, participants were also shown information about each investment's potential impact, such as how long it would take to build the project, how it would impact transit ridership and, how the strategy would improve rider safety and comfort, as well as service speed and reliability. A copy of the priorities survey is included in Appendix A.

The survey also included a series of demographic and socioeconomic questions used by Wake Transit Plan Community Engagement team on previous efforts, to better ensure consistency and ability to measure trends in engagement over time. The demographic questions helped the team track responses across key resident groups as well as geographically. The demographic and socioeconomic data analysis was also helpful in identifying differing priorities between some of the key groups. For the purpose of this summary, results will be framed in the context of overall survey responses and responses of regular transit riders. A copy of the demographic questions is included in Appendix B.

The survey was available online between May 6, 2024, and July 23, 2024. People who participated in community engagement activities, including the Stakeholder Advisory Committee, participated in a group transit investment budgeting activity similar to the exercise included in the survey.

Key Findings

There were several key takeaways from the community in the survey responses:

- Rail is still desirable.
- People want to connect across the region, but also want better connections to Raleigh, Cary and RTP.
- Current bus riders want better service. Specifically, more frequency, longer hours, and service running on more days of the week.

- Improving passenger amenities is important to the community.
- Stakeholders are interested in on-demand and/or microtransit services.

The Process

First, a Public Engagement Plan (PEP) was created which documented the project understanding, project purpose, and anticipated timeline for all phases of engagement throughout the Wake Transit Plan Update (between 18-24 months, total). The draft PEP was reviewed by the CE Subcommittee on February 2, 2024 and finalized on April 16, 2024.

For Phase 1, three documents were prepared to further outline the strategy for engagement:

- **Level 1 – Equity Analysis** | The Community Engagement (CE) Equity Analysis was used to determine where targeted outreach efforts were required to reach specified population groups within the geographic boundary of Wake County. In the form, each population group, specific locations, and materials and intended outreach methods used were outlined. Using Capital Area Metropolitan Planning Organization's (CAMPO's) Community of Concerns (CoC) map, vulnerable populations throughout Wake County were identified. The CoC map utilized American Community Survey (ACS) 5-Year Estimates (2017 – 2021).
- **Level 2 – GoTriangle Support Request Form** | the purpose of the GoTriangle Support Request Form was to identify general support services from GoTriangle to supplement engagement activities. The general support services included posting on GoForwardNC/Wake social media and websites, One Wake Transit social media, calendar, and blog.
- **Level 2 – Strategy for Engagement Phases document** | the purpose of the Engagement Phase document is to outline the purpose, key audiences, schedule, geographic boundary, and support requested from TPAC partners. At a high-level, this document outlines the anticipated dates of each aspect of engagement including deliverables and support descriptions requested.

The three documents were submitted to CAMPO staff for review and approval on March 15, 2024.



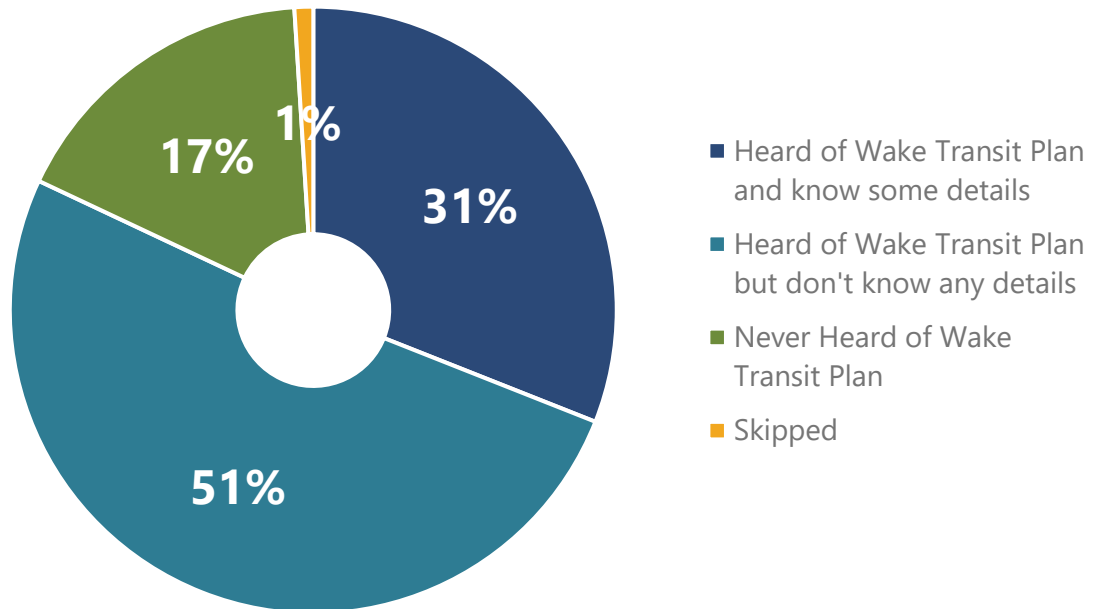
2 SURVEY: KEY TAKEAWAYS

Summary of Findings: Survey

The summary of findings below, outlines the major data points collected by the close date of the survey.

- Approximately 1,900 completed surveys
 - 1,302 completed both demographic and transit priorities sections
 - 1,578 completed priorities section, only
- 51% of the people who took the survey reported they had heard of the Wake Transit Plan but didn't know any details.
- 17% had never heard of the Wake Transit Plan.
- Among the people who completed the survey, 28% are regular or sometimes-users of transit services.

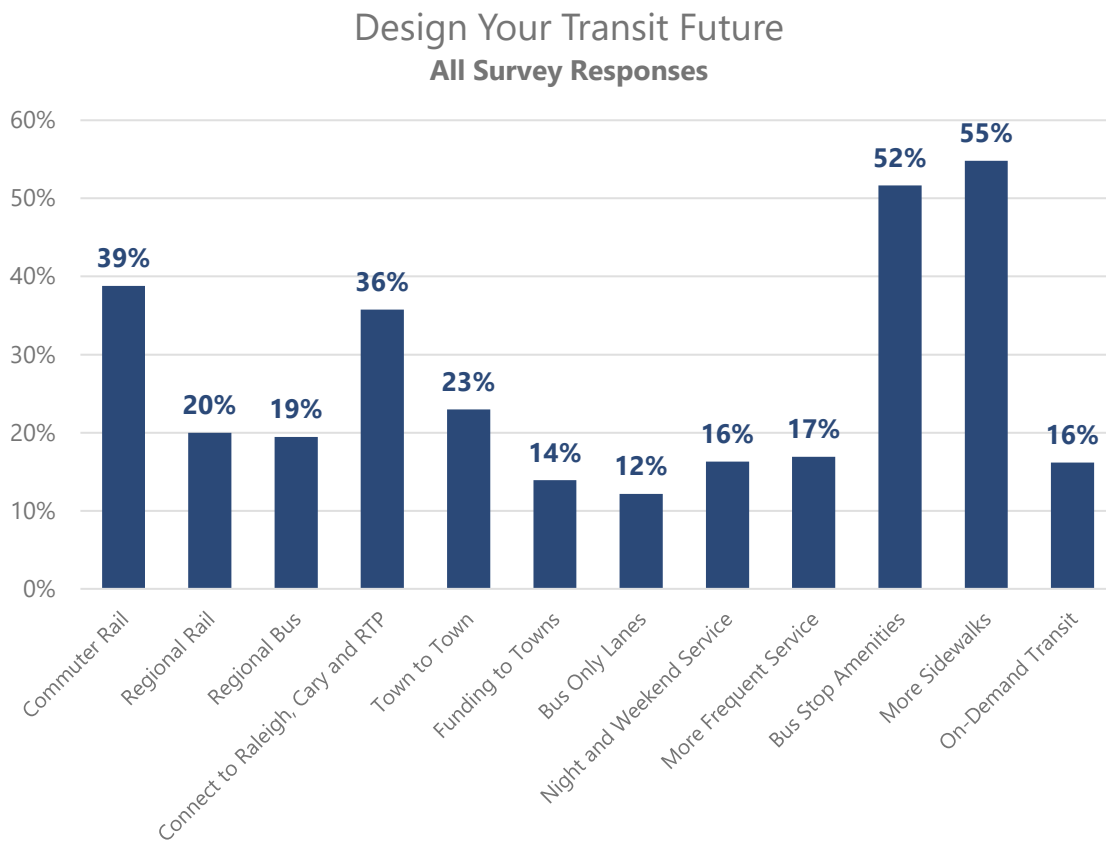
What do you know about the Wake Transit Program?



Summary of Findings: All Responses

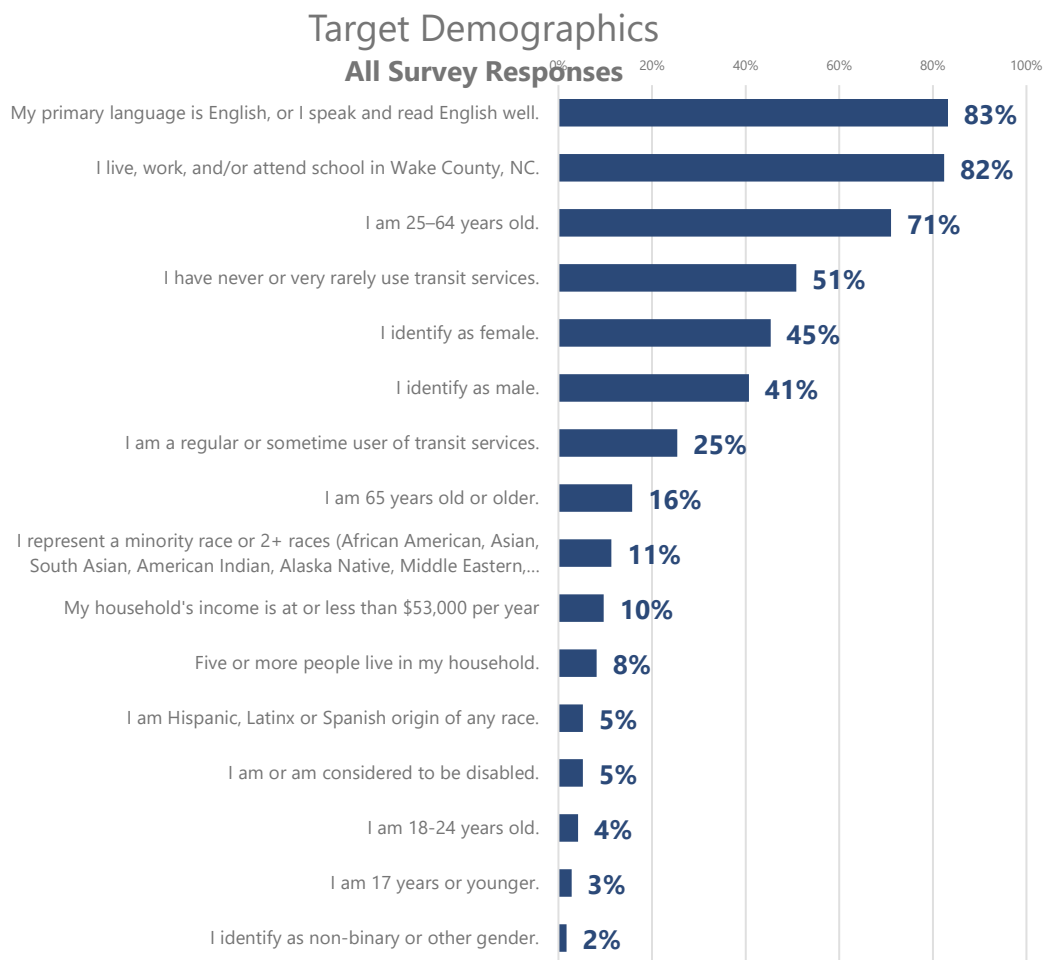
When reviewing the overall sample, regional connections are important to survey respondents. Nearly everyone selected at least one regional connection: commuter rail, connections to Raleigh Cary and RTP and regional rail or bus. The following bullets highlight the summary of all responses received on the survey. The graph below shows how participants allocated \$10 to create their transit future.

- The highest priority investments included:
 - Crosswalks and sidewalks (55%)
 - Bus stop amenities (52%)
 - Connections to regional centers (Raleigh, Cary, and RTP) (36%)
 - Commuter Rail (39%)
- The lowest priority investments included:
 - Bus only lanes (12%)
 - Funding to towns (14%)
 - On-Demand transit (16%)



Key Demographic Statistics:

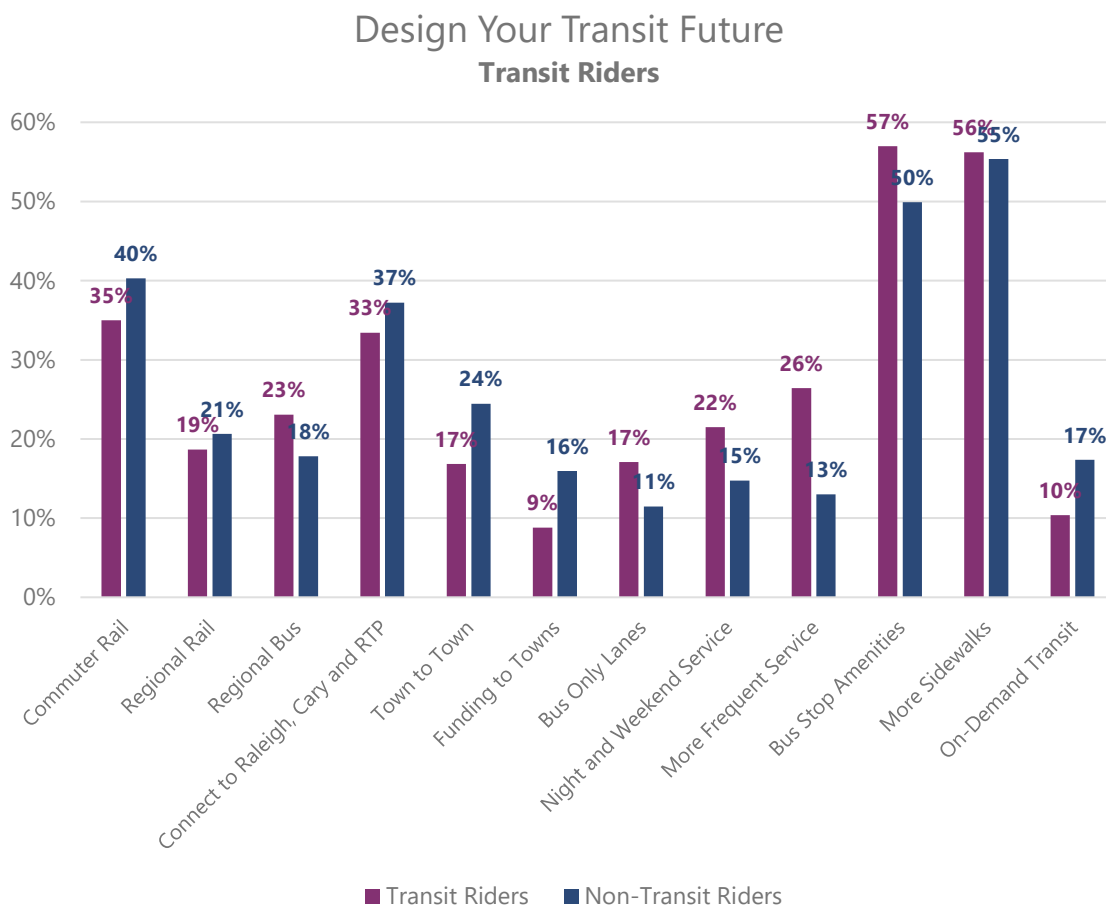
- **25%** are regular or sometimes users of transit services
 - 51% have never or rarely use transit services
- **10%** have incomes at or less than \$53,000 per year
 - 7% live in households with 5 or more people
- **16%** are Hispanic or represent a minority race
- **4%** are aged 18 – 24 years and **16%** are aged 60+ years
- **5%** identified as a person with a disability



Summary of Findings: Transit Riders

To better understand the needs of transit riders, data was disaggregated to parse out responses from transit riders. Overall, out of the 1,302 total survey responses, 386 respondents reported using transit, and they notably different priorities compared to the overall sample.

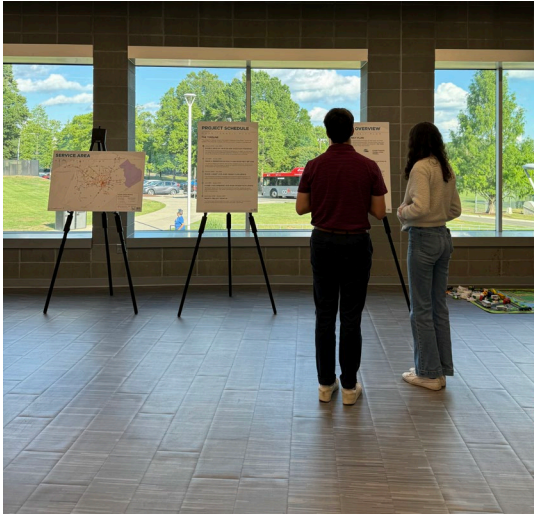
- Transit reliant populations—defined as having at least one of the following characteristics: low income, 5+ households, minority, or Hispanic origin—made up 29% of respondents.
- Generally, transit riders prioritized frequent and off-peak service, improved bus stop amenities, and bus only lanes more than non-transit riders. Transit riders are also slightly less interested in commuter rail and town-to-town connections than non-transit riders.
- Overall, transit riders and transit reliant populations had similar priorities.



3 OPEN HOUSE

The open house was held on May 16, 2024 at the Chavis Community Center. The open house was organized as a drop-in format so participants could stop by between 6:00 pm and 8:00 pm to review exhibits, provide input on priorities, and ask staff questions. The following bullets summarize the feedback received from the open house:

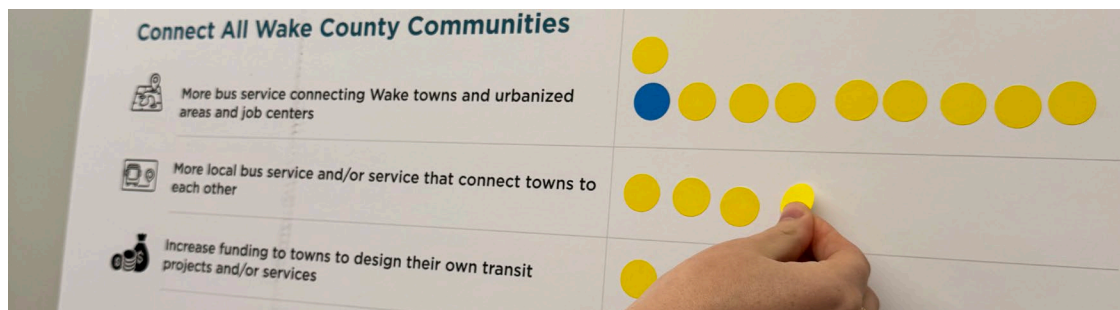
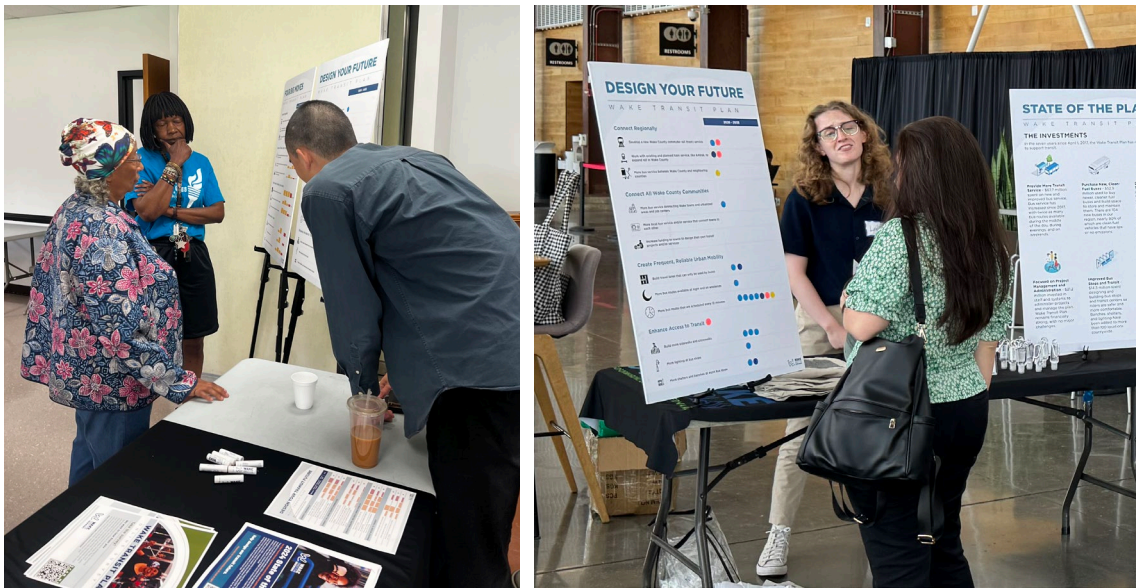
- 11 paper surveys
- 3 comments received
- The top three priorities included:
 - More connections to Wake towns, urbanized areas, and job centers (45%)
 - More town to town bus service (45%)
 - More frequent bus service (45%)



4 POP-UP EVENTS

To supplement the online survey and open house, pop-up events were held around Wake County to meet the community in locations where events were already planned. The intent of the pop-up events was to reach a broad range of community members at targeted locations like transit centers and stops, key activity centers and facilities, and community events to bolster participant and spread information about the Wake Transit Plan.

At each pop-up event, an interactive activity was used to facilitate discussion about transit investments and priorities. A series of exhibits helped supplement discussion similar to the information shared at both the open house and online survey. Participants were encouraged to fill out a printed version of the survey and provide additional input on boards. These pop-up events were staffed by a variety of agency partners including staff from the Town of Apex, Town of Cary, Town of Garner, Town of Morrisville, City of Raleigh, Town of Wendell, Town of Zebulon, GoTriangle, and the consultant team. Over 40 events were held between May 3, 2024 and June 20, 2024.



Participants were asked to allocate portions of a \$10 “budget” to transit improvements (simulating the public-facing survey). The prices listed below are illustrative and reflect an order of magnitude relative to \$10. The following summarizes the results of the activity. The total column indicates the people that selected each category.

Category	Price	Total
<i>Connect regionally</i>		
Develop a new Wake County commuter rail (train service)	\$7	3
Work with existing and planned train service, like Amtrak, to expand rail in Wake County	\$4	5
More bus service between Wake County and neighboring counties	\$3	6
<i>Connect all Wake County communities</i>		
More bus service connecting Wake towns and urbanized areas and job centers	\$2	10
More local bus service and/or service that connects towns to each other	\$2	9
Increase funding to towns to design their own transit projects and/or services	\$3	7
<i>Create frequent, reliable urban mobility</i>		
Build travel lanes that can only be used by buses	\$5	0
More bus routes available at night or on weekends	\$3	10
More bus routes that are scheduled every 15 minutes	\$5	8
<i>Enhance access to transit</i>		
Build more sidewalks and crosswalks	\$2	4
More lighting at bus stops	\$1	14
More shelters and benches at more bus stops	\$1	15
More on-demand transit service, like microtransit, in more places	\$2	0

The following table includes the list of pop-up events held from May 2024 to June 2024.

Event	Location	Date	Staffing
Bike Banaza	510 W Martin St, Raleigh, NC	Friday, May 3, 2024	Raleigh
Peak Fest	Downtown Apex	Saturday, May 4, 2024	Apex
Meet in the Street	350 S White St, Wake Forest, NC	Saturday, May 4, 2024	Wake Tech
NC State	Western Blvd	Thursday, May 9, 2024	GoTriangle
Zebulon Spring Concert Series	1003 N Arendell Ave, Zebulon, NC	Friday, May 10, 2024	Zebulon
Academy Street/Spanish Speaking Festival	316 N. Academy Street, Cary, NC	Saturday, May 11, 2024	Cary
Fuquay-Varina Grower's Market	121 N Main St, Fuquay-Varina, NC	Saturday, May 11, 2024	GoTriangle
Neighborhood Clean-Up	323 Lake Dr, Wendell, NC	Saturday, May 11, 2024	Wendell
Cary Depot	211 N Academy St, Cary, NC 27511	Monday, May 13, 2024	GoTriangle
Public Meeting	505 Martin Luther King Jr Blvd, Raleigh NC	Thursday, May 16, 2024	Consultant Team
District Drive Park and Ride	Raleigh, NC 27607	Thursday, May 16, 2024	GoTriangle
Bike to Work Day	Various Locations	Thursday, May 16, 2024	Raleigh
RTC	901 Slater Road, Durham NC 27703	Friday, May 17, 2024	GoTriangle
Asian American Festival	1030 Richardson Dr, Raleigh, NC	Saturday, May 18, 2024	CAMPO
Garner Night Market	120 East Main Street, Garner, NC	Saturday, May 18, 2024	Consultant Team
Morrisville Springfest	228 Aviation Pkwy, Morrisville NC	Saturday, May 18, 2024	Morrisville + GoTriangle
Zebulon Community Center	301 S Arendell Ave, Zebulon, NC	Monday, May 20, 2024	Consultant Team
South (Wake Tech Campus)	9101 Fayetteville Road, Raleigh, NC	Monday, May 20, 2024	Wake Tech
Northern Wake Senior Center	235 E Holding Ave, Wake Forest, NC 27587	Tuesday, May 21, 2024	Consultant Team
Cary Depot	211 N Academy St, Cary, NC 27511	Wednesday, May 22, 2024	Consultant Team
RTC	901 Slater Road, Durham NC 27703	Wednesday, May 22, 2024	GoTriangle

Event	Location	Date	Staffing
GoRaleigh Station	214 S Blount St, Raleigh, NC 27601	Thursday, May 23, 2024	Consultant Team
NC State	Hillsborough at Brooks	Thursday, May 23, 2024	GoTriangle
Parks Job Fair	514 Method Rd Raleigh, NC 27607	Wednesday, May 29, 2024	Raleigh
Raleigh Downtown Mobility Study	510 W Martin St, Raleigh, NC 20703	Wednesday, May 29, 2024	Consultant Team
Moore Square	201 S Blount Street. Raleigh, NC 27601	Thursday, May 30, 2024	GoTriangle
ZWX Bus Ride		Thursday, May 30, 2024	GoTriangle
Cary Depot	211 N Academy St, Cary, NC 27511	Tuesday, June 4, 2024	GoTriangle
North (Wake Tech Campus)	931 Durham Road Wake Forest, NC 27587	Tuesday, June 4, 2024	Wake Tech
RTC	901 Slater Road, Durham NC 27703	Thursday, June 6, 2024	GoTriangle
Moore Square	201 S Blount Street. Raleigh, NC 27601	Friday, June 7, 2024	GoTriangle
Local Government Career Expo	1101 Gorman St, Raleigh, NC	Saturday, June 8, 2024	Garner
Bike Rodeo	200 Town Hall Dr, Morrisville, NC	Saturday, June 8, 2024	Morrisville
Perry Health Science (Wake Tech Campus)	2901 Holston Lane Raleigh, NC 27610	Monday, June 10, 2024	Wake Tech
RTC	901 Slater Road, Durham NC 27703	Wednesday, June 12, 2024	GoTriangle
Zebulon Juneteenth Kick Off Concert	1003 N Arendell Ave, Zebulon, NC	Friday, June 14, 2024	Consultant Team
Knightdale African American Festival	810 N First Ave, Knightdale, NC	Saturday, June 15, 2024	GoTriangle
Bike Repair Event		Saturday, June 15, 2024	Raleigh
Rolesville Juneteenth	425 Nature Park Dr, Wake Forest, NC 27587	Wednesday, June 19, 2024	Rolesville + GoTriangle
Holly Springs Community Library	300 W Ballentine St, Holly Springs, NC	Thursday, June 20, 2024	GoTriangle
NC State	Hillsborough St	Thursday, June 20, 2024	GoTriangle

5 STAKEHOLDER ADVISORY COMMITTEE

A Stakeholder Advisory Committee (SAC) was held on May 22, 2024, at the Chavis Community Center in downtown Raleigh. At the meeting, there were 49 participants representing communities across Wake County. The representatives of Stakeholder Advisory Committee who were invited to attend included:

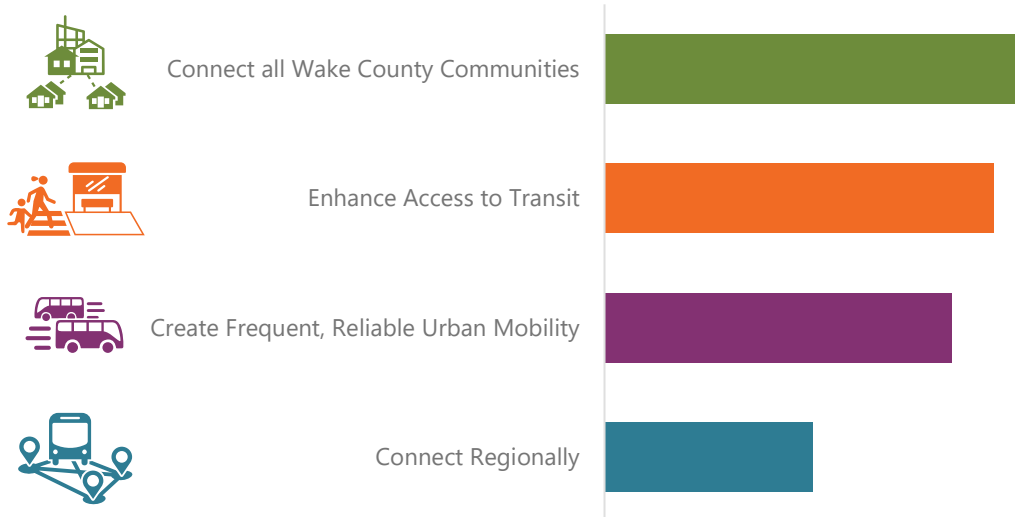
- Apex
- CAMPO
- Cary
- Central Pines Regional Council
- Downtown Raleigh Alliance (DRA)
- Federal Highway Administration
- Fuquay-Varina
- Garner
- GoRaleigh
- GoTriangle
- GoWake Access Transportation
- Holly Springs
- ITRE
- Knightdale
- Morrisville
- NCDOT Division 5
- NCDOT Rail
- NCDOT Transportation Planning Division (TPD)
- NC State University
- Oaks and Spokes
- Raleigh
- Regional Transportation Alliance (RTA)
- Rolesville
- Shaw University
- Wake County
- Wake Forest
- Wake Technical Community College
- WakeUp Wake County
- Wendell
- Zebulon



The purpose of the Stakeholder Advisory Committee meeting was to:

- Review the State of the Wake Transit Plan
- Gather input on Wake Transit Plan priorities
- Share information on up-coming engagement events

Using an interactive online, live polling software called Mentimeter, participants were encouraged to share their agency's perspective on where the Wake Transit Plan has made the most progress.



Stakeholders were also asked what they felt was the biggest challenge facing the Wake Transit Plan. The results of the open-ended responses are summarized below:

- Funding
- Ridership
- Time
- Coordinating with land use/density

Stakeholders were placed into small groups with three-to-five people and asked to allocate portions of a \$10 “budget” to transit improvements (simulating the public-facing survey). The prices listed below are illustrative and reflect an order of magnitude relative to \$10. The following summarizes the results of the activity. The total column indicates the number of groups that selected each category.

Category	Price	Total
<i>Connect regionally</i>		
Develop a new Wake County commuter rail (train service)	\$7	0
Work with existing and planned train service, like Amtrak, to expand rail in Wake County	\$4	1.5
More bus service between Wake County and neighboring counties	\$3	2
<i>Connect all Wake County communities</i>		
More bus service connecting Wake towns and urbanized areas and job centers	\$2	5
More local bus service and/or service that connects towns to each other	\$2	5
Increase funding to towns to design their own transit projects and/or services	\$3	2
<i>Create frequent, reliable urban mobility</i>		
Build travel lanes that can only be used by buses	\$5	4
More bus routes available at night or on weekends	\$3	3
More bus routes that are scheduled every 15 minutes	\$5	4.5
<i>Enhance access to transit</i>		
Build more sidewalks and crosswalks	\$2	2
More lighting at bus stops	\$1	0
More shelters and benches at more bus stops	\$1	5
More on-demand transit service, like microtransit, in more places	\$2	6

The investments selected most often by the stakeholder small groups are listed below:

- More on-demand transit service, like microtransit, in more places (6)
- More bus service connecting Wake towns and urbanized areas and job centers (5)
- More local bus service and/or service that connects towns to each other (5)
- More shelters and benches at more bus tops (5)



6 LESSONS LEARNED

- While advertised public meetings, pop-up events, and engaging key stakeholders are important pieces of a well-rounded outreach effort, social media was found to be one of the most effective tools for the Wake Transit team to get the word out about the survey and the Wake Transit Plan in general. In the second half of the engagement period, survey responses significantly increased with targeted ads, survey pushes on agency rider apps, as well as posts on various platforms with links to the survey.
- Pop-up events proved to be an effective in-person way of reaching target demographic groups to better ensure diverse demographic, socioeconomic, and geographic representation. Events held at the transit centers and senior centers produced some of the highest response and engagement rates.
- Surveys could be reviewed and tested by trusted Wake Transit stakeholders and partners prior to launch, to better ensure questions are worded clearly and that the message and intent of the survey is clear. For example, based on feedback received from stakeholders in the second half of the engagement period, the pricing of bus-only lanes was adjusted in the survey to better align with the pricing difference between rail and bus rapid transit options. The order of demographic questions versus survey questions was also adjusted to increase the response rate of both sets of questions.
- In future phases of outreach:
 - The survey will be formatted in a paper version (to include demographic questions) in addition to being available online.
 - Demographic questions will be asked after the completion of the online survey.
 - Surveys will be reviewed and tested by a select group of key stakeholders and/or Wake Transit partners before launch.



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Overview



1

Overview

The Wake Transit Plan Update will determine the strategic direction and priorities for the Wake Transit Plan for the 10-year planning horizon between 2026 and 2035. While the strategic plan will be influenced by input from stakeholders and members of the public, it will also be grounded in data, including data based on experience with existing Wake Transit Plan projects, but also the market and need for transit in Wake County.

One of the first steps involved with understanding the market and need for transit is to prepare an analysis of transit demand in the region. The Wake Transit Plan Market Analysis builds off the Wake Bus Plan, which was completed in 2022 and takes a deeper dive into the growth and development of the suburban towns in Wake County.

Findings from the market analysis will help determine where to focus bus-related transit investments throughout Wake County, but especially in the fast-growing suburban communities. The market analysis inventories where current and potential transit riders live, work, and travel to, and how that compares to where there is currently transit access. This includes looking at density, travel patterns, and other factors throughout the region, and where different types of transit would be supported.

APPROACH

To understand the demand and need for public transportation services in Wake County, the project team analyzed densities, socioeconomic factors, travel patterns, and changes over time:

- Existing population density and socioeconomic characteristics related to transit use
- Employment density, including an analysis of the location of employment types that attract additional trips.

- Composite transit demand, combining the adjusted population and employment densities, which shows the potential transit service that may be supported throughout the region.
- Current transit accessibility to jobs, and how that overlaps with demand to identify areas of high need.
- The locations of major activity centers in the region that will attract trips beyond the number of jobs.
- Population and employment density changes from 2016 to 2020 and from 2020 to 2040.
- Projections of population density, employment density, and transit demand for 2040.

KEY DATA SOURCES

Data for this market analysis comes primarily from the following sources:

- CAMPO and DCHC MPO, from 2050 Metropolitan Transportation Plan (MTP) efforts
- US Census American Community Survey 2019 5-year estimates. Census data was not updated to 2020 because this market analysis uses data analyzed for the Wake Bus Plan, which was completed in 2022.
- Most maps in this report show data at the Transportation Analysis Zone (TAZ) level.
- More information on the data and analysis used in the Community Profile is available in Appendix A.

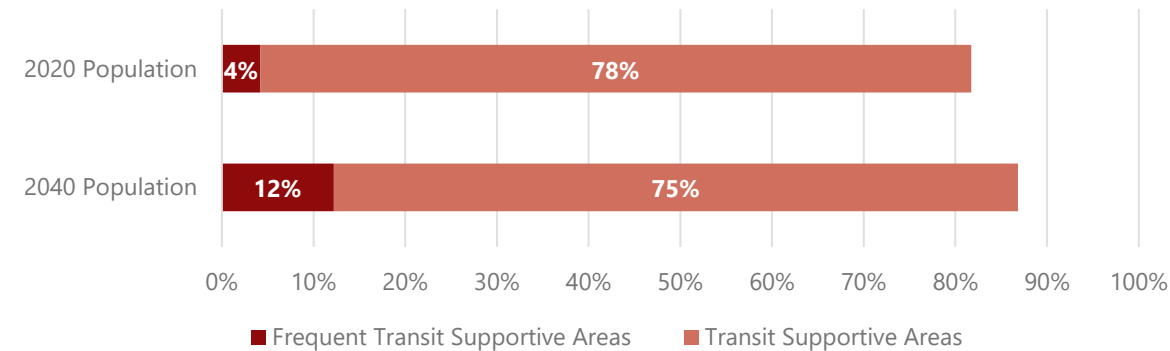
Market Analysis: Key Findings

The market analysis shows:

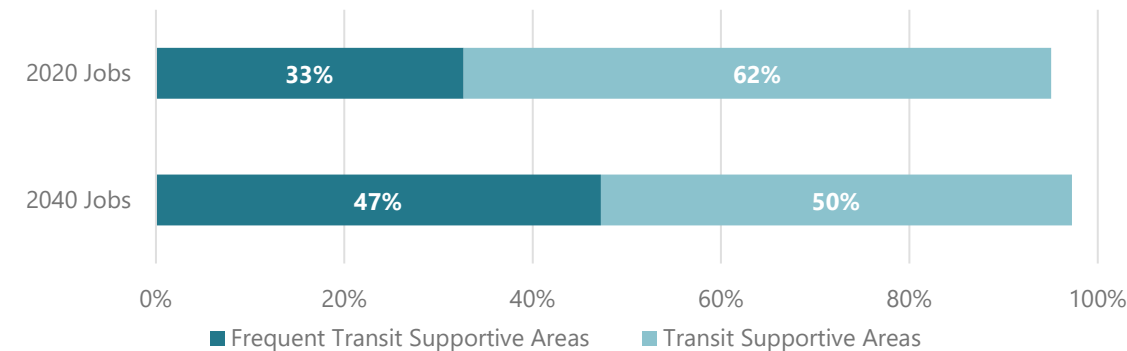
- Population in the region is generally spread out in low density, suburban areas. The highest density concentrations are in the downtown areas of Raleigh and Cary.
- Transit need based on socioeconomic factors is strongest in the City of Raleigh, especially neighborhoods south and east of downtown.
- Jobs are concentrated in urban cores, Research Triangle Park (RTP), and along major roadways. Service and retail jobs are more concentrated in urban cores, while office jobs are in RTP.
- Transit demand is high or very high along the Raleigh-Cary-RTP-Durham Corridor, Capital Boulevard, and neighborhoods on the periphery of downtown Durham and downtown Raleigh, and northern Raleigh between I-440 and I-540, as seen in the following map.
- The region is growing fast in terms of both population and jobs. Growth is happening throughout the region, with the greatest density increase in Raleigh and Cary.
- Transit demand in 2040 parallels the current level, but with increased demand throughout the whole region, as seen in the following map.

In 2020, about 42% of the land area in Wake County supported transit service, with about 1% supporting frequent transit service. By 2040, 40% of the land area of Wake County will be supportive of fixed-route transit or microtransit and this area will contain 86% of all residents and 97% of all jobs in the area. A much smaller subset of the county will be supportive of frequent transit service, but these areas will contain half of all jobs. Maps shown on the following page show the distribution of transit supportive areas in Wake County.

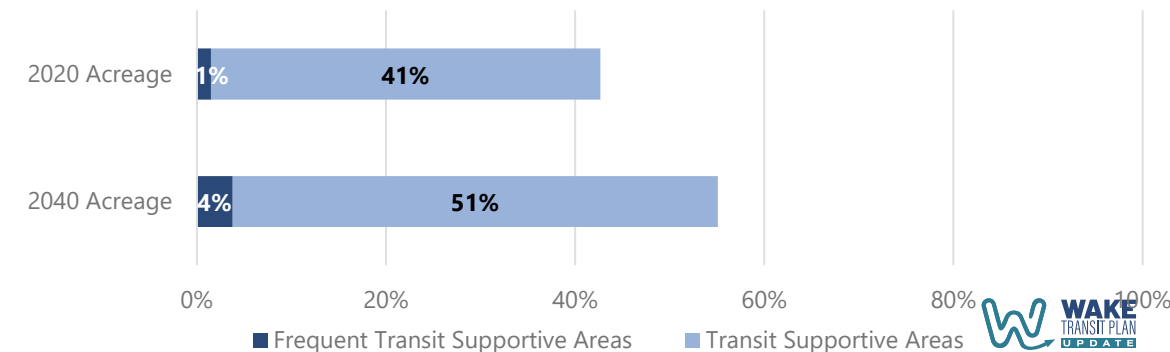
Population in Transit Supportive Areas



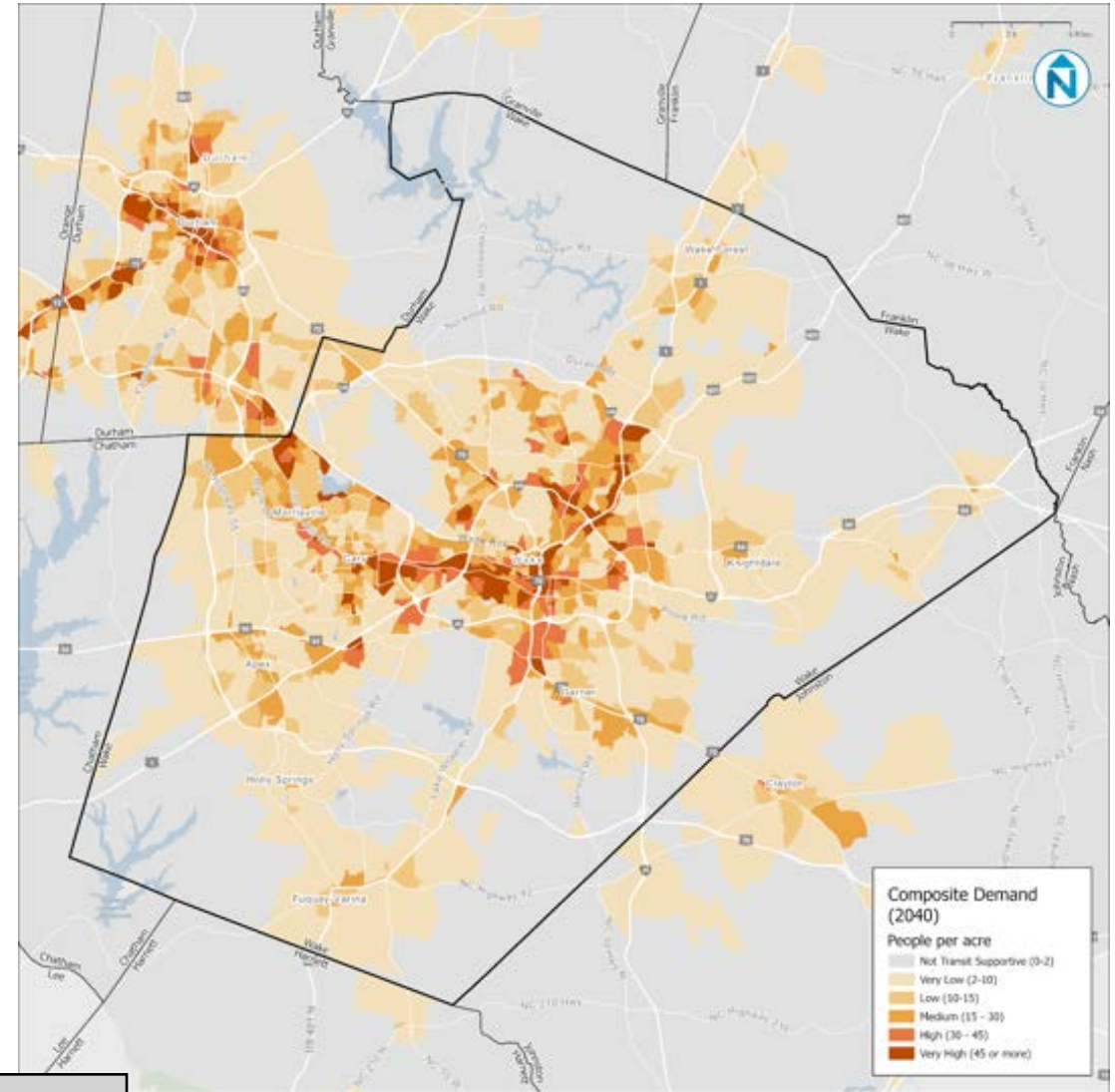
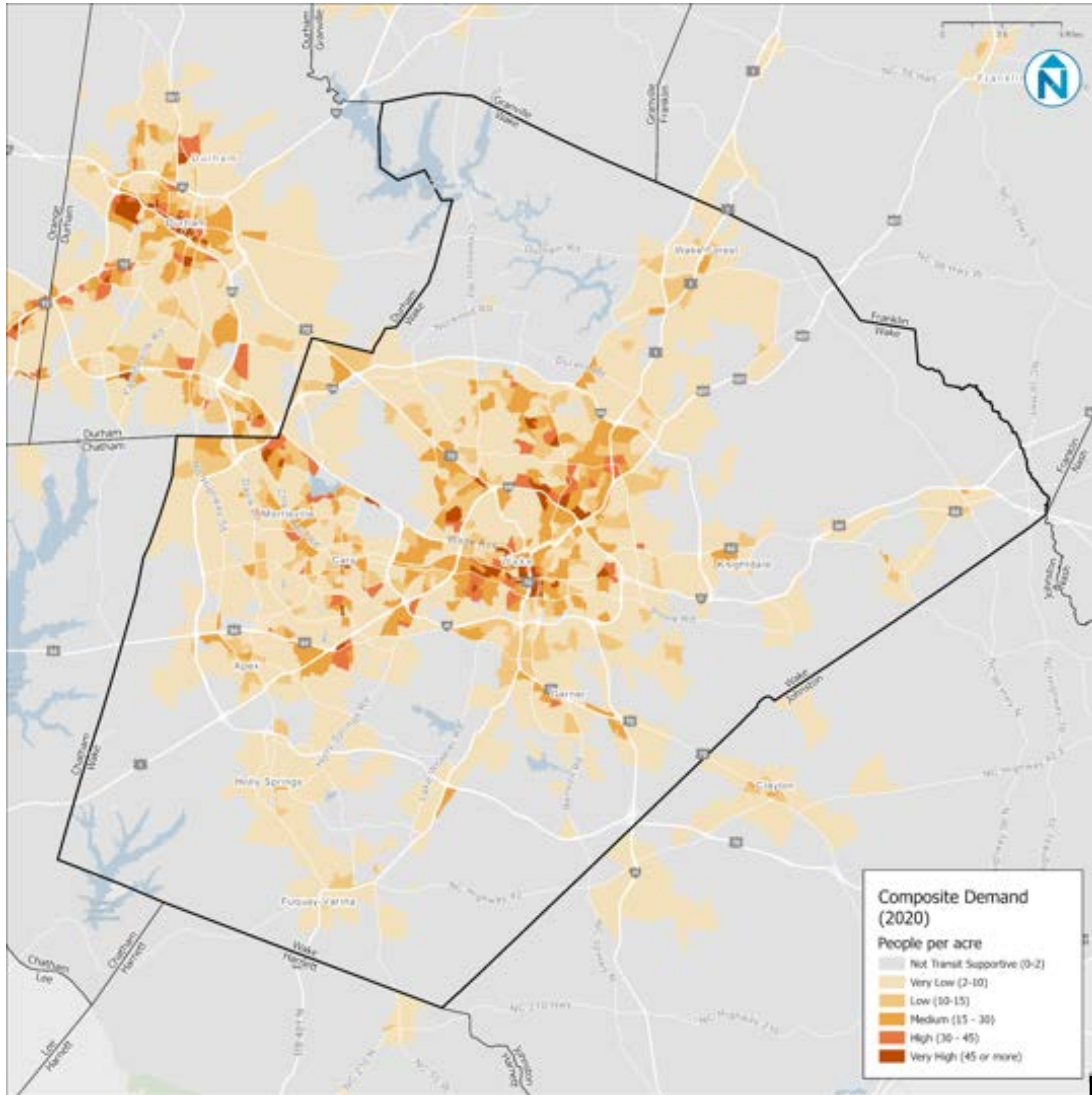
Jobs in Transit Supportive Areas



Transit Supportive Land Area in Wake County



Wake County Composite Demand: 2020 and 2040



Key Findings & Initial Recommendations

Wake County is growing rapidly and while growth is not distributed equally across the region, all communities in Wake County are adding people and jobs at a fast pace, which is changing the need and opportunity for transit services. Findings from an analysis of the ten Wake County towns (not including Raleigh or Cary) shows that the need and opportunity for transit service is changing dramatically.

- 1. Suburban Towns in Wake County are growing at an unprecedented rate**, with many communities experiencing population growth rates of 30% to 50% since the Wake Transit Plan was approved in 2016. In many cases, growth is on top of a small baseline population, but the pace of growth suggests communities are changing.
- 2. Towns in Wake County are actively planning for growth** with most communities recently completing comprehensive transportation plans, strategic plans and/or transit plans. In almost all cases, these plans are calling for investments in multi-modal infrastructure, including sidewalks and shared use paths.
- 3. All but two Wake County communities have participated in the Community Funding Area program.** Towns are using grants to plan, design and operate local transit services as well as investments like sidewalks or bus stop improvements.
- Data on recent and planned development shows that **most new projects are single use development largely on the outskirts of downtown centers and often near highways.** Most developments in Wake County towns do not follow best practices for creating walkable, compact communities. Suburban style master planned developments are difficult to serve with transit.

Given these findings, some initial recommendations arise around the approach and service type appropriate to serving these growing communities by transit.

- Potential for sub-regional solutions.** Wake County is a geographically large region covering 857 square miles. Unique characteristics within Wake County suggests potential for different solutions in different parts of the County:
 - Apex is a “sub-regional hub” in southwest Wake County.** There are over 100,000 people in Apex and Holly Springs, plus another 35,000 in Fuquay-Varina. Apex already functions as an economic activity center with regional transportation access. Creating a mini-transit hub in Apex that is connected to neighboring towns with fast, frequent services to regional destinations is a potential future model.
 - Northwest Wake County also has nearly 100,000 people** but is more rural, spread out over a larger area, and further from Raleigh and regional employment centers. Emerging solutions in this part of Wake County include on-demand service models that connect to Wake Forest as the sub-regional hub.
 - Garner** has more in common with the City of Raleigh than other parts of Wake County, and the planned BRT stations will change transit access. Local transit solutions may focus on first mile/last mile connections and more transit-oriented style development as compared with other parts of Wake County.
- Development patterns suggest on-demand microtransit style service is likely the most effective solution for local mobility.** On-demand microtransit services work in low density, suburban style development by picking up and dropping off riders at or close to their destination. The services can attract riders by providing a viable option, but the cost of microtransit on a per trip basis is high, with experience showing trips can cost between \$30 and \$50 per ride.
 - While microtransit is an effective strategy in the short term, if communities continue to add population by building low density residential development, the cost to maintain microtransit service levels may become prohibitive. Providing on-demand service to a more distributed population will require increasing levels of investment or slower response times/reduced levels of service.*

Market Analysis



2

Understanding Transit and Density

A main factor in determining transit demand is density: where people live and work, and how those areas are concentrated. Generally, transit is accessible to people within one-quarter to one-half mile of a bus stop assuming sidewalks, crosswalks and other pedestrian infrastructure is available, and people feel safe and comfortable walking. ,
























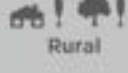



The relationship between transit services and density is highlighted in the figure to the right. This data shows how more densely designed communities can support higher levels of transit service. For example, to support service more frequent than every 30 minutes, there generally must be at least 15 residents per acre or more than 10 jobs per acre, or a combination thereof.

Densities broadly indicate demand across contiguous and nearby areas. Clusters of density throughout an area or along a corridor are strong indicators of demand, while a dense but small block in an isolated area would not produce sufficient demand in and by itself. Demand can also accumulate along corridors: for example, if there are many blocks along a corridor that each have the density to support 30-minute service, the entire corridor may be able to produce enough demand for 15-minute or better service.

Additionally, the street environment affects people’s access to transit. Transit services are most effective when paired with sufficient and well-lit sidewalks and crosswalks that allow people to safely reach bus stops. Even in the places with the highest density, people may not use transit services if stops are not in a walkable environment.

Lastly, it is important to recognize that areas with minimal population and employment density may not provide an environment where fixed-route transit can be successful. In these instances, communities in Wake County could explore alternative types of transportation services, such as microtransit, shuttles, and other shared mobility services.

Land Use and Transit Service Levels

LAND USE			TRANSIT	
Land Use Type	Residents per Acre	Jobs per Acre	Appropriate Types of Transit	Frequency of Service
 Downtowns & High Density Corridors	>45	>25	   	 10 mins or better
 Urban Mixed-Use	30-45	15-25	  	 10-15 minutes
 Neighborhood & Suburban Mixed-Use	15-30	10-15		 15-30 minutes
 Mixed Neighborhoods	10-15	5-10	 	 30-60 minutes
 Low Density	2-10	2-5	  	 60 mins or less or On Demand
 Rural	<2	<2	 	 On Demand

Source: Thresholds based on research by Nelson\Nygaard

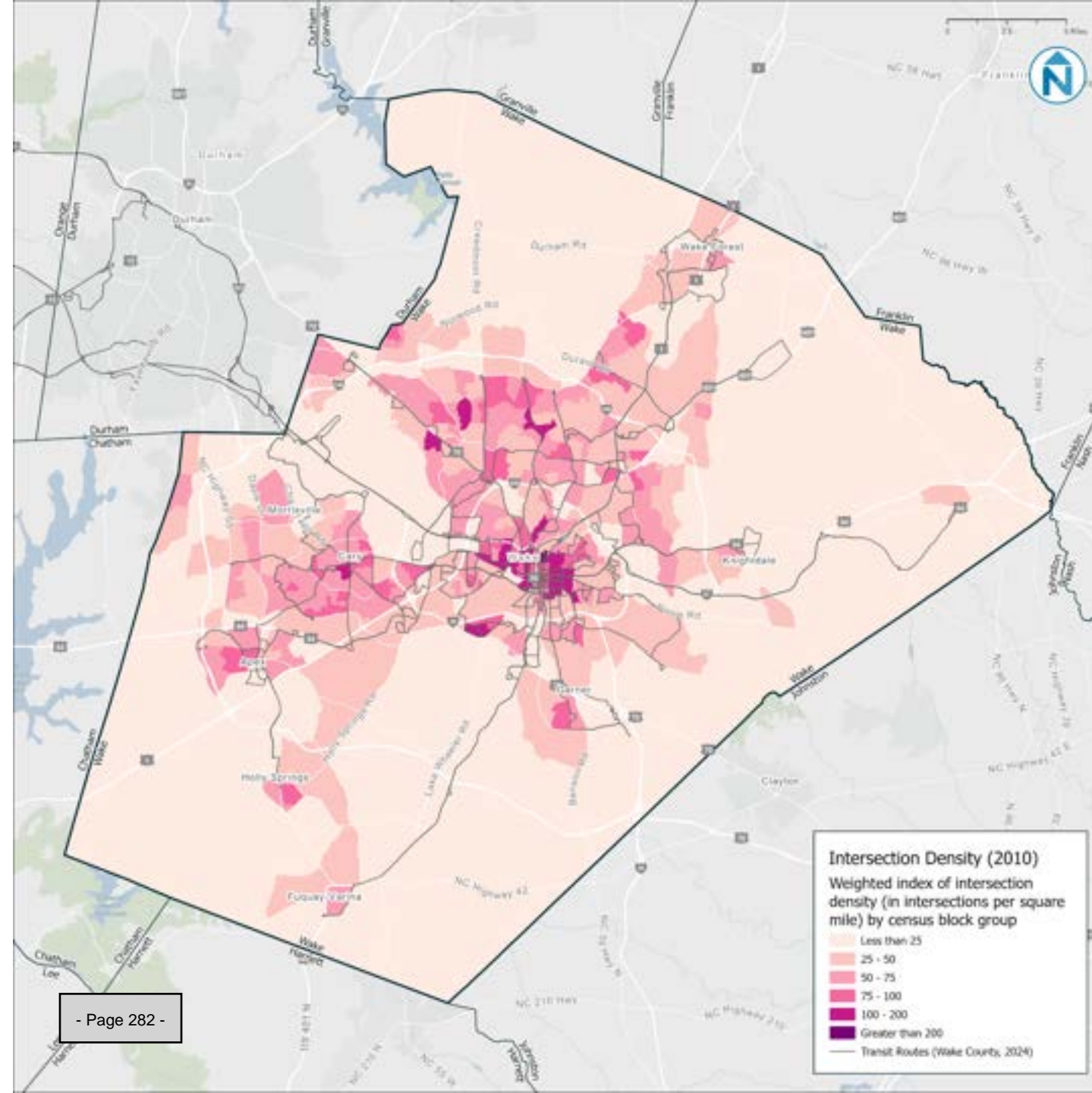
Intersection Density & Street Environment

The pedestrian environment is a major consideration for transit usage since most transit riders walk between their origin or destination and their bus stop. As a result, creating a safe, comfortable, walkable environment is an important part of encouraging transit ridership. Additionally, buses run faster and more reliably when it can stop on a major street rather than weave in and out of smaller streets, developments or parking lots, which means ideally destinations will be within close walking distance to the bus stop. Factors that affect walkability and transit ridership include, but are not limited to:

- Sidewalks, crosswalks, and lighting
- Proximity to diverse sets of housing, services, offices, and other employment sites
- Intersection density, or the number of intersections within a defined area
- Transit availability and parking prices

Due to the countywide scope of this study, the project team used intersection density as a proxy for walkability. Intersection density means there are smaller blocks, which typically mean a more walkable environment.

The following map shows a relative index of intersection density from the EPA's 2010 Walkability Index dataset. Downtown Raleigh, parts of northern Raleigh, and parts of Cary have the highest intersection density and are currently relatively well served by transit services. Most other areas of the county have low intersection density, and thus have pedestrian environments that may be difficult to serve via transit.



Analysis Components

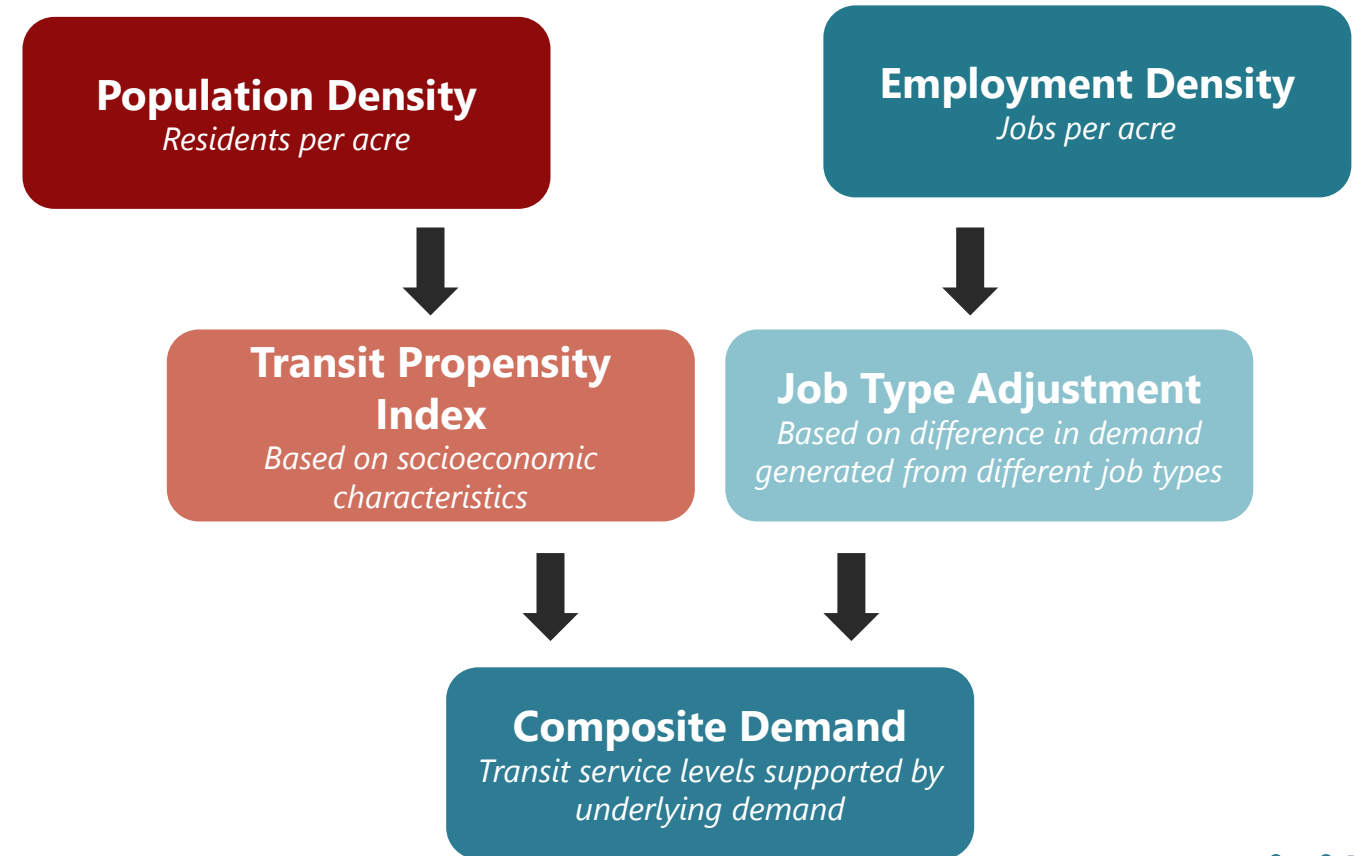
While total population and employment density are crucial to understanding transit demand, analyzing who is taking transit and what types of jobs are in an area allows for a more comprehensive look at the level of service needed. A **Transit Demand Analysis** considers the following factors:

- Population Density, in residents per acre
- Socioeconomic Characteristics, combined into a Transit Propensity Index
- Employment Density, in jobs per acre
- Types of Jobs, to determine a Job Type Adjustment

The analysis results in a **Composite Demand** score for each TAZ by combining population density adjusted by the Transit Propensity Index and employment density adjusted by job type. Composite Demand can be used to identify appropriate transit service levels supported by the underlying demand.

The following sections detail the steps and results of the Transit Demand Analysis.

Transit Demand Analysis Components

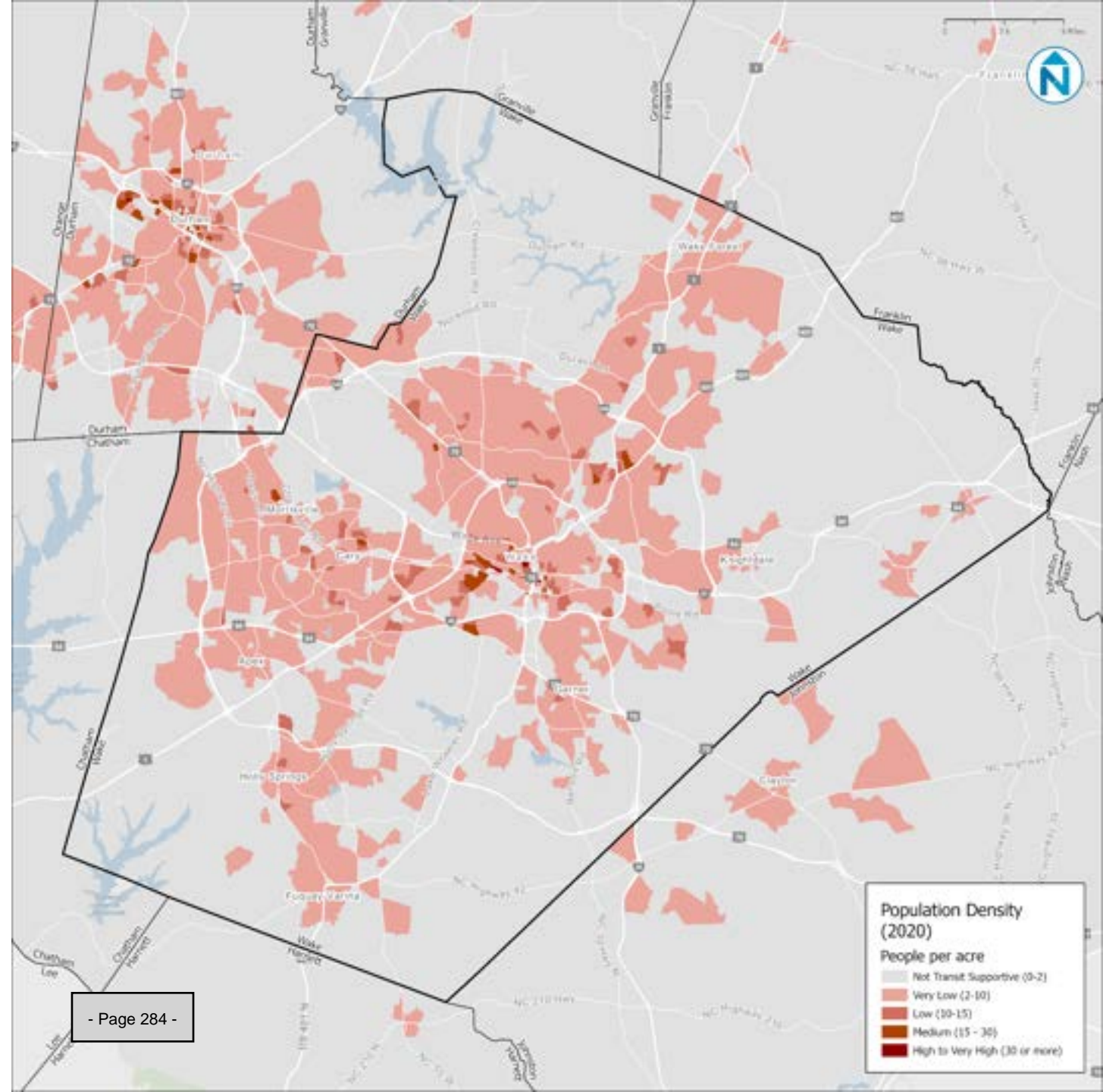


Population Density (2020)

Population density is an important indicator for transit demand, since effective transit systems require people living within walking distance to stops and stations. Additionally, denser areas tend to be more walkable and less automobile-oriented, with limited access to parking and less reason to own a private automobile.

As of 2020, Wake County overall has low population density. The following areas have relatively greater concentrations of residents:

- Downtown Raleigh
- Parts of northern Raleigh
- Near the North Carolina State University Campus
- Parts of Cary



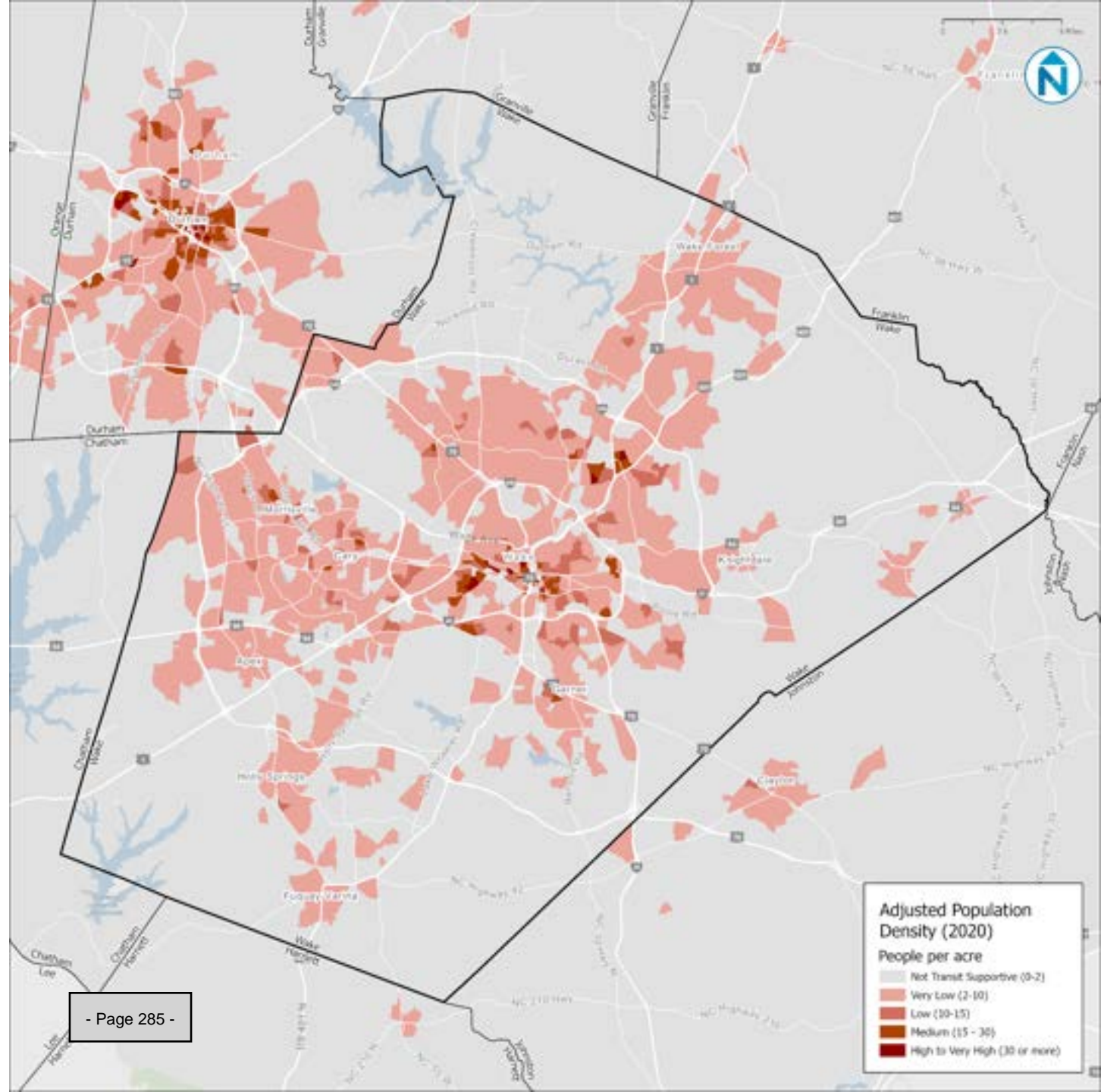
Population Density Adjusted by Transit Propensity Index (2020)

To capture a more nuanced picture of population-based transit demand, the project team adjusted the population density of each TAZ by its transit propensity factor (see Appendix A for more explanation).

When considering both population density and transit propensity, the areas with the greatest adjusted population density include:

- Downtown Raleigh
- Raleigh neighborhoods to the south and northeast of downtown
- Pockets in Garner, Cary and Morrisville

Adjusting the population density toward groups that generally use and need to use transit often intensifies transit demand in urban areas and diminishes demand in rural areas. As the map shows, outlying areas in the region show lower support for transit when socioeconomic factors are included.

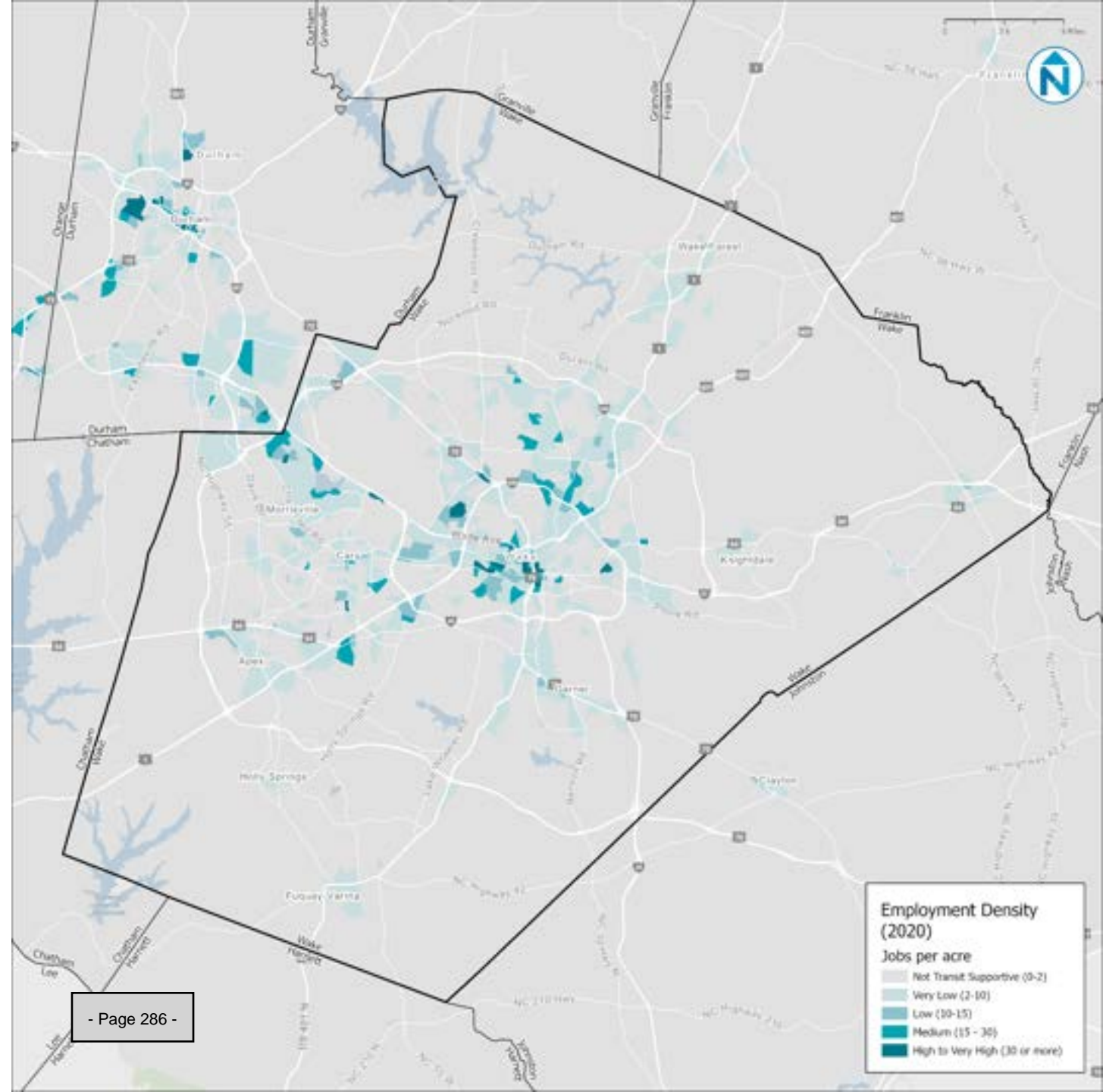


Employment Density (2020)

Like population density, employment density provides a strong indication of transit demand by people traveling to work, as well as to the services that these jobs provide. Analyzing employment density shows both the transit demand generated by the employee traveling to the job and by any customers, clients, or visitors to the job sites.

Jobs are concentrated in urban cores, large office parks, and major corridors in the region. The places in Wake County where employment density is highest include:

- Research Triangle Park (RTP)
- Downtown Raleigh and North Carolina State University
- City of Raleigh north of I-440
- Parts of Morrisville, Cary, and Apex



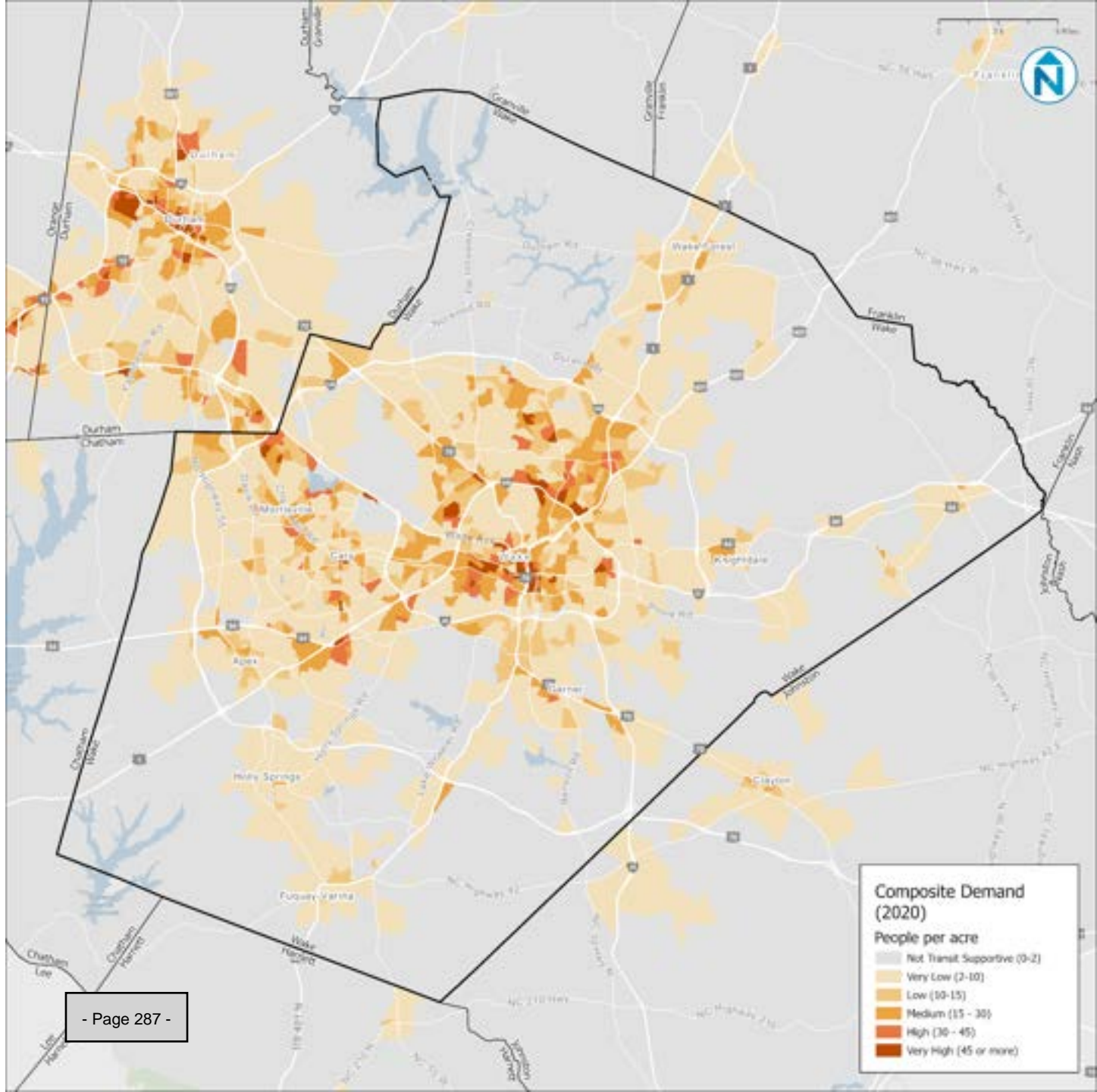
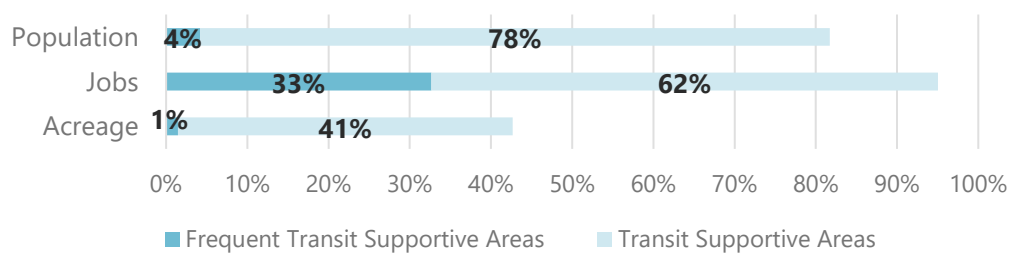
Composite Demand (2020)

The study team combined population and employment density together with the demographic and job type adjustments to create a Composite Demand index. This analysis indicates where demand for transit is the greatest and where to focus transit investments. The map shows areas with the greatest demand in 2020 include:

- Downtown Raleigh, the area south of Wade Avenue, including North Carolina State University.
- North Raleigh, with the highest demand concentrated around the I-440 corridor, especially north of the beltline.
- The corridors connecting Cary and Research Triangle Park as well as the corridor between Raleigh and Apex, especially the area around Kildaire Farm Road.

In 2020, approximately 40% of the land area in Wake County was supportive of fixed-route transit and microtransit services based on Composite Demand analysis, with 1% of the land area supportive of frequent transit service. However, over 80% of residents and 95% of jobs are in these transit supportive areas.

Population, Jobs, and Acreage of Transit Supportive Areas in Wake County (2020)



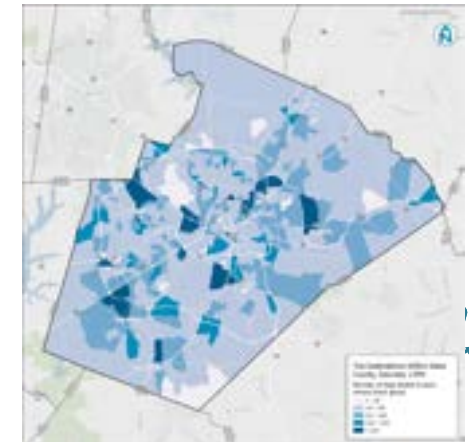
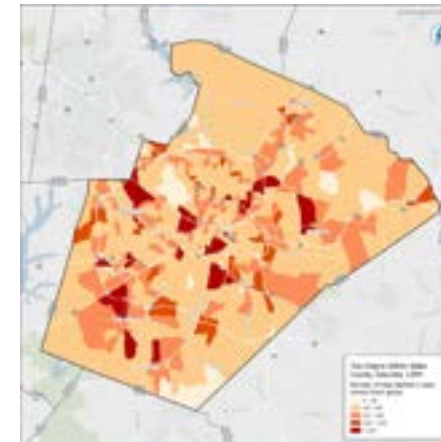
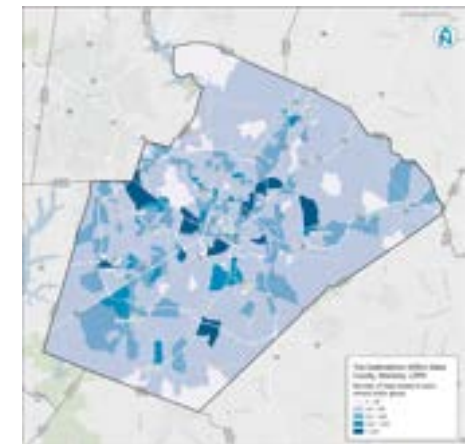
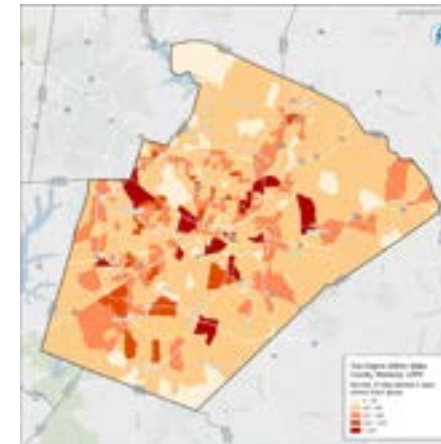
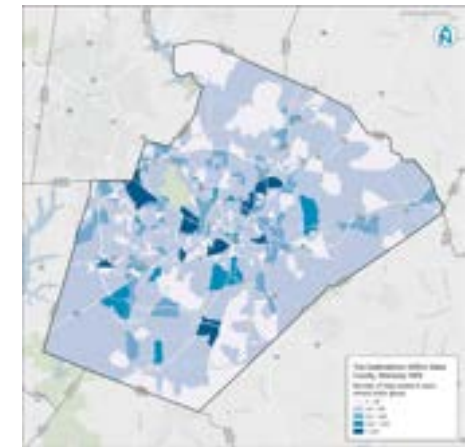
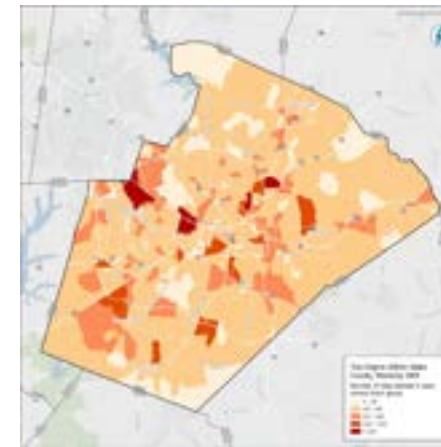
Travel Patterns

Another important part of the transit market analysis is the overall travel patterns. Nelson\Nygaard used Locational Based Service (LBS) data from Replica. Looking at all travel, separate from trips made on transit, reveals the main trip patterns for all travelers. If transit services can provide similar connections, it will serve the largest part of the market.

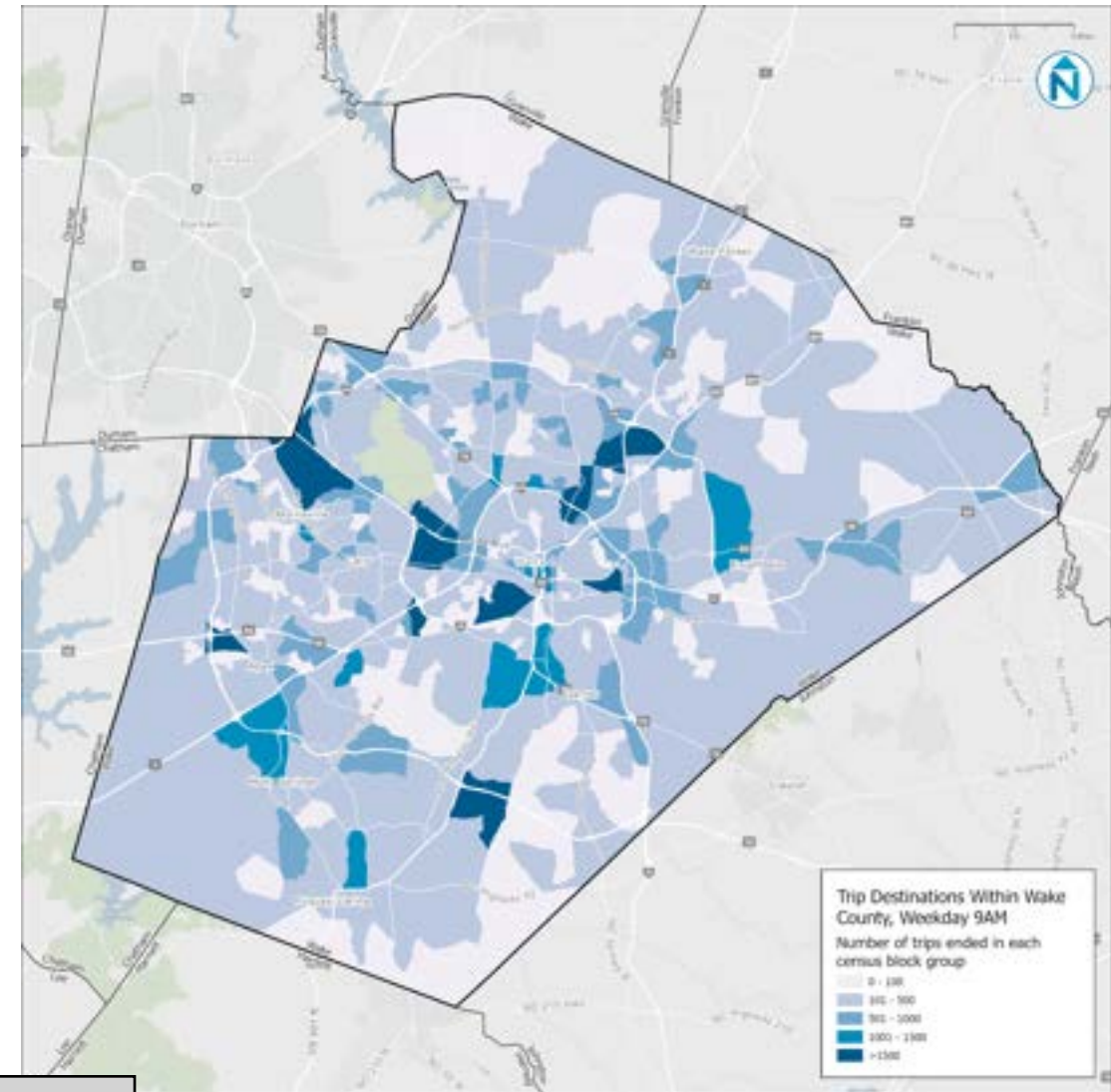
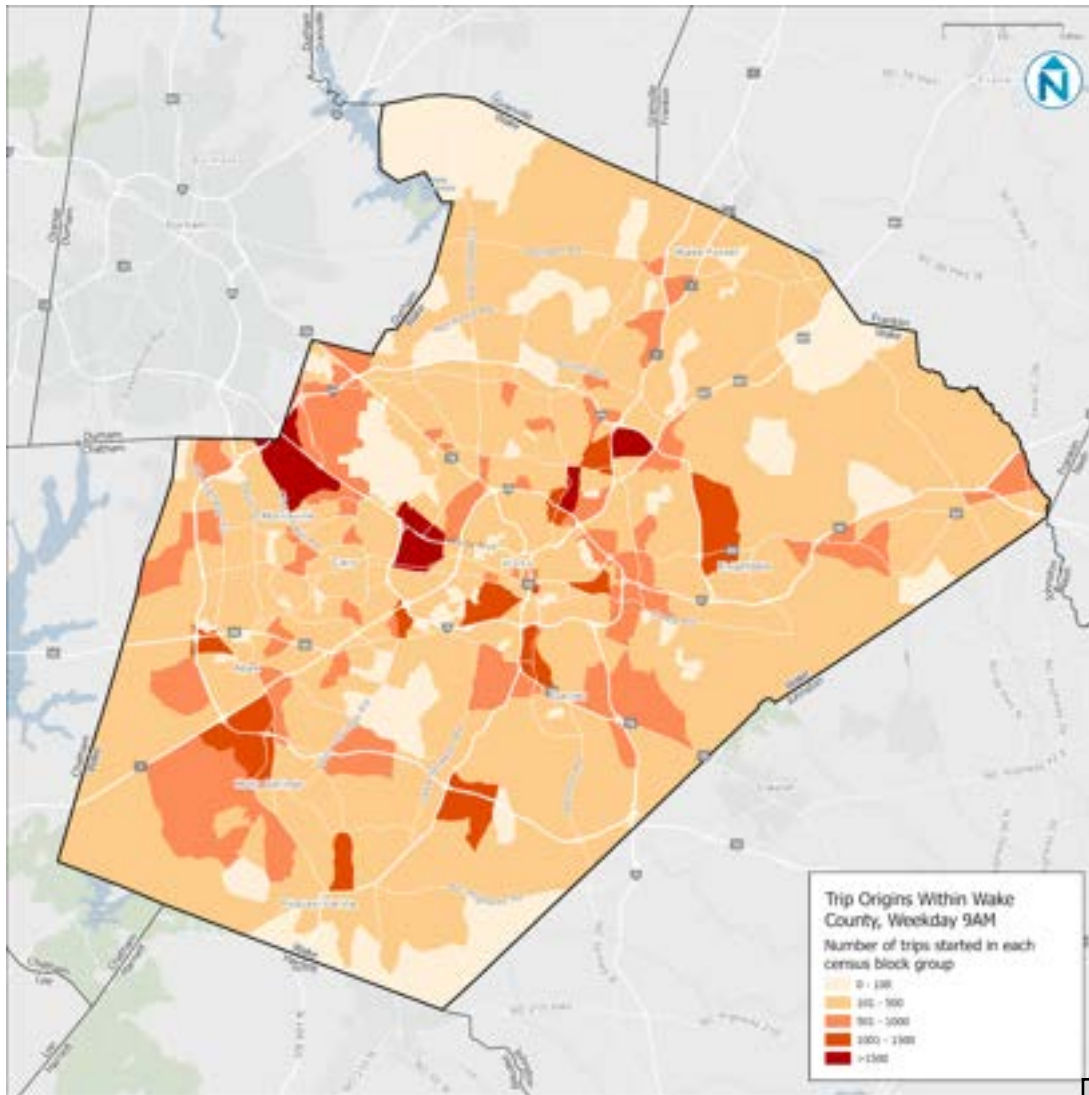
Replica data is simulated from cell phone records that track where and when people travel; the data can also estimate trip purposes. Nelson\Nygaard used Replica data collected during the Fall of 2023 to examine travel patterns for three time periods: weekday mornings (9 AM to 10 AM), weekday midday (12 PM to 1 PM) and Saturday midday (12 PM to 1 PM). These three time points provide an overview of traditional commute periods (weekday mornings), other weekday travel (midday trips) and weekend trips. The maps are shown as thumbnails here; larger maps are shown on the following pages.

Spatially, the data suggest travel demand is similar for all time points. There is a concentration of trips in North Raleigh, the area around Wade Avenue in Raleigh, Knightdale, Southeast Raleigh, Apex and Holly Springs. During the midday and on Saturdays, travel patterns are more strongly clustered around key corridors, like the U.S. 1 corridor north of Raleigh and along the I-40 corridor between Raleigh and Durham County.

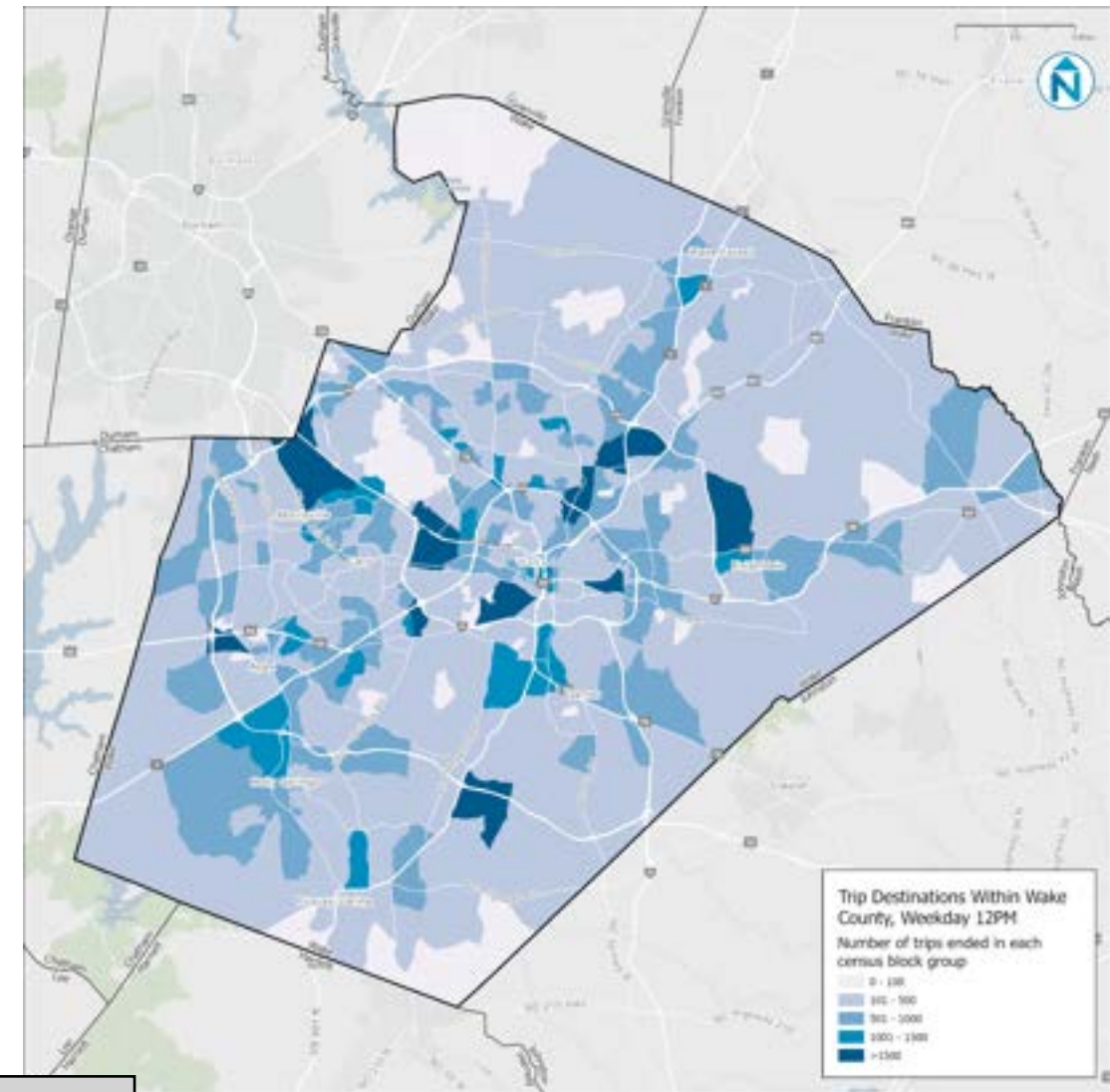
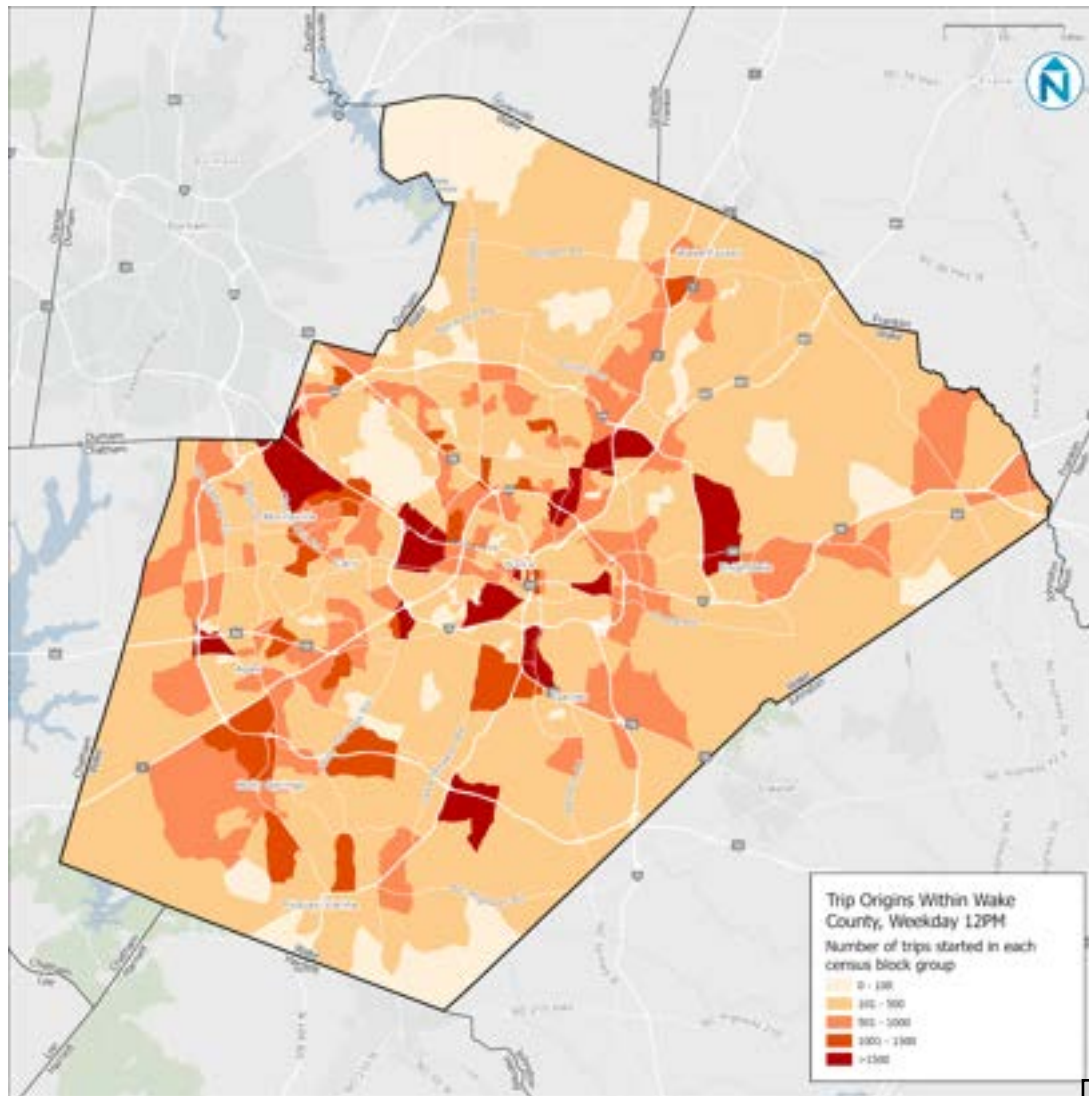
Another interesting finding is that the data indicates a stronger demand in the midday and on Saturday as compared with the weekday morning hour. This underscores the importance of providing transit service on weekdays and weekends and during the midday.



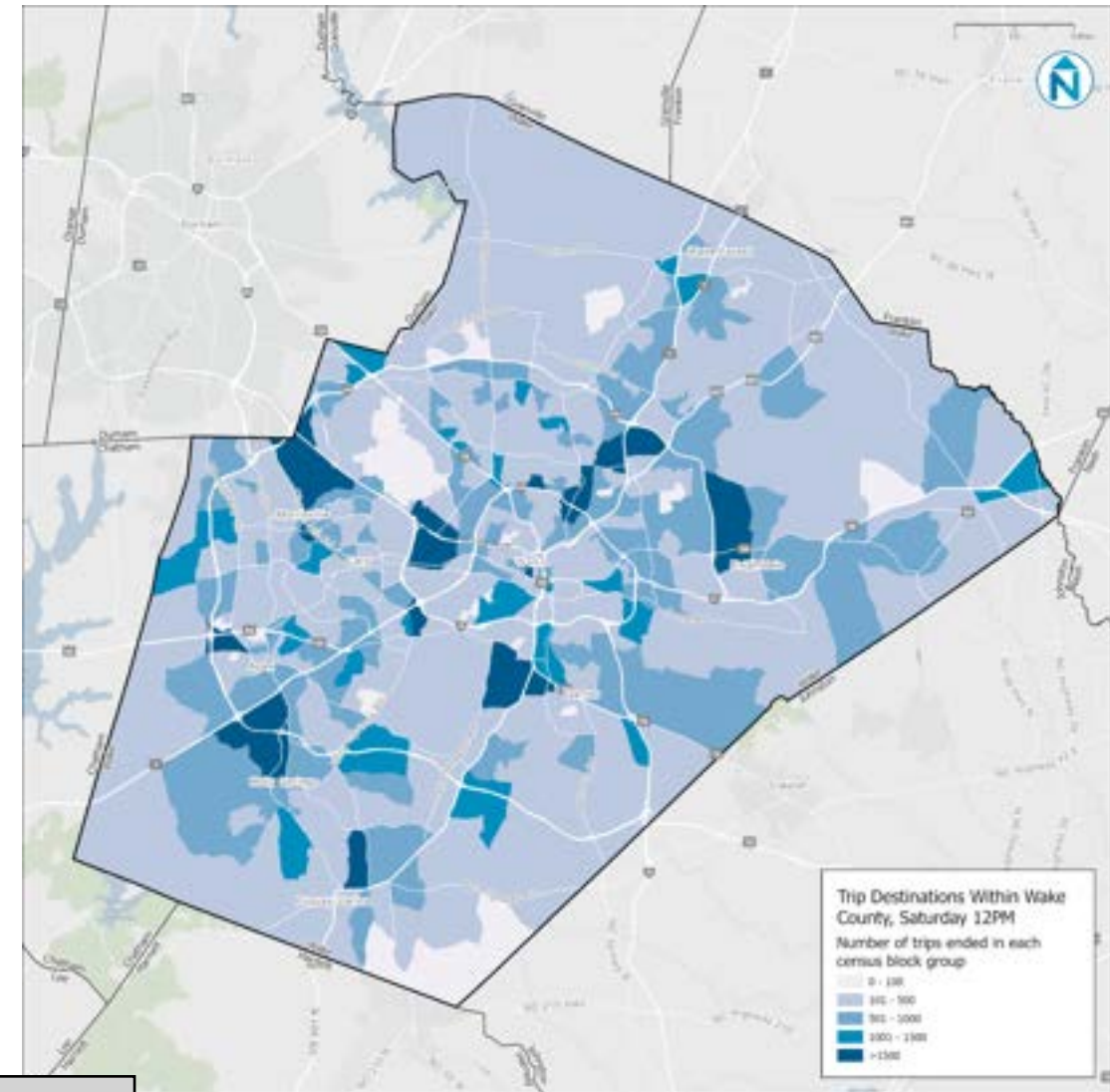
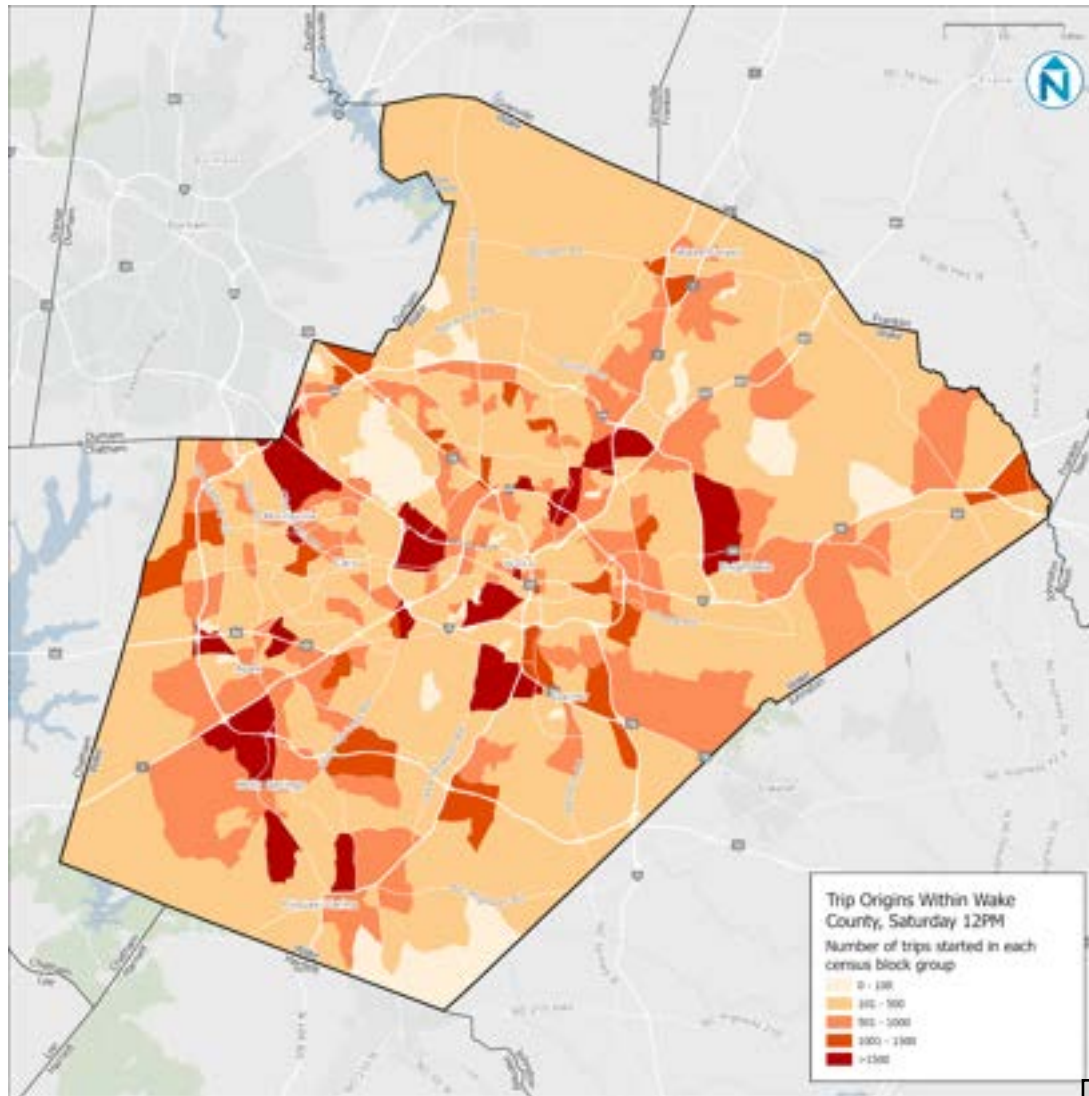
Wake County Travel Patterns: Weekday AM



Wake County Travel Patterns: Weekday Midday



Wake County Travel Patterns: Saturday Midday

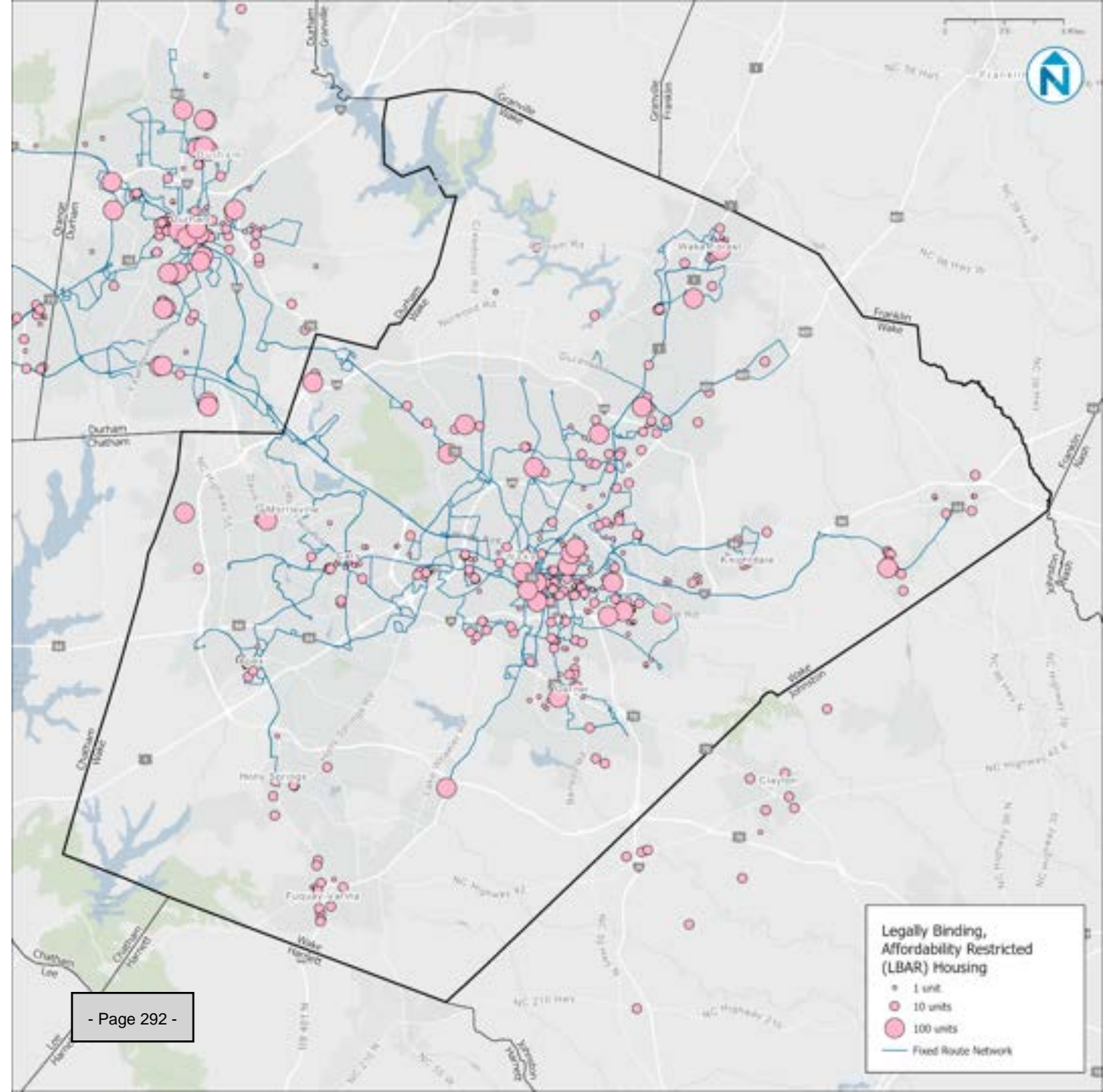


Affordable Housing

Density, as mentioned, is critical to understanding where transit services are needed. Affordable housing, including the size and distribution of market rate housing developments are also important considerations in transit service investment because large housing developments help create and support density. In addition, by coordinating housing and transportation investments, cities and towns can create sustainable and affordable communities. The map to the right shows Legally Binding, Affordable, Restricted (LBAR) Housing by the number of units together with the fixed route transit network.

The data generally shows that the largest affordable housing developments are clustered in the City of Raleigh, especially in areas south and east of downtown. These areas track with other transit propensity analyzed as part in the market analysis; affordable housing is also generally located along or near to existing transit investment. However, the analysis also highlights developments and clusters of developments that are not connected to the transit network or are only connected by one route. For example:

- Morrisville and Fuquay Varina, and parts of Cary and Holly Springs have affordable housing developments that are not connected to the transit network at all.
- Wake Forest, Garner, Wendell, and part of Raleigh have both large affordable housing and clusters of smaller developments but limited access to fixed route service.



Historic and Forecasted Changes in Population and Employment

- Page 293 -

Population and Employment Changes (2016-2040)

Transit improvements are long term investments, and it is important to understand future development and growth patterns. From 2016 (when the original Wake Transit Plan was enacted) to 2020, Wake County saw a steady increase in population and employment, and that growth is expected to expand over the next 20 years.

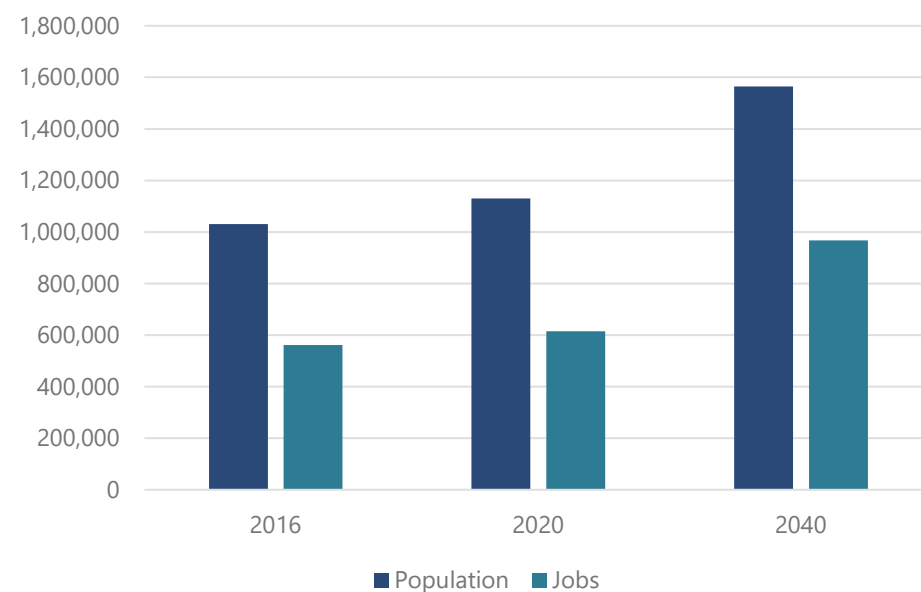
Since 2016, at the start of the Wake Transit Plan, both population and the number of jobs in Wake County have increased significantly with continued growth planned through 2040. The maps on the next two pages show how population and employment density changed over the four-year period between 2016 and 2020 and how they are expected to change over a 20-year period between 2020 and 2040. The historic data shows that while both population and employment density primarily increased in downtown areas, especially Raleigh, the rest of the region showed only minor changes in population and employment density.

Regional planning models, however, suggest that the region will continue to add density, as Wake County increases its population by an estimated 35% and the number of jobs grows by 53%. The largest population density increases are projected in Raleigh and Cary with increased density expected along the corridors connecting Raleigh and Cary plus Capital Boulevard north of downtown.

The increase in employment density is expected along the planned Wake BRT corridors in Raleigh and the corridor connecting Cary, Morrisville and the Research Triangle Park. The area south of Apex also shows increased employment density.

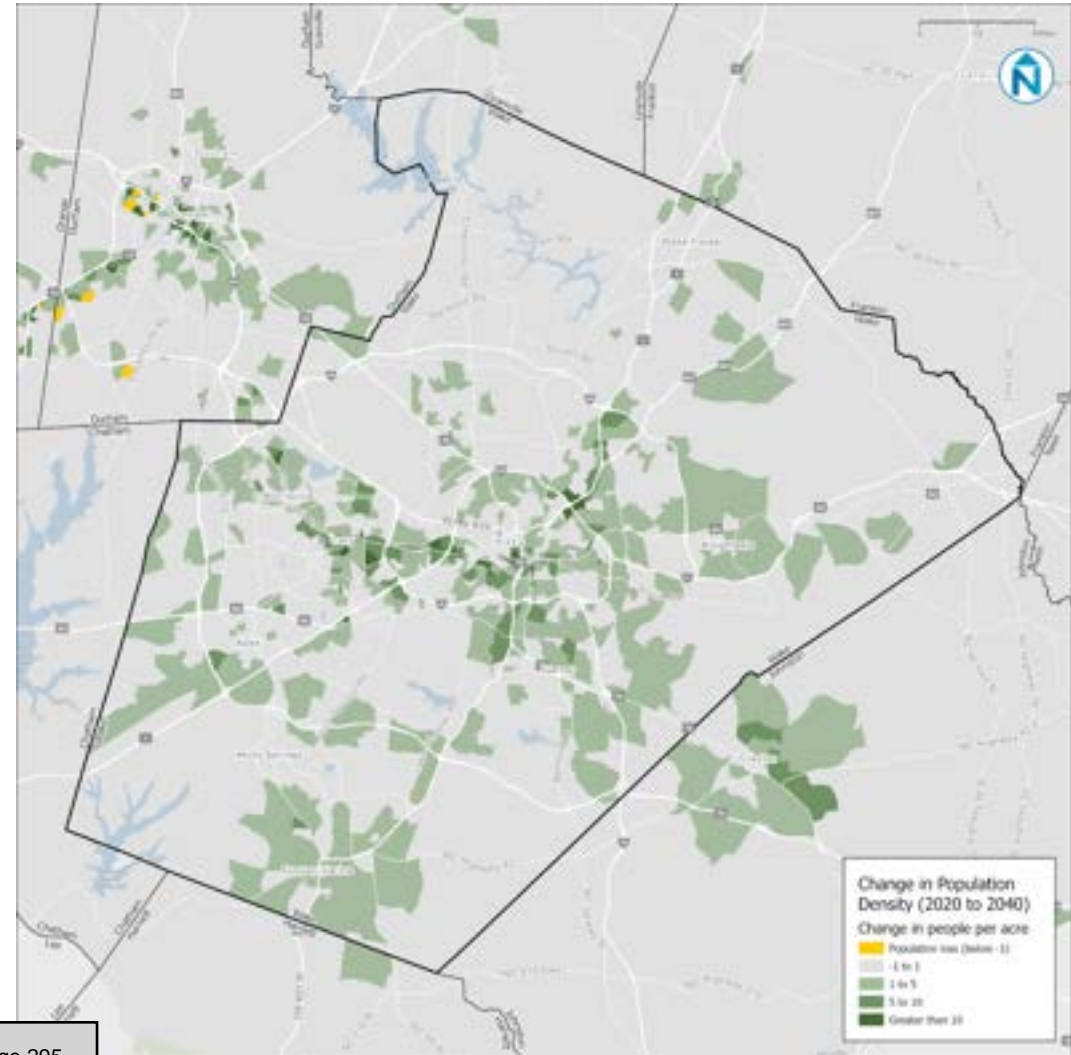
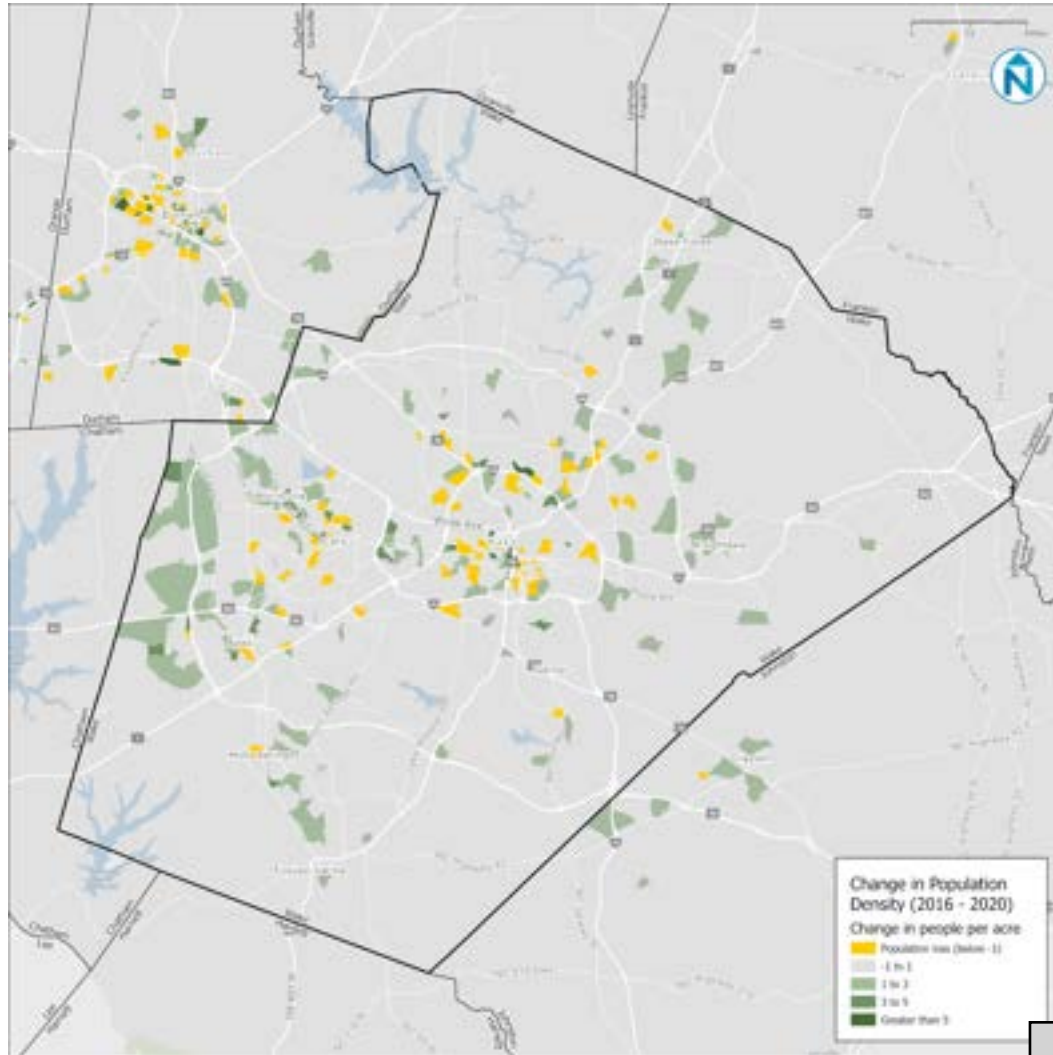
As the density of people and jobs increases in Wake County, there will be new opportunities for transit, creating an opportunity for new investments on some corridors and higher levels of service in others.

Changes in Population and Jobs in Wake County

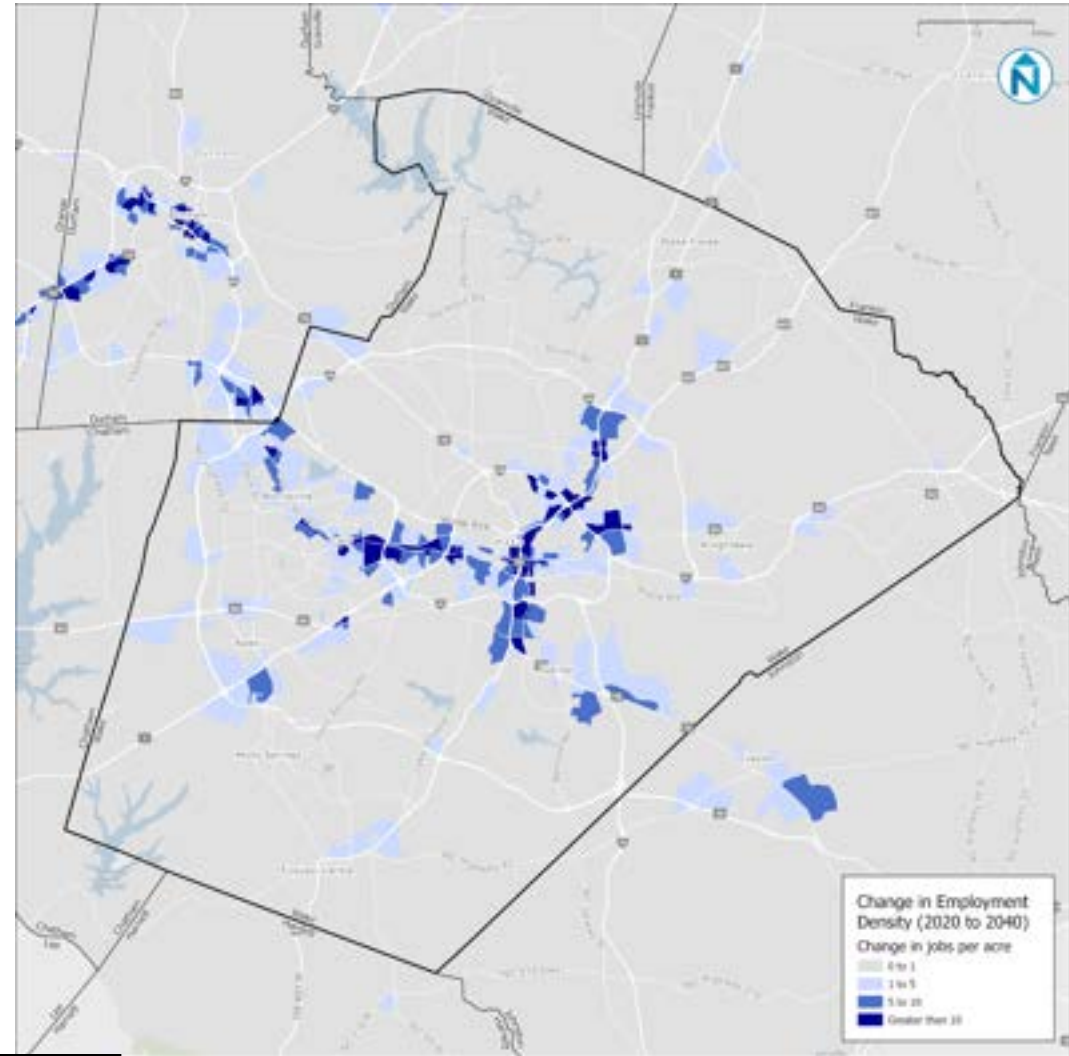
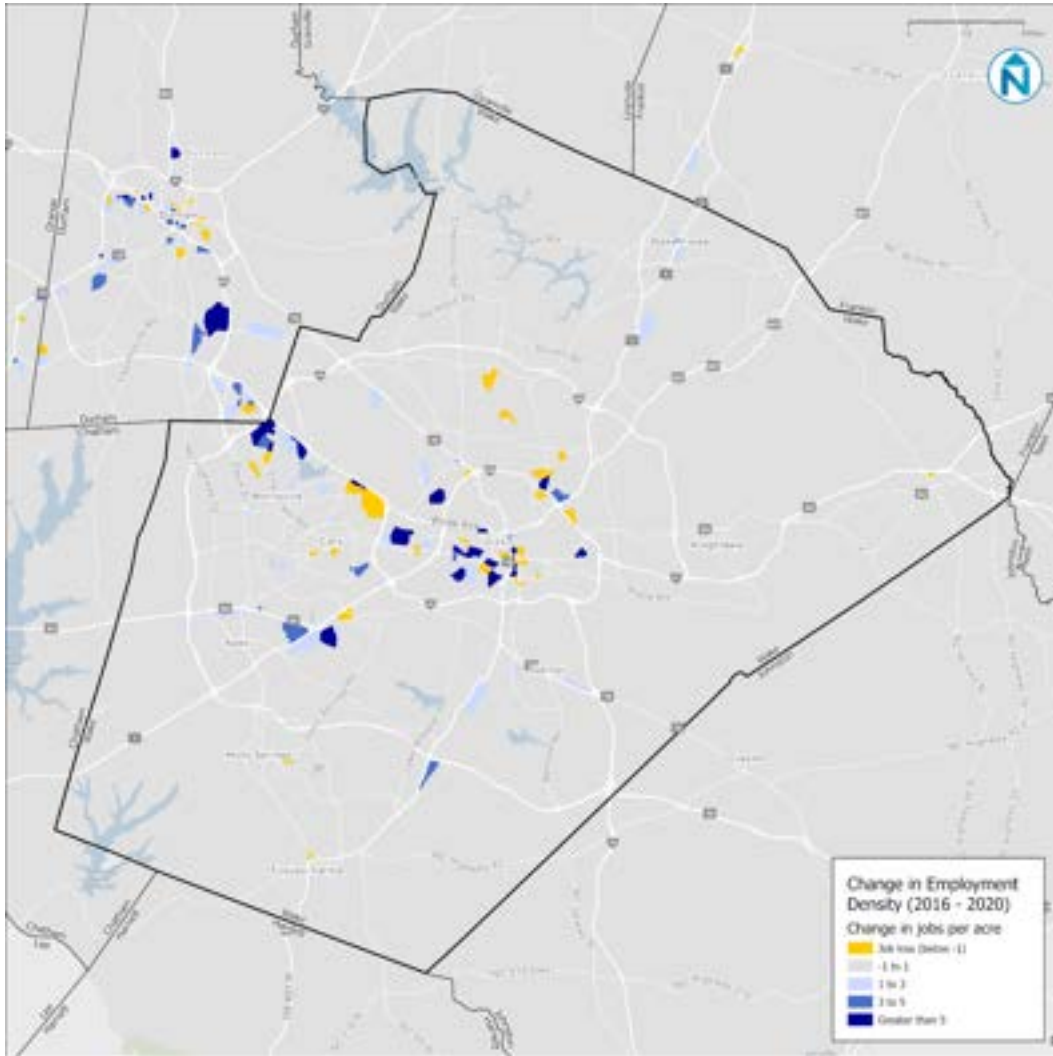


Source: CAMPO, DCHC MPO

Historic and Forecast Change in Population Density



Historic and Forecast Change in Employment Density

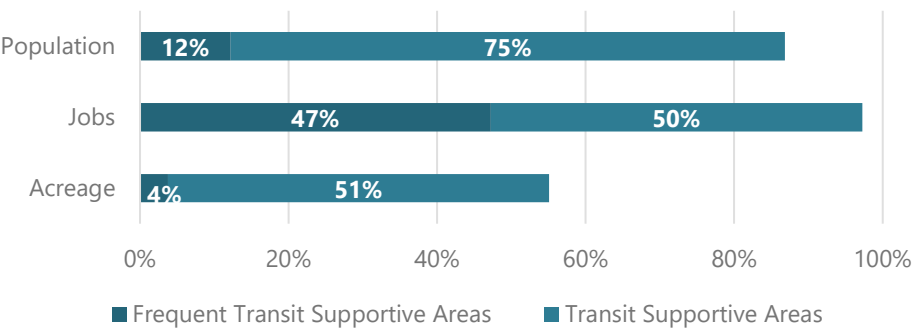


Composite Demand (2040)

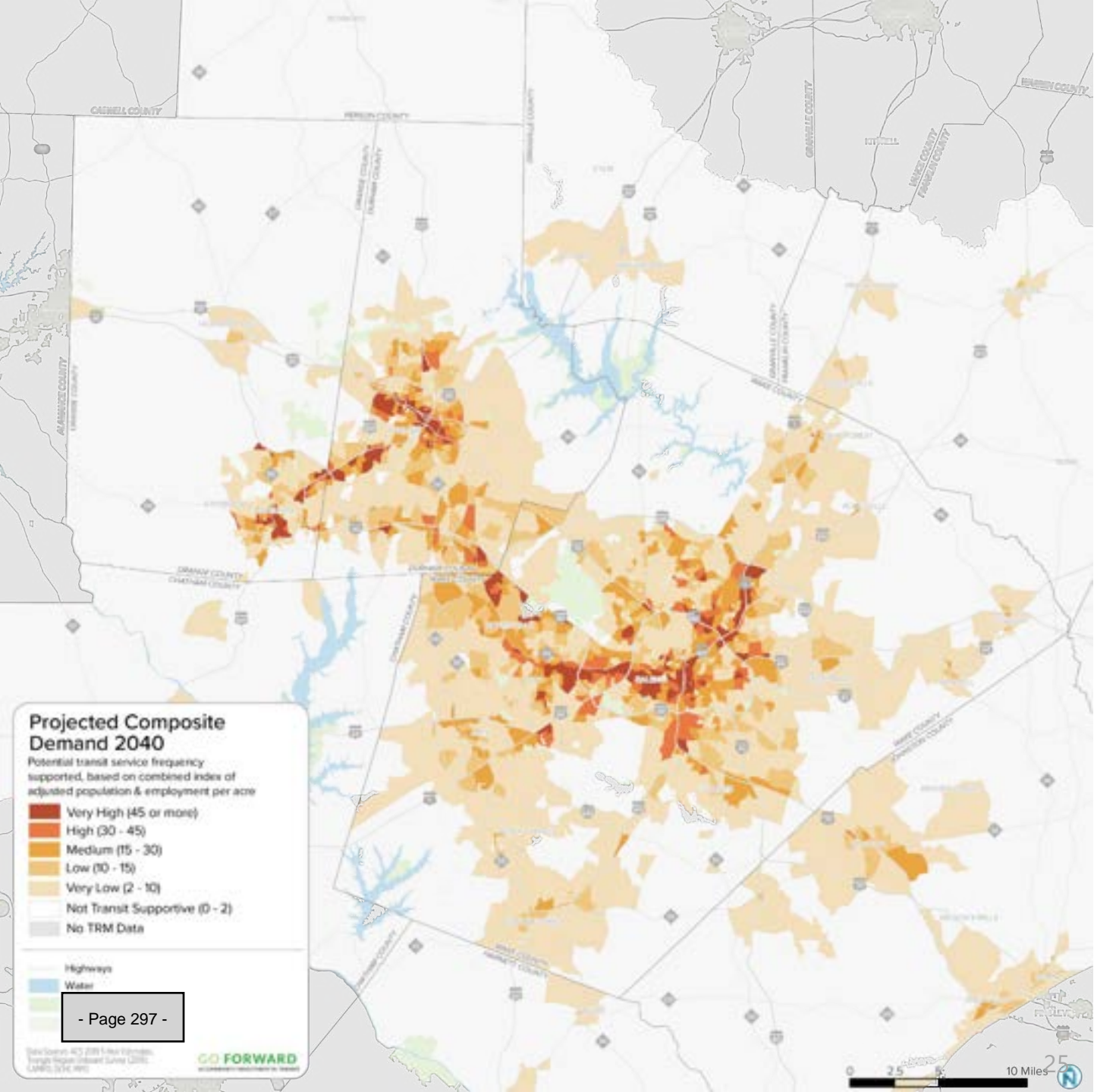
The combination of growth and changes in development patterns have – and are expected to continue to – have an ongoing impact on the demand and need for transit services in Wake County. The map to the right shows the areas that are expected to support high levels of transit service in the future. Several parts of Wake County that had moderate levels of demand will transition to areas with stronger need and potential for transit service. In addition, some areas that previously showed limited demand for transit may be able to support service by or before 2040.

Areas with the highest needs are expected to be in downtown Raleigh and Cary, around the Research Triangle Park, near North Carolina State University, south Raleigh, and north Raleigh. In addition, by 2040, more than half of the land area in Wake County is expected to support transit service. **Roughly 4% of the land area will support frequent transit service, as compared to 1% in 2020.**

Population, Jobs, and Acreage of Transit Supportive Areas in Wake County (2040)



Source: CAMPO, DCHC MPO, ACS 2019 5-Year Estimates, Triangle Region OnBoard Survey (2019)



Transit Demand in 2040



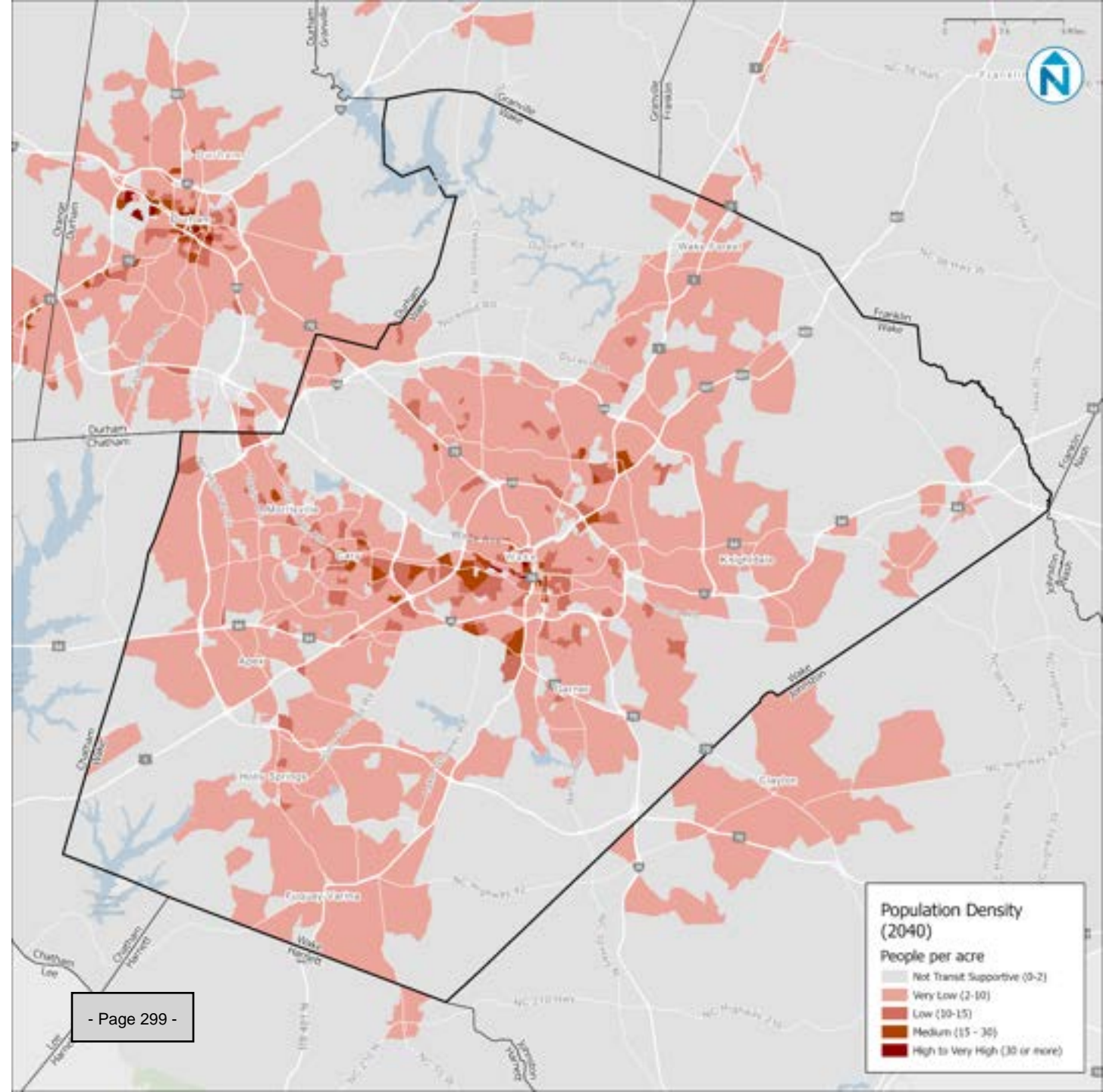
3

Population Density (2040)

Forecasts of population and population density for the future, show increased growth and development throughout Wake County, but with most parts of the County maintaining low population density into the future.

Within the overall trend of low-density development, there are several pockets and corridors that show areas of higher population density, such as the east-west corridor connecting downtown Raleigh, North Carolina State University and downtown Cary. Other pockets of greater population densities are evident in:

- Southeast Raleigh
- Just west of downtown Raleigh along the New Bern corridor and WakeMed campus
- North Raleigh
- Parts of Cary



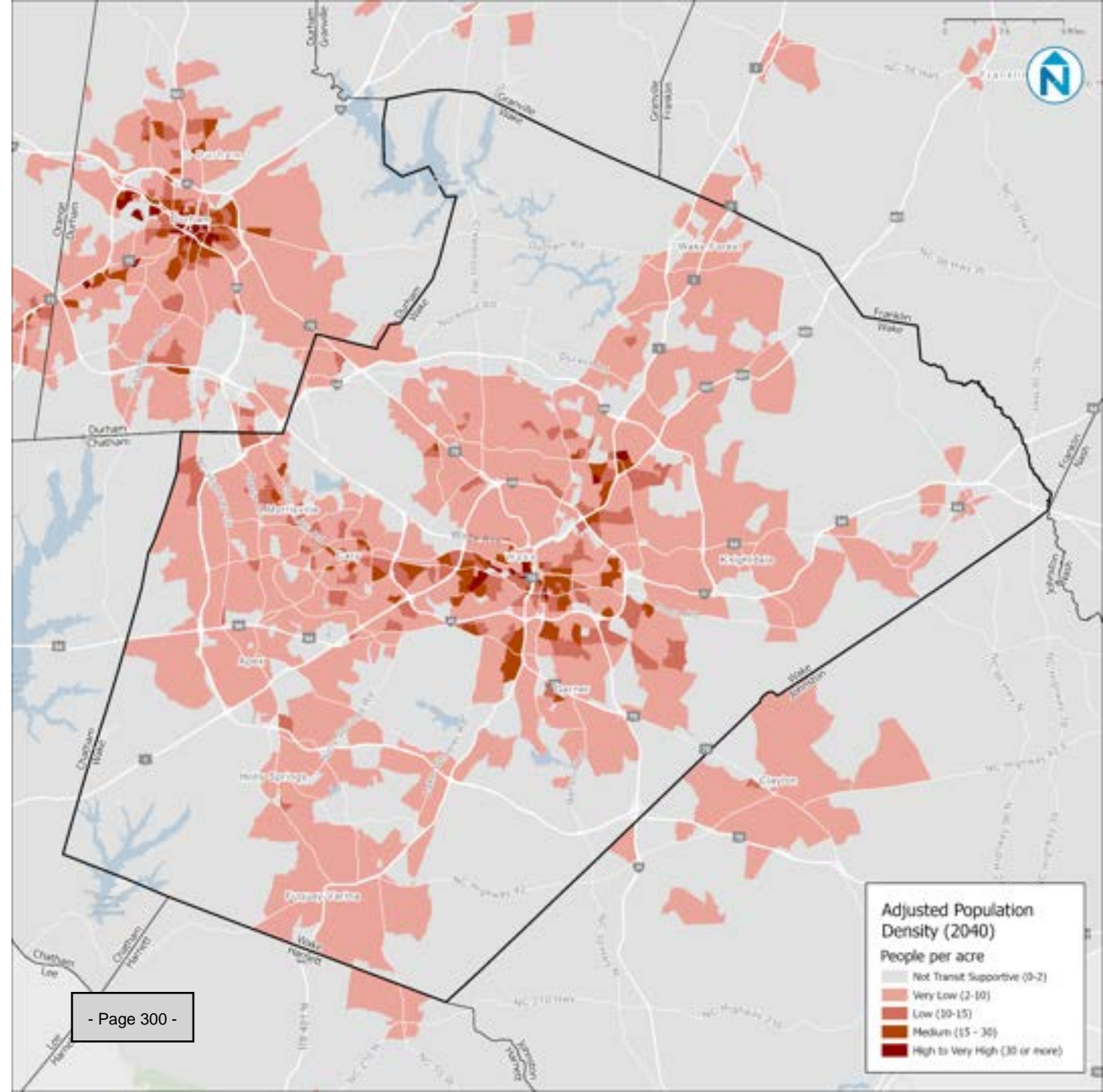
Population Density Adjusted by Transit Propensity Index (2040)

Using the same transit propensity index factors as the 2020 analysis, the population density was adjusted to reflect the impact of socioeconomic factors on potential transit demand.

When factoring in the adjustments, the following areas have high population-based demand:

- Downtown Raleigh
- Southern Raleigh
- Capital Boulevard Corridor
- Downtown Cary
- Eastern Cary Gateway

The Adjusted Population analysis relies on 2020 factors to adjust 2040 population density, since demographic and socioeconomic data are not typically projected on a long-term basis. This analysis was conducted to offer a direct comparison to the 2020 Transit Demand Analysis of this report. However, it is important to note that where different communities live may shift greatly between now and 2040, especially due to gentrification, and further planning and demographic analyses are needed on a recurring basis over the next few decades as updated data becomes available.

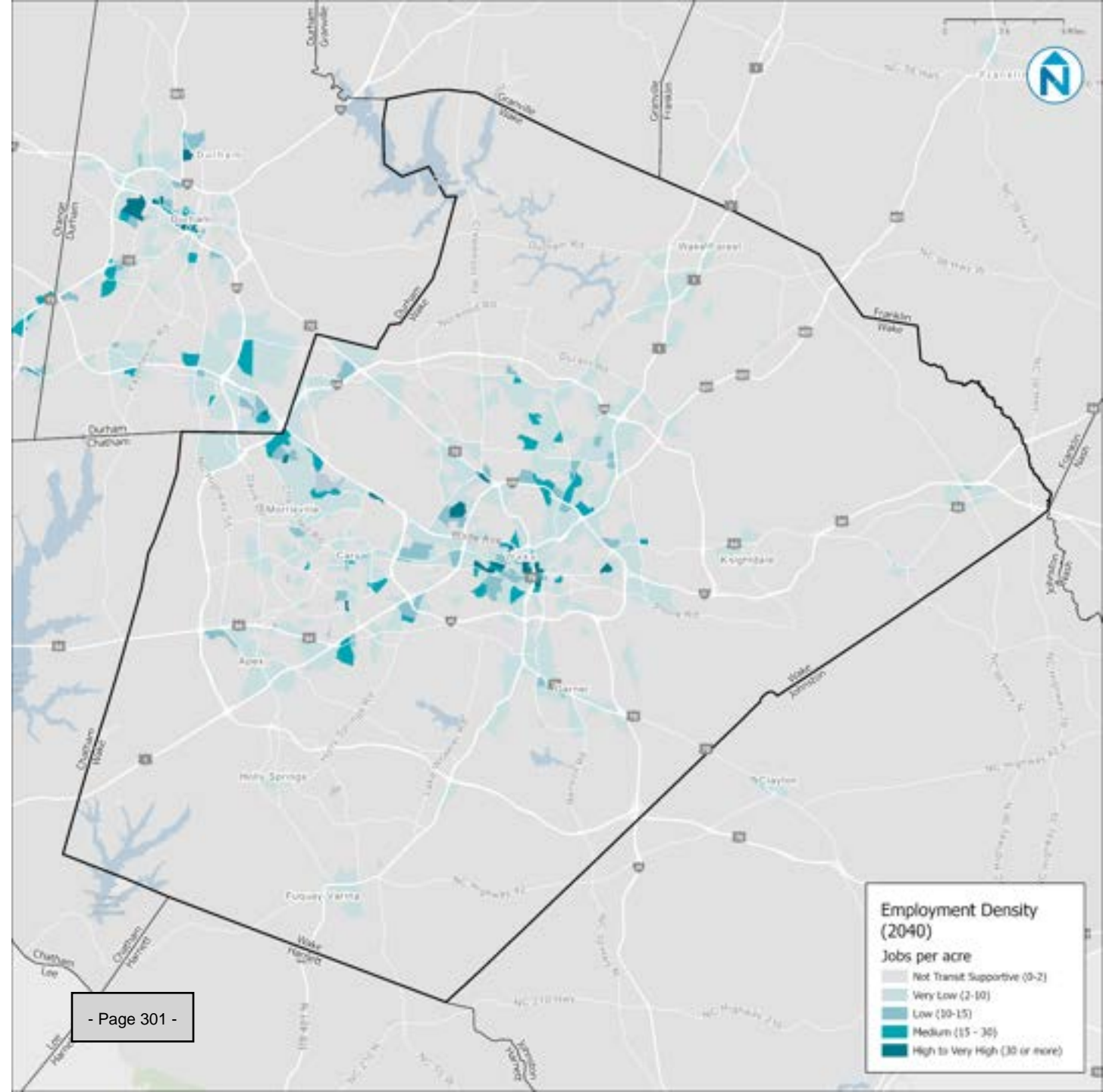


Employment Density (2040)

2040 employment density is distributed similarly to current employment density, concentrated in downtown Raleigh, Durham, Chapel Hill, and Research Park Triangle.

Employment density is highest in downtown Raleigh, Durham, and Chapel Hill, Research Triangle Park, and along major corridors, including NC-54 between Raleigh and Cary, and US-401 northeast of Raleigh.

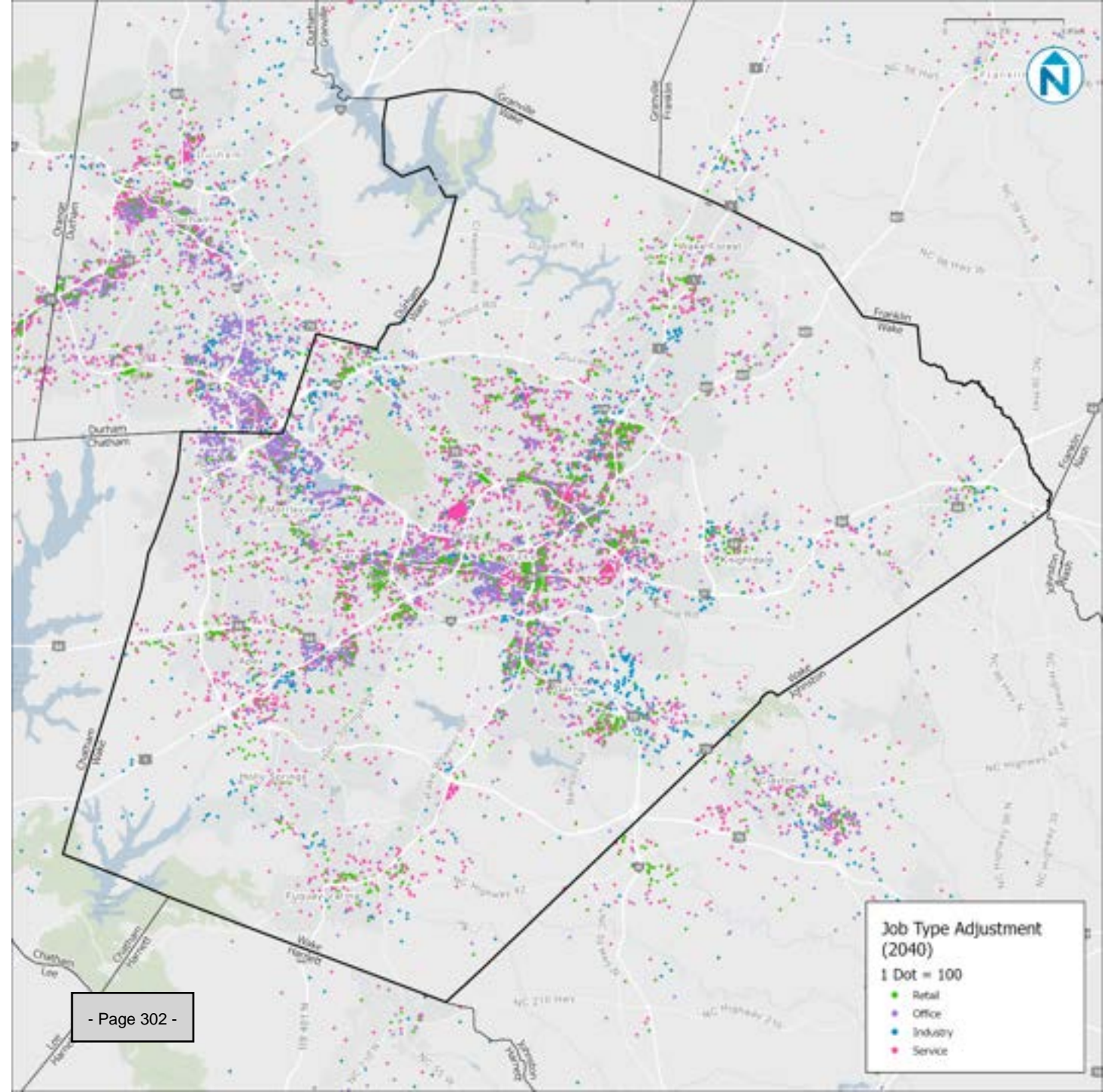
Jobs are more concentrated than population, with low job density that may not support transit outside of these areas.



Job Type Adjustment (2040)

The project team adjusted 2040 employment density using projected job types, looking at the concentrations of different industry types in the region to better reflect the travel patterns generated by different job types beyond the number of directly employed persons at that location.

The increasing job densities in the service industry-heavy downtown areas will increase the transit demand in those areas at higher rates than the outward industry growth or RTP-area office employment growth.



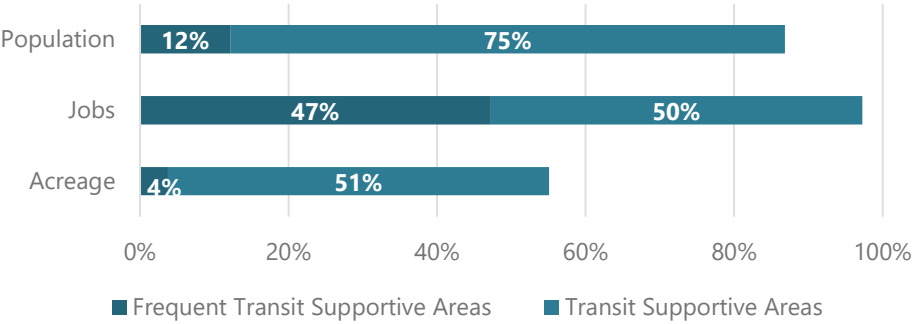
Composite Demand (2040)

The transit supportive regions in the study area show similar patterns to the 2020 composite demand, with areas previously with Medium or High levels of transit support now showing High or Very High levels of support. Some areas that previously showed no support for transit may be able to support Very Low to Medium levels of transit service in 2040.

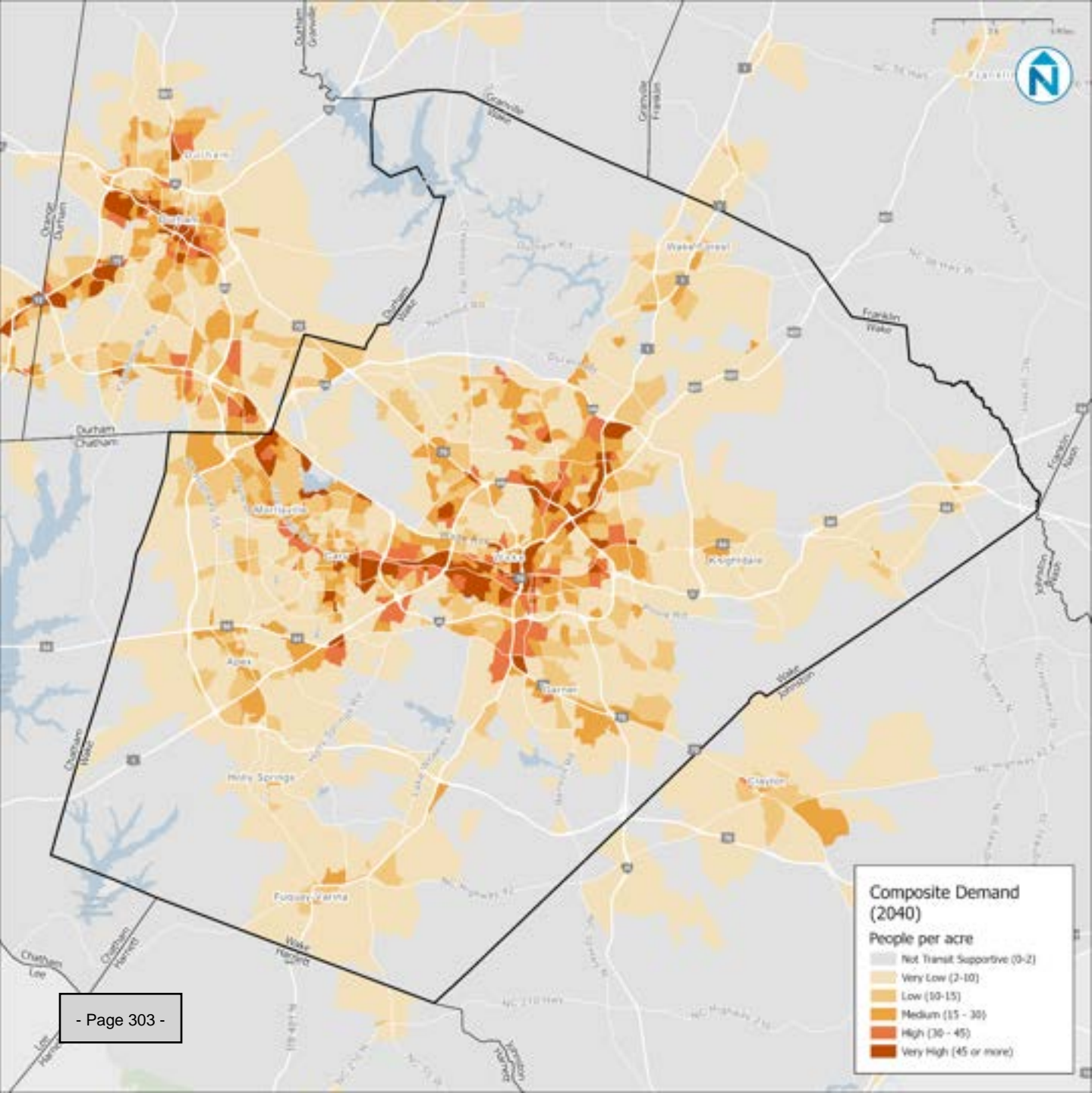
Along with the downtowns of Raleigh and Cary, there is strong demand along Capital Boulevard and northeastern I-440, in Southern Raleigh and Cary and in the Raleigh-Cary-RTP-Durham Corridor.

By 2040, about 40% of land area in Wake County is projected to be transit supportive, home to 86% of people and 97% of jobs. About 3% of land area will be supportive of frequent transit service, with approximately half of all jobs and 14% of the population.

Population, Jobs, and Acreage of Transit Supportive Areas in Wake County (2040)



Source: CAMPO, DCHC MPO, ACS 2019 5-Year Estimates, Triangle Region OnBoard Survey (2019)



Remote Work & Future Travel Patterns

The COVID pandemic impacted a lot of things, including creating increasingly amounts of full or part time remote work. As people work remotely – even part time - commuter travel patterns have also changed. While the long-term impacts of these changes are yet to be determined, the impact of remote work is changing travel patterns in expected and unexpected ways.

Statistics around regional travel

- Studies using American Community Survey data showed that between 2020-2021, certain cities (including Raleigh, NC) saw an increased net migration of remote workers.
- 2022 Census data showed that 26% of workers in the Raleigh metro area worked from home in 2022. This rate is higher than the national average of 15.2%.
- Although Raleigh’s work force may be increasingly made up of remote workers, the population is still travelling around the region. Raleigh's average daily weekday vehicle miles traveled (or VMT) is 38.1 miles, higher than the U.S. average of 30.1 miles (New York is the lowest with 14.4 miles).

What this means for the region and future travel patterns

Commuting is just one trip purpose out of many that a person may take throughout the day or week. Other types of trips include those to school, the grocery store, medical appointments, or recreation/social events. The fact that less of the region is commuting to work begins to indicate that transit should be available throughout the day – not just during traditional peak commuting times around the 9am-5pm workday – to help people get to where they need to go.

<https://www.nytimes.com/interactive/2023/06/17/upshot/17migration-patterns-movers.html>
<https://www.axios.com/local/raleigh/2023/09/19/remote-work-jobs-north-carolina-wfh-statistics>
<https://www.axios.com/local/raleigh/2024/06/14/we-re-a-car-city>

	MOVERS WHO WORK REMOTELY	NET MIGRATION OF REMOTE WORKERS
San Francisco	42%	-32k
San Jose, Calif.	40%	-27k
New York	36%	-116k
Los Angeles	34%	-53k
Washington	33%	-11k
Austin, Texas	32%	+28k
Seattle	31%	-3k
Raleigh, N.C.	30%	+7k
Chicago	30%	-29k
Boston	29%	+8k
Denver	28%	+23k
Portland, Ore.	28%	+9k
Richmond, Va.	26%	+5k
Minn./St.Paul	26%	+1k
San Diego	26%	-1k
Philadelphia	26%	-1k
Dallas	26%	+10k

The Places Most Affected by Remote Workers’ Moves Around the Country

Creating Walkable, Transit Friendly Communities



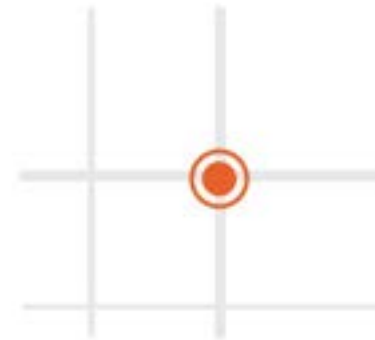
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Walkable Communities and Transit Oriented Development

Wake Transit Plan constituents – people living and working in Wake County –consistently say they want fast, frequent and reliable transit. At the same time, local and national experience demonstrates that transit service can be fast, frequent and reliable when transit serves corridors and neighborhoods with compact development where people can comfortably and safely travel using a variety of transportation options (or modes), including by walking, biking, micromobility (electric scooters, etc.) and/or rolling (using mobility devices).

higher quality transit services.

TOD
TRANSIT-ORIENTED
DEVELOPMENT



1 Identify Transit Oriented Development (TOD) site



2 Develop TOD plan



3 Develop transit and walkable street corridors



4 Make zoning changes to encourage TOD



5 Complete TOD district

Previous sections of this report use density together with population and employment characteristics to identify existing and potential future areas that can support higher levels of transit services. In this case, density serves as a proxy for land use and urban form, however, density does not always capture how communities can use design to attract and support fast and frequent transit services. Encouraging urban design that is compact, walkable and connected to transit services is often referred to as “transit-oriented design” or TOD. Indeed, TOD has become part of many cities and regions’ strategy to encourage, attract and support

Planning for TOD and Walkable Communities

Wake County is a large and diverse region with a variety of community types, including urban, suburban and rural communities. Data included in the following section shows that communities across the county are growing at a rapid pace and facing common challenges related to managing growth, retaining community character and developing affordable housing.

The policies and programs adopted by individual communities will vary according to local values, priorities and resources. However, in nearly all cases there are tools and strategies that can be adapted to create more walkable and transit supportive environments in communities of all types and characters.

- **Transit Oriented Development in Urbanized Areas** encourages development around existing or planned high-capacity transit stops and stations. Strategies including adjusting zoning to promote density and a mix of uses while managing parking investments and creating pedestrian connections. More recently, communities are focusing on ensuring TOD is done equitably and minimizes harm on long standing businesses and residents, including historically disadvantaged populations.
- **Transit Oriented Development in Suburban Communities** may or may not be designed around transit infrastructure. Some historic small towns or suburban communities have a train station or transit centers in their downtown, creating opportunities to encourage investment around transit by encouraging higher or moderate density housing and mixed-use development and connecting investment with parks, public spaces and pedestrian infrastructure.
- **Compact, Walkable Development in Suburban and Rural Areas.** In other cases, suburban and rural transit services may be provided at a park and ride lot located at

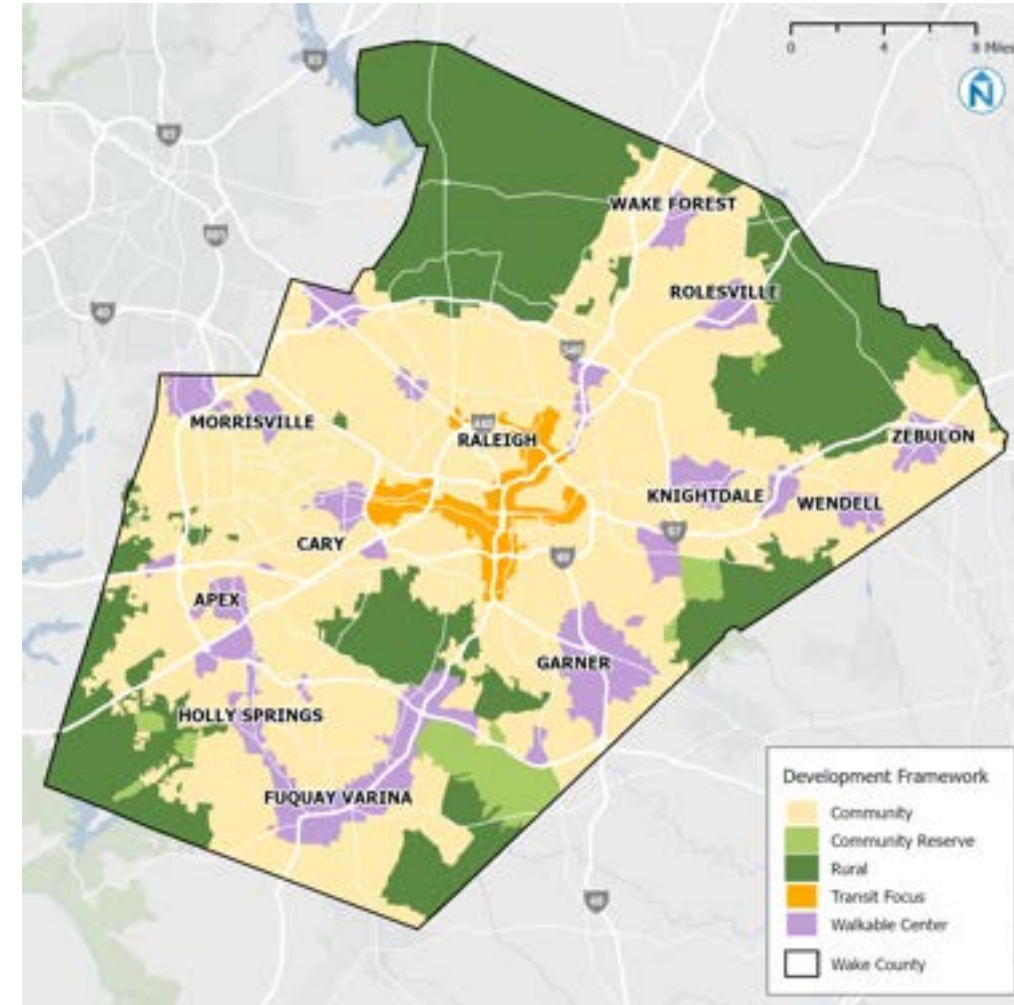
the edge of town and/or offer service levels too low to be part of the community fabric. Creating compact, walkable communities with a mix of uses, however, still offers benefits to communities by reducing reliance on automobile travel and encouraging shared, community spaces. While short-term connections to transit services will likely require first mile/last mile connections through shuttles, microtransit and/or micromobility, long term benefits from compact, mixed-use land uses with pedestrian infrastructure include future opportunities for transit connections.



Transit Oriented Development in Wake County

Several jurisdictions in Wake County, including Wake County, the City of Raleigh and the Town of Morrisville have already developed plans and strategies to manage and guide growth, specifically by developing programs and policies to encourage compact, walkable development that is centered around historic downtowns with safe, comfortable connections to new and old neighborhoods and existing and/or planned transit services.

- **PLANWake Comprehensive Plan**, charts a course to guide growth in Wake County over the next 10 years. The PLANWake Comprehensive Plan was developed with the Wake Transit Plan in mind and includes a development framework that encouraged dense development along BRT corridors and at the same time, creates a network of walkable centers in communities. The plan recognizes the unique aspects and needs of different community types and creates a regional vision for how new development and redevelopment can be coordinated to support transit investment.
- The City of Raleigh's **Equitable Development Around Transit (EDAT)**, a guidebook that is both a policy foundation and a set of design principles to leverage development for creating equitable development around the planned BRT projects in Raleigh. The guidebook sets goals for growth and equity, examines the unique characteristics of each BRT corridor, sets out design principles, and recommends an action plan to maximize community benefits from transit investments.
- The Town of **Morrisville's Transit Oriented Development and Zoning Plan** lays out a development plan of approximately 180 acres around NC54, a planned future transit corridor. Morrisville's TOD plan prioritizes higher density development and multimodal transportation options along this corridor.
- North Carolina's Department of Transportation prepared a **S-Line TOD Study** to guide development around new rail stations. The study was developed with input from nearly 2,000 people and recommends an implementation framework with shared responsibilities allocated to NCDOT and individual communities.



PLANWake Development Framework Map

[PLANWake Comprehensive Plan](#)

[PLANWake Development Framework Interactive Map](#)

Equitable TOD Development Guidebook

The Equitable Development Around Transit (EDAT) process in Raleigh helped to focus community discussions on priorities for development at and around proposed BRT lines and their stations.

The Equitable TOD Development Guidebook, which was approved by City Council in early 2021, was the culmination of the EDAT process. The guidebook laid out six urban design principles to facilitate growth near transit, defined four station area types, and developed a policy toolkit to help guide future changes. The toolkit included sections on zoning, affordable housing production, and equity programs. The final chapter of the guidebook lays out an action plan of next steps for implementation, some of which has already begun.



Illustration depicting the design principle, "Create Engaging Public Spaces"

Urban Design Principles:

- Encourage Mix of Uses
- Concentrate Density around Transit
- Support Repurposing and Infill Development
- Complete Streets for Better Transit, Manage Parking Effectively
- Create Engaging Public Spaces

Station Area Types:

- Downtown
- Emerging Urban Center
- Neighborhood Center
- Campus/Park

Implementation on aspects of the plan has already begun through changes to the zoning code and localized area planning.

Zoning Overlay Districts

In October 2021, a text change was adopted by the City Council to include a TOD overlay zoning district for the City of Raleigh's development code. The zoning overlay will allow for denser, more compact development near planned transit stations and modify the underlying zoning to ensure a walkable, pedestrian-friendly development footprint and design.

In the summer of 2022, the City Council then approved a TOD map, which applied the TOD zoning overlay district to areas along the Western and Southern BRT routes.

Station Area Planning

Station area planning is a community planning process for areas around the BRT stations. These planning effort help ensure a cohesive approach to development around a transit station.

- Planning for the New Bern Avenue BRT began in 2021. By summer of 2024, properties around the station areas were re-zoned to allow for the New Bern Avenue Station Area Plan vision.
- Planning for the Western and Southern BRT routes began in 2023. Surveys on planning options and concepts closes in late spring 2024.

Equitable TOD Policy: Project Connect, Austin, Texas

The City of Austin has several similarities with Wake County. It is one of the fastest growing communities in the United States and like Wake County, voters in the City of Austin approved a transit investment strategy, branded as Project Connect that included a tax increase. Like the Wake Transit Plan, Project Connects includes investments in rail services, rapid bus and local bus service. Project Connect also included an Equitable Transit Oriented Development strategy to ensure future developments near transit corridors support overall quality of life as well as equitable outcomes for area residents of all incomes and backgrounds.

The plan was developed with extensive community input that included some clear challenges about existing development practices and experiences, including:

- **Rising Rents** that feel out of control for commercial and residential properties.
- **Pressures on Small Businesses** from new development that has been displacing long-established Austin businesses.
- **Dissatisfaction with Current Transit Services** and the pace of improvements.
- **Lack of Good Government Support/Execution on Affordability Crisis** and frustration that interventions are too late or culturally sensitive.
- **Sustained Quality of Life Concerns**, including lack of affordable housing, childcare and small business assistance.
- **Business Diversity** – creating hubs around a diverse pool of community organizations and businesses.

Project Connect responded a Policy Plan to ensure future development around Project Connects supports all residents with a set of 46 policy tools for station area planning.

1. **Small Business and Workforce Development**, which includes programs to provide business assistance during construction, ongoing small business support and workforce development programs.
2. **Housing Affordability** strategies that use a combination of financing tools, land use strategies, and homeownership and tenant support.
3. **Mobility** programs including Transit Demand Management, mobility infrastructure improvements and parking management.
4. **Land Use and Urban Design** that set guidelines for transit support land uses, incentives, standards and regulations to promote affordable housing and encourage public amenities and investing in the public realm, including tree canopy, civic spaces and bike-ped improvements.
5. **Real Estate and Finance Strategies** that leverage publicly owned land, land acquisition and gap financing.

The plan lays out detailed recommendations for each policy area and strategies, including identification of the lead agency, partners, timeline and links back to the region's overriding goals. Recommendations also consider if a similar program exists today and if so, how Project Connect could build from that experience, implementation challenges and considerations, and success metrics.

Strategic Land Acquisition - Oregon Metro

Another interesting case study is provided by Oregon Metro, a regional governance that encompasses 1.7 million people, 23 jurisdictions, including the City of Portland, and spans three counties (Clackamas, Multnomah and Washington). Oregon Metro is also the metropolitan planning organization for the Portland urbanized area. The combined role of being both an MPO and a regional government body gives Metro a unique role and responsibilities associated with strengthening coordination between land use planning and transportation investments. Goals set by the Metro governing council also prioritize supporting and strengthening investment in public transit.

One of the relevant and interesting strategies used by Oregon Metro is **development of a Transit Oriented Development Program that supports the creation of higher density, affordable and mixed-income housing within the region's centers** and frequent transit program. The TOD program is funded with \$3.5 million per year and includes incentives to private developers and strategic property acquisitions along transit investment corridors. The program is funded through regional federal flexible funds, plus discretionary grants and some regional housing funds. Over its lifetime, the TOD program has invested or committed to over \$40 million in land and projects (Oregon Metro Transit Oriented Development Program 2022 Annual Report).

While time and resource incentive, Oregon Metro reports that the strategic site acquisition has been and continues to be a powerful tool for TOD. **Ownership gives Metro complete leverage over the project and site** allowing them to control the development process. Metro typically does a lot of engagement to create a vision and value statement for the site and then does a competitive solicitation with timelines, budgets and expectations. Most projects have received multiple strong proposals, in part because the risk of site acquisition is removed. Metro has successfully used this program to support projects on enhanced bus corridors and station areas.

Some lessons learned from Oregon Metro include:

- **Partnerships with transit agencies and municipalities is key.** Oregon Metro works well with TriMet (the regional transit operator).
 - TriMet appreciates Metro's ability to acquire land, which also makes it easier for TriMet to complete projects.
 - Jurisdictions are also generally supportive of Metro acquiring land in their communities because they also have commitments to build affordable housing. The partnership means that both entities can work together to meet goals.
- **Corridor infrastructure is required before an area can support higher density development and transit investments.** Good quality pedestrian infrastructure and other corridor-level investments like bike lanes, streetscape investments, etc. are crucial to creating walkable districts.
- **The TOD Development Program selects sites and prioritizes investments in coordination with other regional and community goals, including equity and climate change.**



Axletree | Milwaukie



Blackburn Center | Portland

Community Profiles



5

Overview: Community Profiles

Wake County is growing rapidly and while growth is not distributed equally across the region, all communities in Wake County are adding people and jobs at a fast pace, which is changing the need and opportunity for transit services. This chapter includes an analysis Wake County's 10 towns: Apex, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell and Zebulon. Raleigh and Cary were included in this analysis, but at a less detailed level. This reflects:

1. The analysis was designed to capture growth, development and changes occurring in Wake County outside of Raleigh and Cary. The relative size of Raleigh and Cary mean that the market analysis' ends up focusing on growth, changes and transit needs in these two communities.
2. The 10 Wake County Towns (plus the Research Triangle Park) are eligible to participate in Community Funding Area program. This analysis will help guide and inform investments through that resource.

Each community profile consists of a set of three slides:

1. An introduction to the community, including existing and planned transit Wake Transit Plan sponsored investments, an overview of recent transit plans or studies, and experience with the Community Funding Area program.
2. Community statistics about density, characteristics and growth rates.
3. A snapshot of recent development activity by type and status, with a short description about how the development patterns could impact future transit needs.

More information about the data sources used in the Community Profiles is available in Appendix B.



Key Findings: Community Profiles

Key findings from the Community Profile analysis include:

1. **Suburban Towns in Wake County are growing at an unprecedented rate**, with many communities experiencing population growth rates of 30% to 50% since the Wake Transit Plan was approved in 2016. In many cases, growth is on top of a small baseline population, but the pace of growth suggests communities are changing.
2. **Towns in Wake County are actively planning for growth** with most communities recently completing comprehensive transportation plans, strategic plans and/or transit plans. In almost all cases, these plans are calling for investments in multi-modal infrastructure, including sidewalks and shared use paths.
3. **All but two Wake County communities have participated in the Community Funding Area program.** Towns are using grants to plan, design and operate local transit services as well as investments like sidewalks and bus stop improvements.
4. Data on recent and planned development shows that **most new projects are single use development largely on the outskirts of downtown centers and often near highways.** Most developments in Wake County towns do not follow best practices for creating walkable, compact communities. Suburban style master planned developments are difficult to serve with transit.
5. **Development patterns suggest on-demand microtransit style service is likely the most effective solution for local mobility.** On-demand microtransit services work in low density, suburban style development by picking up and dropping off riders at or close to their destination. The services can attract riders by providing a viable option, but the cost of microtransit on a per trip basis is high, with experience showing trips can cost between \$30 and \$50 per ride.
- While microtransit is an effective strategy in the short term, if communities continue to add population by building low density residential development the cost to maintain microtransit service levels may become prohibitive. Providing on-demand service to a larger, more distributed population will require increasingly levels of investment or slower response times/reduced levels of service.
6. **Potential for sub-regional solutions.** Wake County is a geographically large region covering 857 square miles. Unique characteristics within Wake Region suggest potential for different solutions in different parts of the County:
 - **Apex is a “sub-regional hubs” in southwest Wake County.** There are nearly 100,000 in Apex and Holly Springs, plus another 35,000 in Fuquay-Varina. Apex already functions as an economic activity center with regional transportation access. Creating a mini-transit hub in Apex that is connected to neighboring towns with fast, frequent services to regional destinations is a potential future model.
 - **Northwest Wake County also has nearly 100,000 people** but is more rural, spread out over a larger area and further from Raleigh and regional employment centers. Emerging solutions in this part of Wake County include on-demand service models that connect to Wake Forest as the sub-regional hub.
 - **Garner** has more in common with the City of Raleigh than other parts of Wake County and the planned BRT stations will change transit access. Local transit solutions may focus on first mile/last mile connections and more transit-oriented style development as compared with other parts of Wake County.

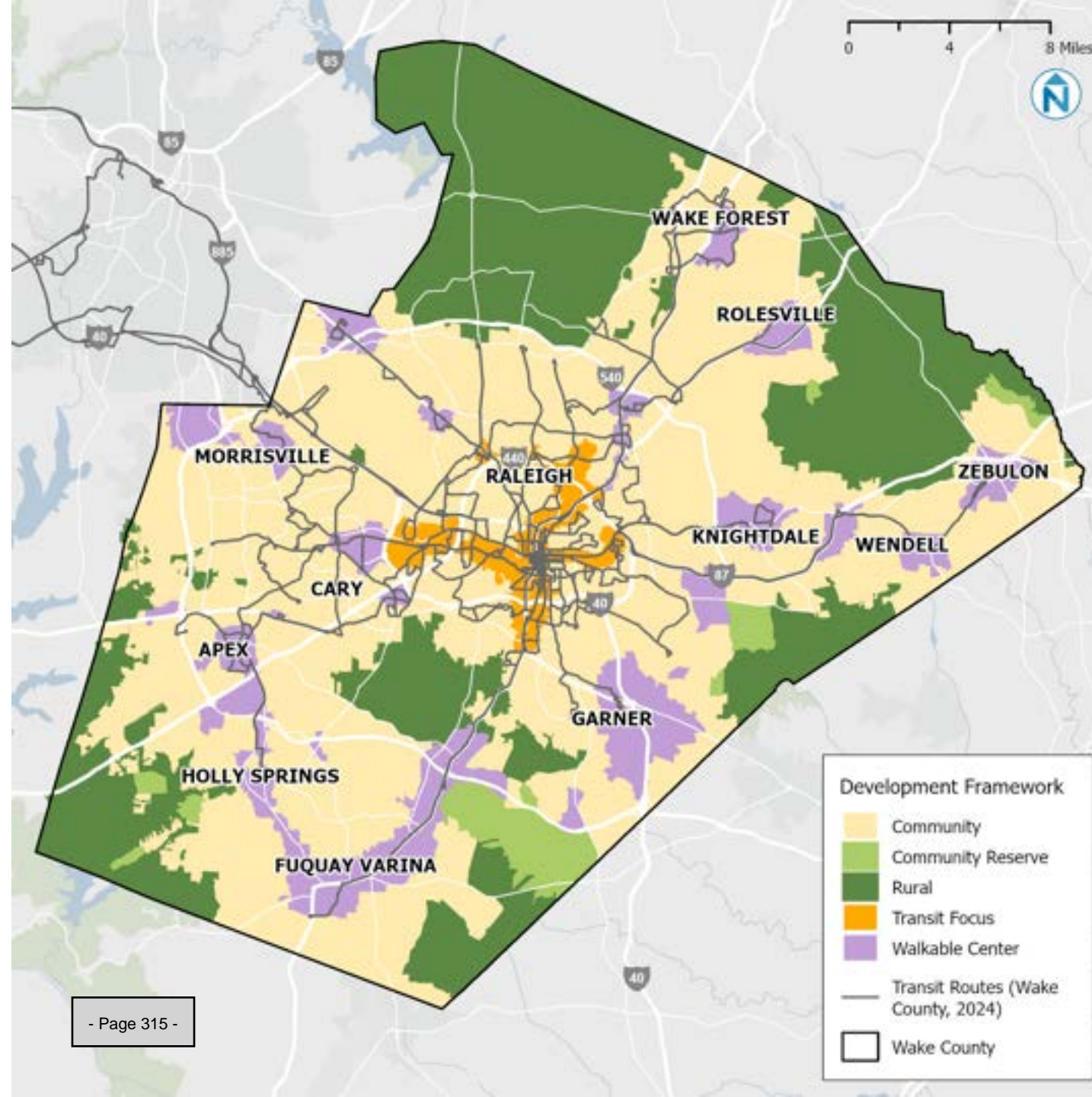
Communities Served by Transit in Wake County

The **PLANWake Comprehensive Plan** defines the following classifications as part of the Wake County Development Framework:

- **Transit Focus Areas** are the most intensively developed and densest urban areas within the county and are along the future Wake County bus rapid transit corridors.
- **Walkable Center** areas are places where redevelopment or new development is expected; they are intended to be dense, walkable transit-supportive areas close to key transportation corridors.
- **Community** areas account for a majority of the County and are predominantly residential use; municipalities have identified key locations for development and redevelopment in these areas.
- **Community Reserve** and **Rural** areas are lower-density and less developed.

With current transit services:

- **Transit Focus Areas** (mainly Raleigh) are relatively well-served by transit and will have access to the future bus rapid transit corridors.
- Most **Walkable Centers** have some transit connections, though there are plenty of opportunities to expand frequency and span of service. A major gap is Rolesville, which is currently not served by any fixed-route service.

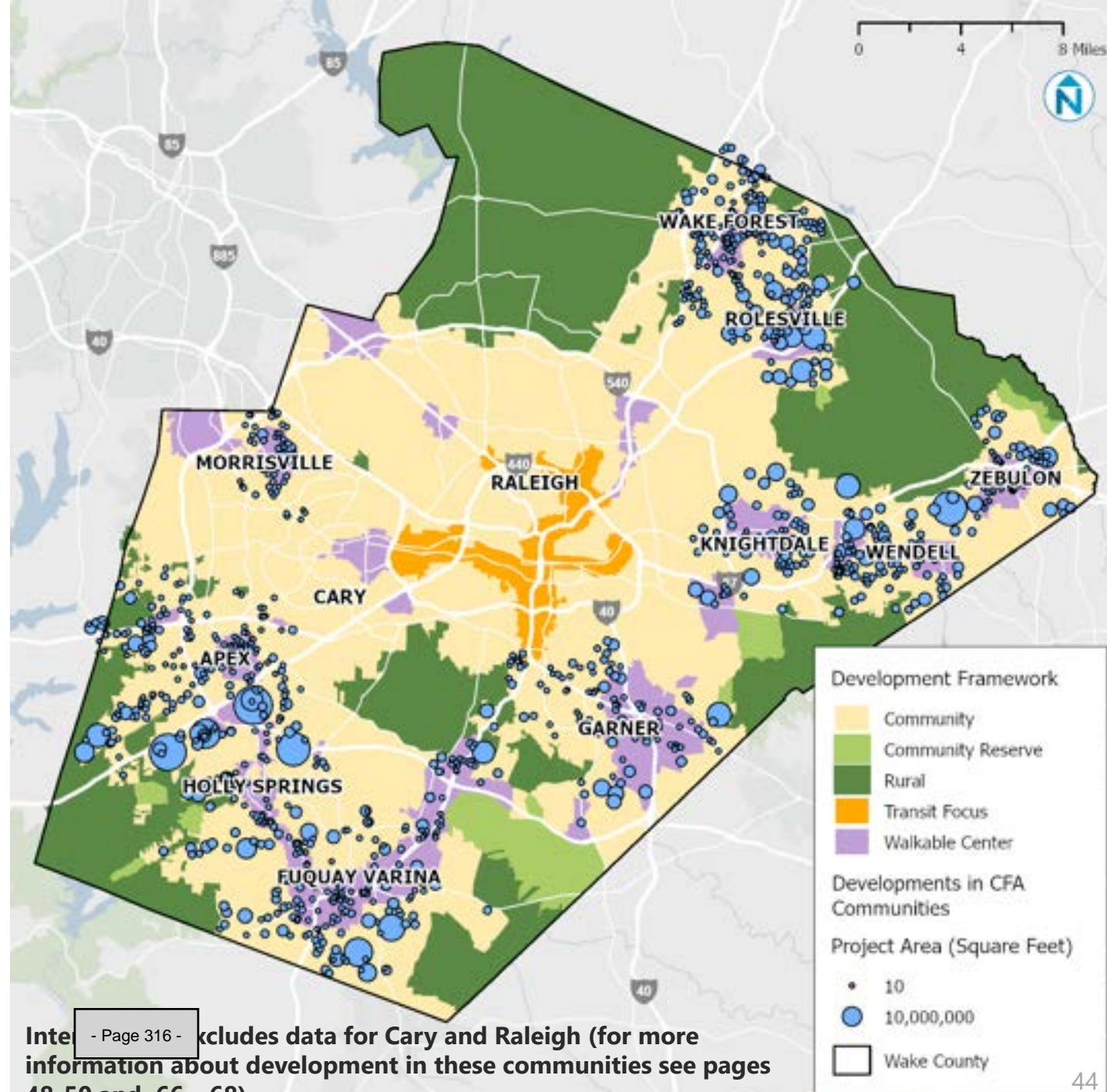


Community Funding Areas: Planned Land Use and Development

The PLANWake comprehensive map is shown together with planned development in Wake County's 10 towns. Cary and Raleigh are included in this analysis but due to the scale of development, not shown on the map. Both communities are included in the individual community profiles shown at the end of this section. The PLANWake map shows the distribution and size of development projects in non-urbanized Wake County; it also shows how well development is aligned with the planned walkable centers.

This data suggests that there is a fair amount of development planned or occurring in the walkable center portions of Wake County. This is especially true for small projects. There are also lot of projects occurring around major corridors, especially in southwestern parts of Wake County.

At the same time, however, the data suggests a large amount of development, including large projects, outside of the designated walkable centers or clustered around specific corridors. Instead, these developments are occurring in areas classified as "community" and at the edge of rural areas. Development in lower density areas is more difficult to serve with transit. The transit solution currently used – microtransit – can provide service to low density areas, but the cost of the service is high and as development sprawls, costs will increase.



Apex: Introduction

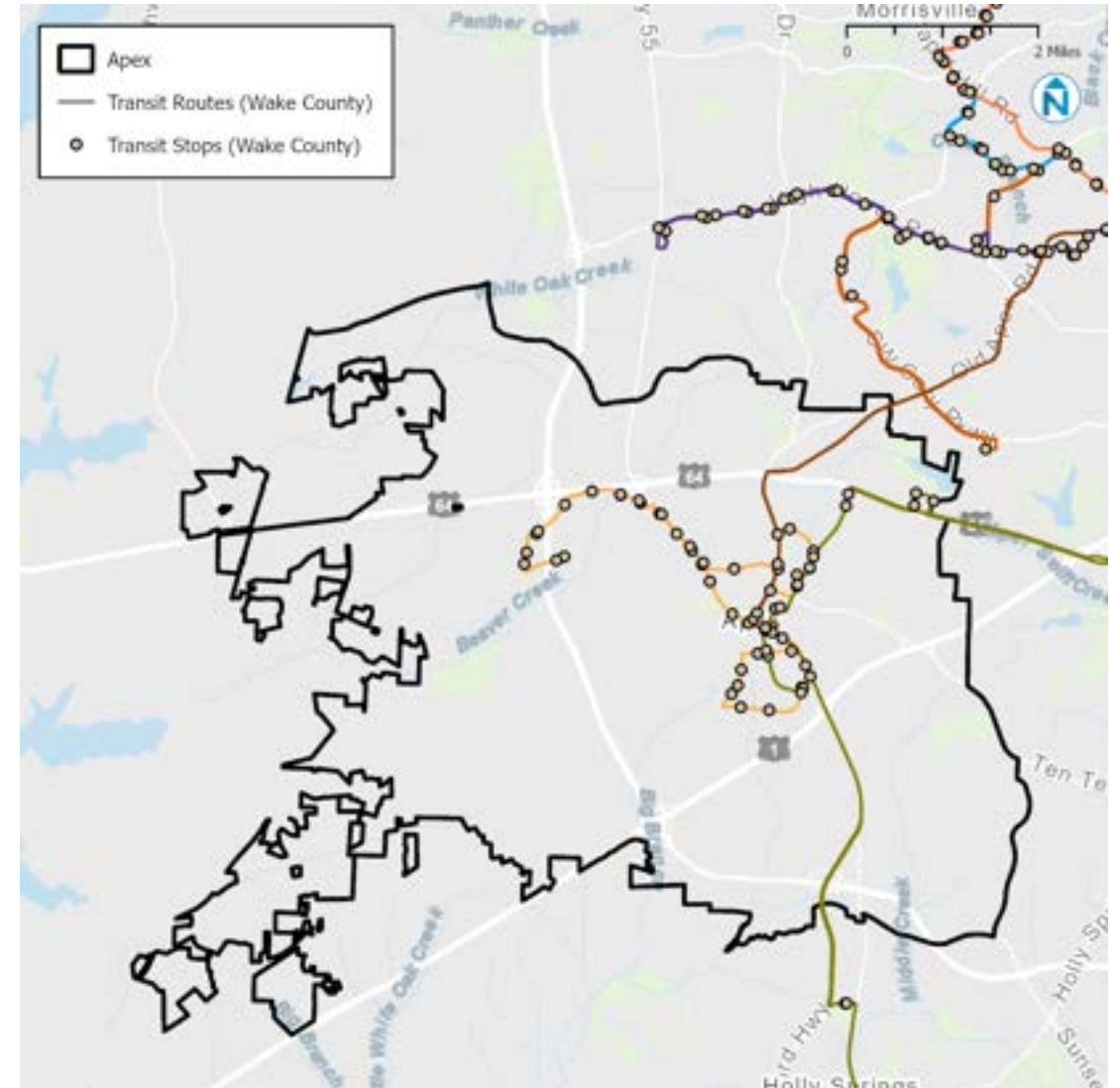
The Town of Apex is one of the largest towns in Wake County with a population of nearly 100,000 and it is also one of the fast-growing communities, increasing its population by 49% between 2016 and 2022. This compares with employment, which grew by 18% over the same period. Apex's larger population contributes to a denser population as compared with Wake County overall. In terms of demographic characteristics, Apex is wealthier, less diverse and younger as compared with the Wake County population overall.

Apex has three regional bus routes although one route (Route 311) was suspended during COVID and has not yet been re-instated.

- Apex-Cary Express (ACX) that connects Apex and Cary with peak period service on weekdays.
- Route 305: Connects Apex with North Carolina State University and Raleigh with hourly service during peak periods on weekdays. A handful of morning and evening trips extend to Holly Springs.
- Route 311: Apex-RTC that provides peak-only connections between Apex and Research Triangle Park. This service was suspended in 2020 and is planned to start again in FY27.

A fourth route – GoApex Route 1 – provides local circulation within the Town of Apex. It operates hourly on weekdays and Saturdays from 6 AM to 10 AM and is fare free.

Apex is actively pursuing several planning efforts and has been one of the largest participants in the Community Funding Area program. Funded projects include a Transit Prioritization Study, bus stop improvements, GoApex Route 1 and sidewalk improvements.



Apex: Key Statistics



Population Density
(Persons/Acre): 2.65

Wake County: 2.06



Employment Density
(Jobs/Acre): 0.71

Wake County: 1.19



Zero Vehicle Households:
1.9%

Wake County: 4.0%

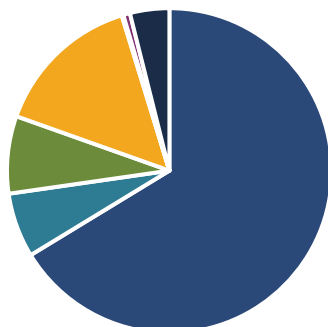


Median Household Income:
\$129,688

Wake County: \$96,806



Race and Ethnicity



- White Alone
- Hispanic or Latino
- Black Alone
- Asian Alone
- American Indian Alone
- Other Race Alone
- Two or More Races



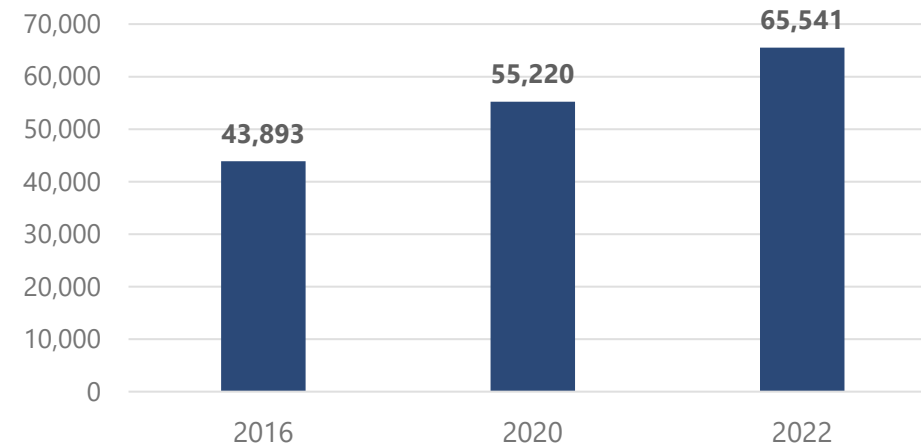
Age Groups



- Under 18
- 18 to 24
- 25 to 34
- 35 to 54
- 55 to 64
- 65 to 74
- 75 to 84
- 85 years and over

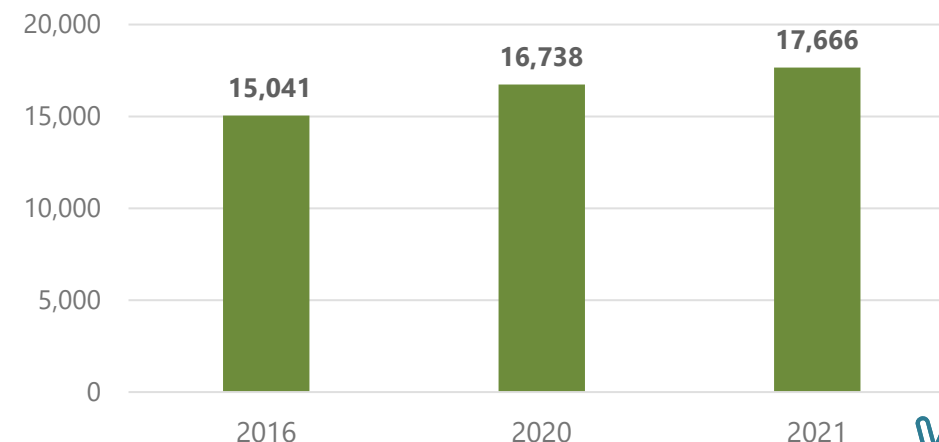
Population Growth, 2016 to 2022: **49%**

Wake County: 13%



Employment Growth, 2016 to 2021: **18%**

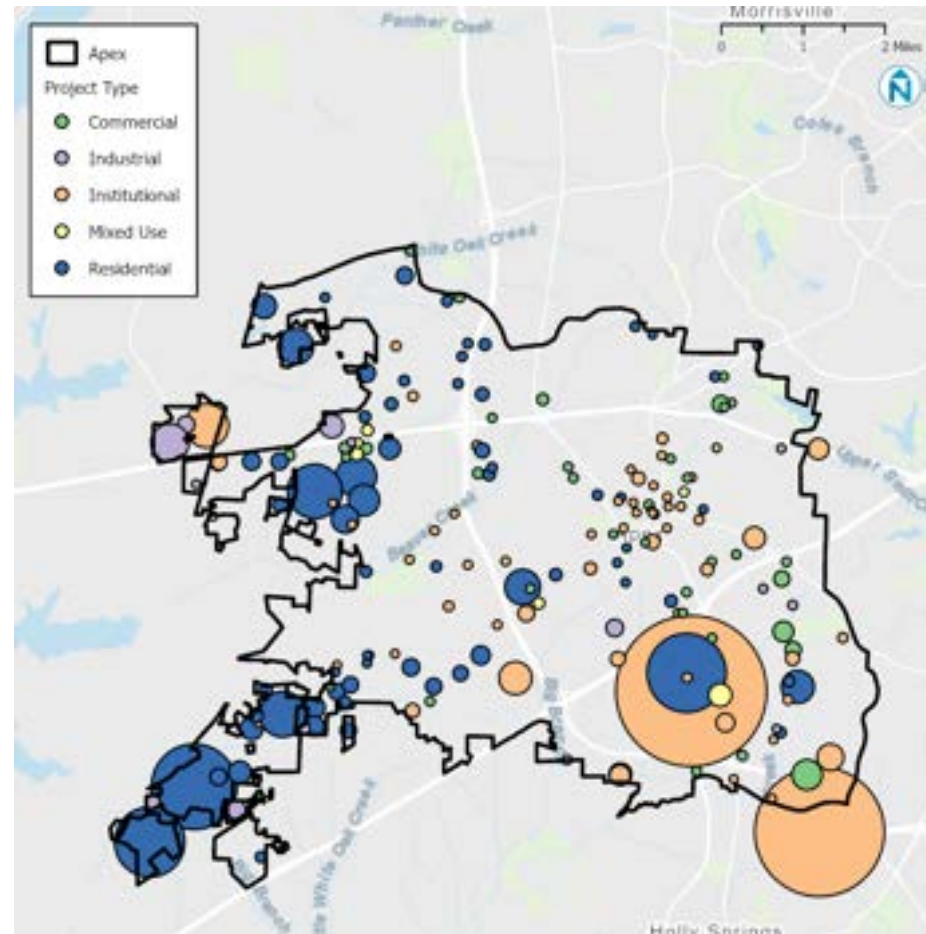
Wake County: 8%



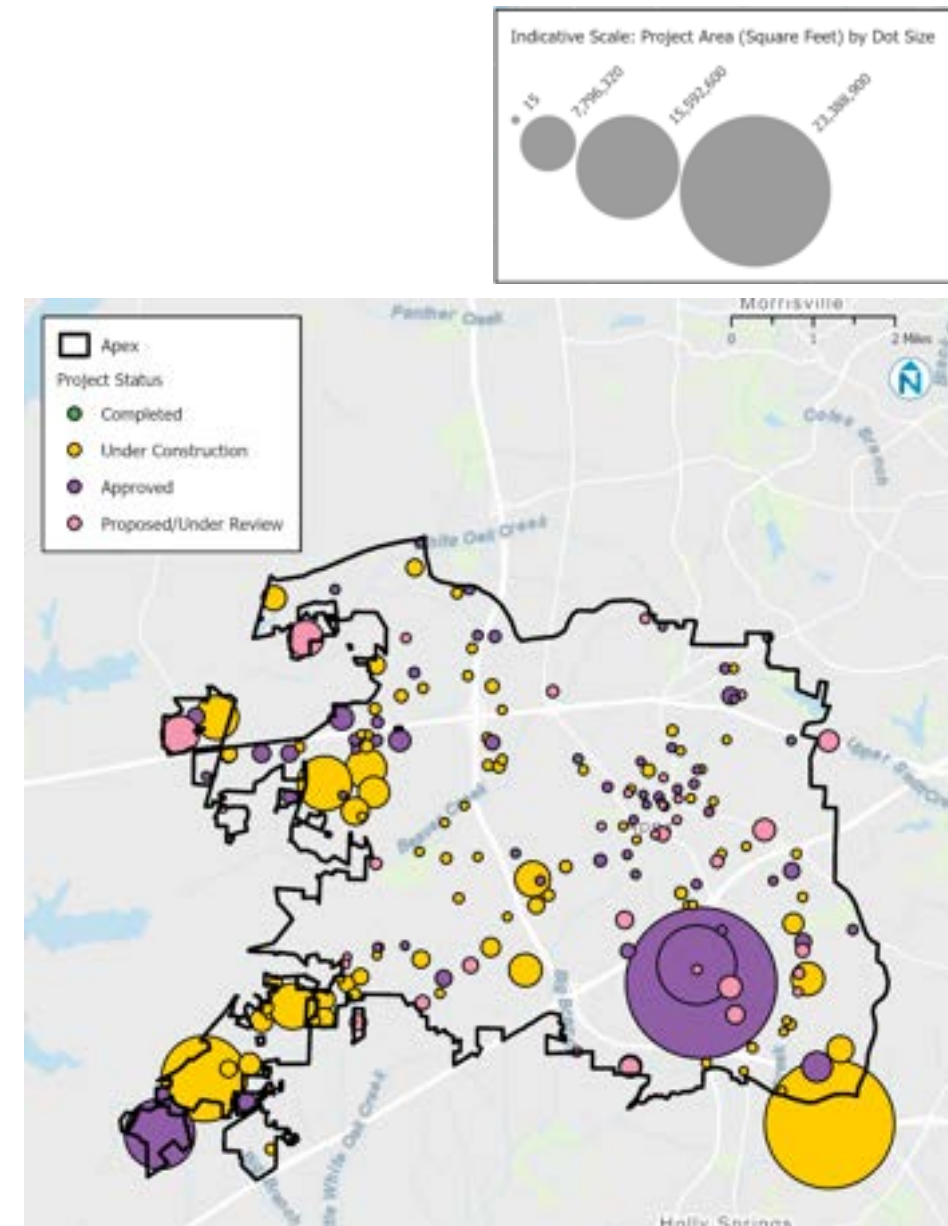
Apex: Development

Data collected in 2024 shows Apex has a multitude of projects in various stages of development. Most projects are residential, although a handful of large institutional projects are under construction or recently completed. Most new projects are not located within walking distance of existing transit services, including GoApex Route 1. This suggests that future connections will be needed.

Apex's future rail station, combined with the Town's strategic location south and west of Raleigh mean it has potential to function as a regional transit hub for both Apex residents but also people traveling to/from Cary, Holly Springs and Fuquay Varina. Identifying a location and a facility for a future hub is a potential project.



Development by Type and Size



Development by Status and Size

Cary: Introduction

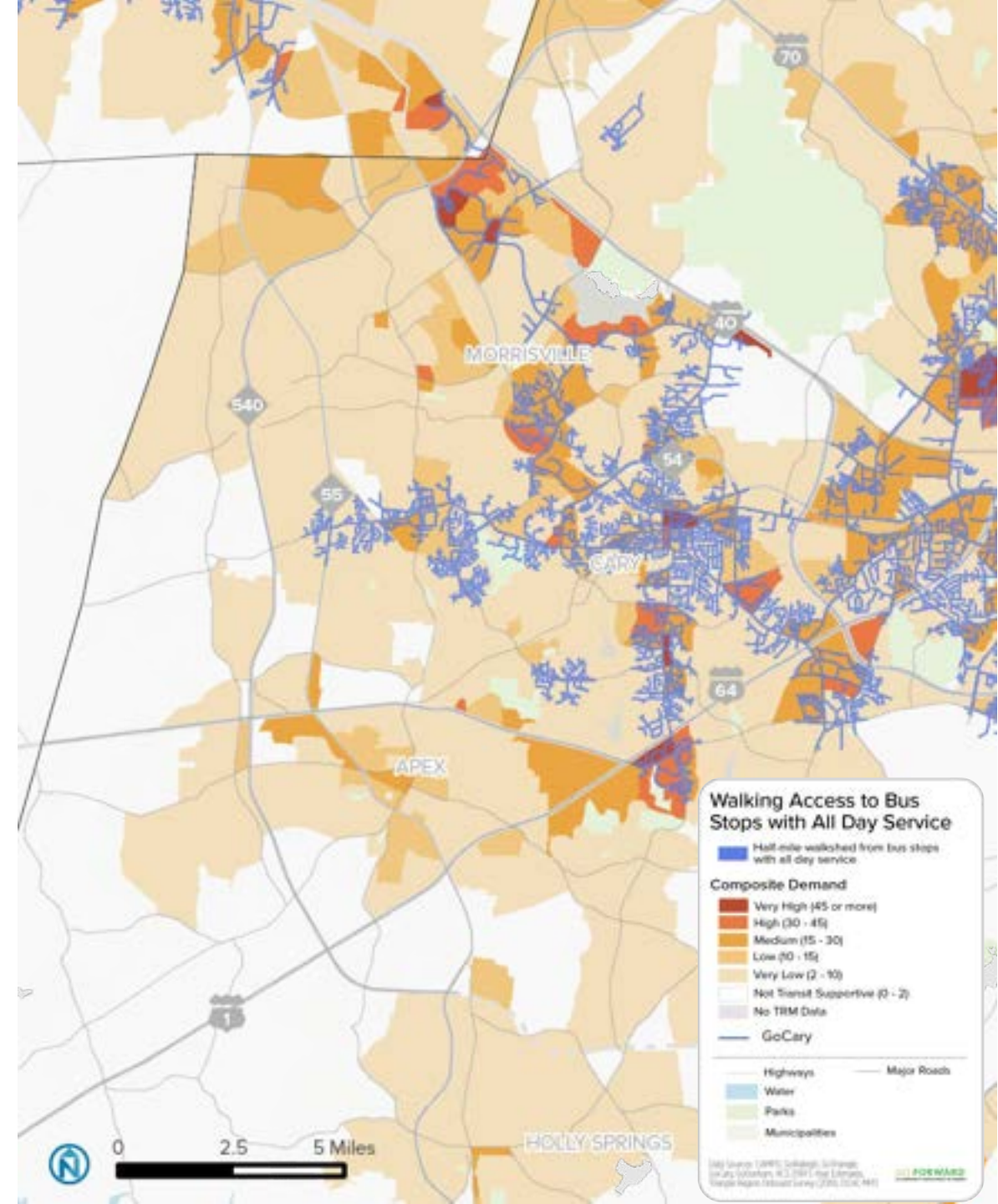
The Town of Cary, like the rest of Wake County, has been experiencing rapid growth. The U.S. Census shows Cary's population at 180,010 in July 2023, which is 33% higher than its population in 2010 and 3% higher than its population in 2020. The growth rates are notable because Cary continues to grow at a fast rate even from a relatively high base.

As compared with other communities in Wake County, Cary is more densely developed, although density is still low from a transit propensity perspective (see also map on right). Cary's population is diverse; roughly 60% identify as white alone, 21% identify as Asian and 8% as Black and 8% as Hispanic or Latino. Cary is an affluent community; median income is nearly 30% higher than the Wake County average. The percentage of households without vehicles is slightly lower than the county average.

The Town of Cary operates its own transit system, GoCary, which includes eight fixed-route bus lines, six of which operate all-day, weekdays and Saturday. There is also one bus route that operates during the midday only and peak period express service to Apex. GoTriangle service connects Cary with downtown Raleigh and the Regional Transit Center (RTC) at Research Triangle Park. Riders traveling to the RTC can connect to Raleigh Durham Airport, Durham Station and Chapel Hill.

The map on the right shows transit demand in Cary, together with the half-mile walkshed from bus stops with all day service. The analysis shows that – in 2024 - most of the densely developed areas in Cary are served by transit. Ridership on GoCary’s services has been strong with ridership recovering from pre-COVID levels faster than other regional transit services. While the service remains fare-free, strong ridership suggests services are aligned with need.

Planned transit service investments may include increasing the frequency of service in the evenings and on Sundays to operate every 30 minutes. As the Town continues to add people and jobs, and transitions towards pedestrian oriented development patterns, there may be opportunities to increase the frequency of service on weekdays to every 15 minutes





Report Appendices

Data Sources and Methods

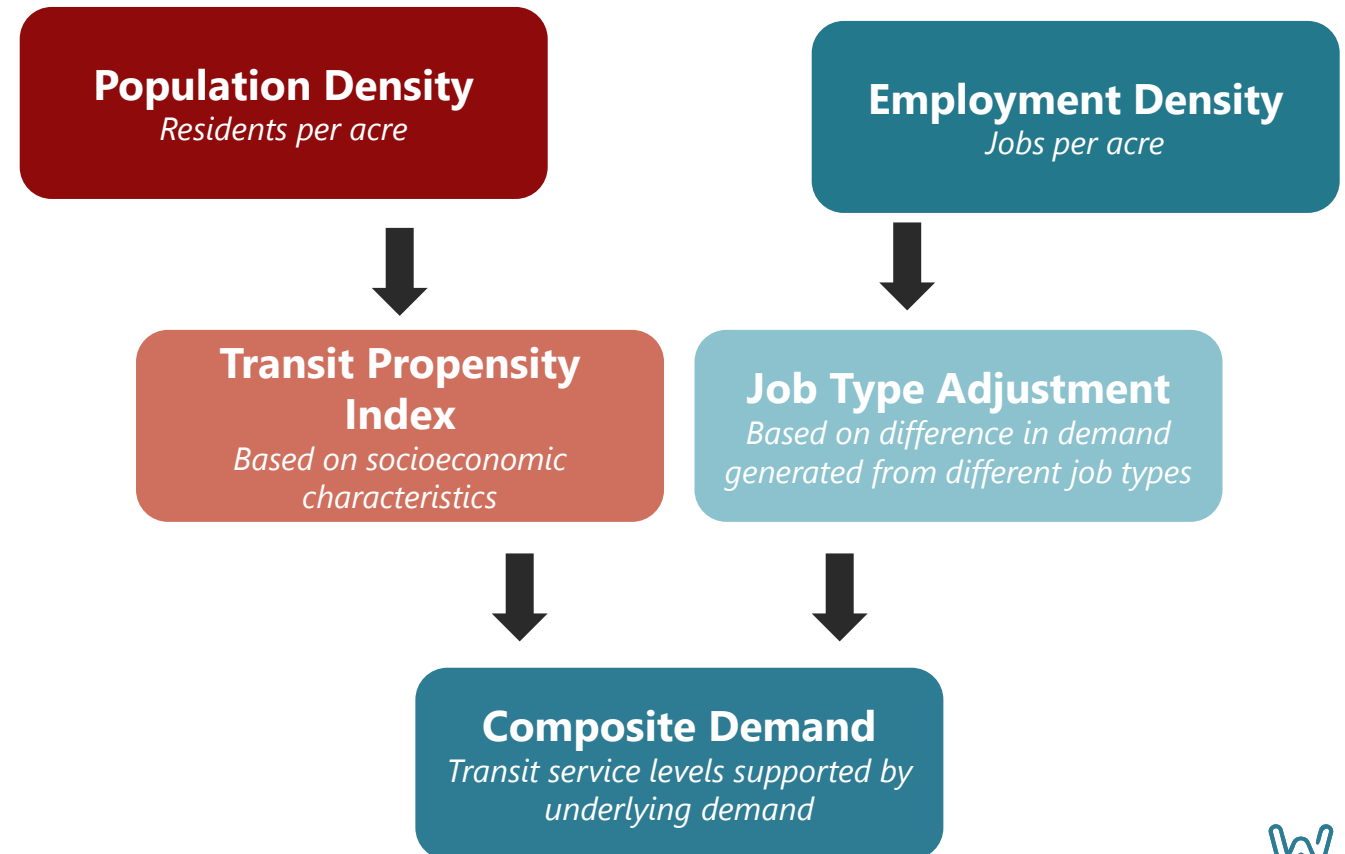
Transit Demand Analysis Calculation and Methodology

While total population and employment density are crucial to understanding transit demand, analyzing who is taking transit and what types of jobs are in an area allows for a more comprehensive look at the level of service needed. A **Transit Demand Analysis** considers the following factors:

- Population Density, in residents per acre
- Socioeconomic Characteristics, combined into a Transit Propensity Index (see slide 71)
- Employment Density, in jobs per acre
- Types of Jobs, to determine a Job Type Adjustment (see slide 72)

The analysis results in a **Composite Demand** score for each TAZ by combining population density adjusted by the Transit Propensity Index and employment density adjusted by job type. Composite Demand can be used to identify appropriate transit service levels supported by the underlying demand.

Transit Demand Analysis Components



Transit Propensity Index

The Transit Propensity Index (TPI) helps to highlight and prioritize transit dependent populations—as identified by the previous demographic analysis—by measuring their relative demand for transit.

When a significant number of people from transit-dependent socioeconomic groups live in clustered areas, the underlying demand for transit in these areas may be higher than is captured by just looking at population density. Conversely, in areas where transit-supportive groups have lower representation, the transit demand may be lower than what is captured purely by population density.

Taking these factors into account, the project team calculated the TPI for each demographic factor, which is the ratio between transit mode share for the specific group and the transit mode share for the general population and calculated at the regional level. The table to the right shows the TPI among different groups. A factor greater than 1 means that the group is x times more likely to use transit than the average population, with x signifying the value of the factor. As an example, a TPI of 12.1 for people without vehicle access means that people in that group are 12.1 times more likely to use transit than the general population.

This ratio is applied to the demographic breakdown of a particular geographic area to target communities that are more likely to use or need transit.

Regional Transit Propensity Index by Demographic

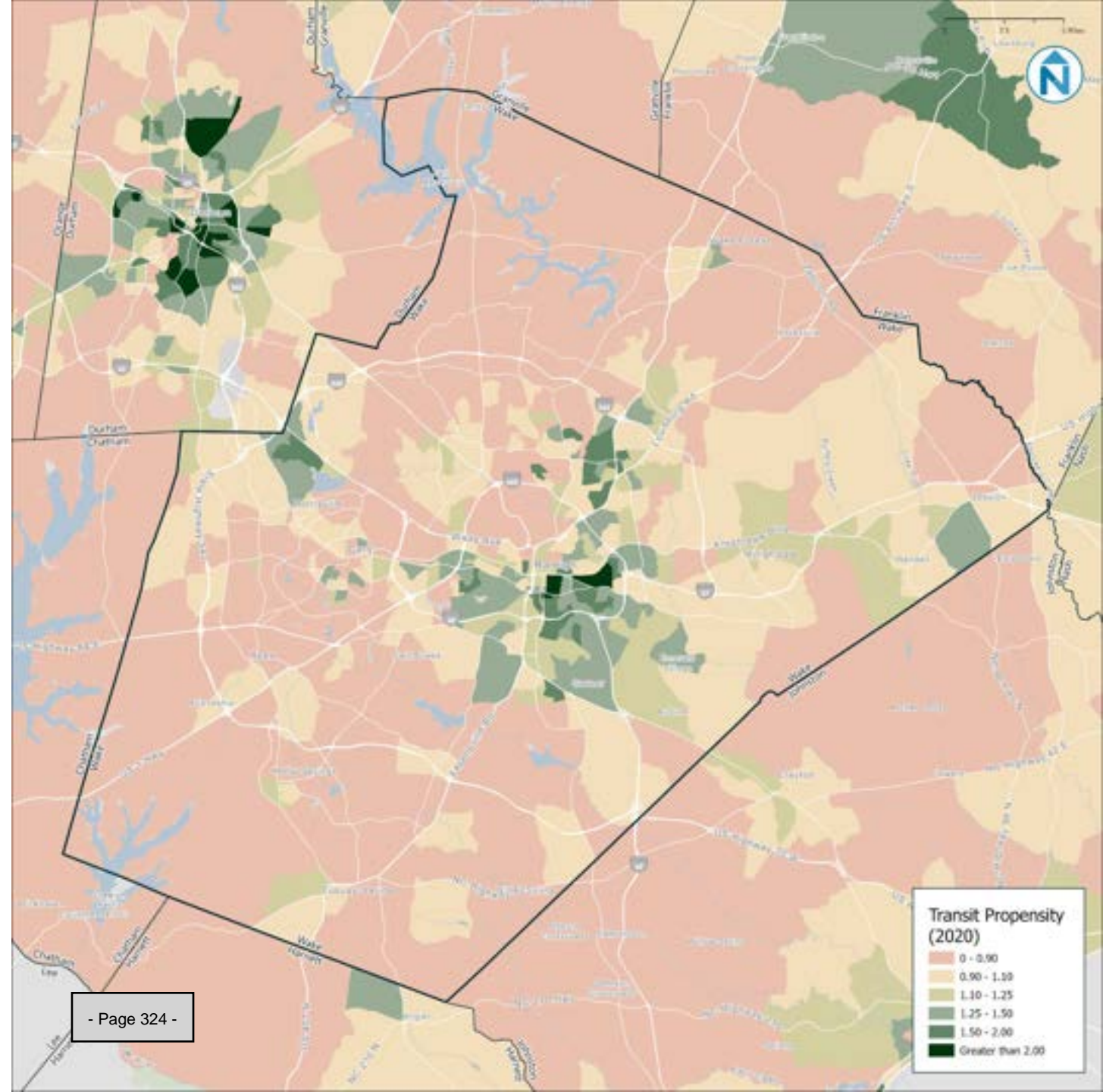
Factor	TPI
Demographic Factors	
Income	
Less than \$15k	6.3
\$15k - \$25k	3.4
\$25k - \$35k	1.3
\$35k and above	0.3
Race/Ethnicity	
Black, Hispanic, Asian, Indigenous, and Multiracial	1.8
White (non-Hispanic)	0.4
Age (of population 18+)	
18 - 34	1.4
35 - 64	0.9
65 and older	0.5
Vehicle Access	
No vehicle access	12.1
Access to one vehicle	0.8
Access two or more vehicles	0.2

Source: ACS 2019 5-Year Estimates, Triangle Region OnBoard Survey (2019)

Transit Propensity Index (2020)

The Transit Propensity Index (TPI) was calculated for each TAZ in Wake County by measuring the relative demand for transit based on demographic factors, including the proportion of population with low-incomes, zero vehicle households and racial minorities. The calculation ensures currently and historically underserved communities who are likely to use transit at higher rates are prioritized in receiving service for more information about the TPI calculation).

The analysis (see map to the right) shows that the census blocks with the highest needs are in neighborhoods south and east of downtown Raleigh. There are also pockets of high need in North Raleigh, the area around North Carolina State University, Morrisville, and Garner. A smattering of census blocks also indicate higher need, including near Zebulon, Wendell and Knightdale.



Job Type Adjustment
*Based on difference in demand
generated from different job types*

Job Type Adjustment

Different types of jobs generate different levels of transit demand. For examples, jobs in the service and retail sectors have customers who travel to shop and access service. Hospitals and schools, especially universities, also fall into this category because the activity at the site includes visitors, clients, and patients. These types of employment sites have people arriving and departing throughout more of their hours of operation, creating a more sustained need for transit service.

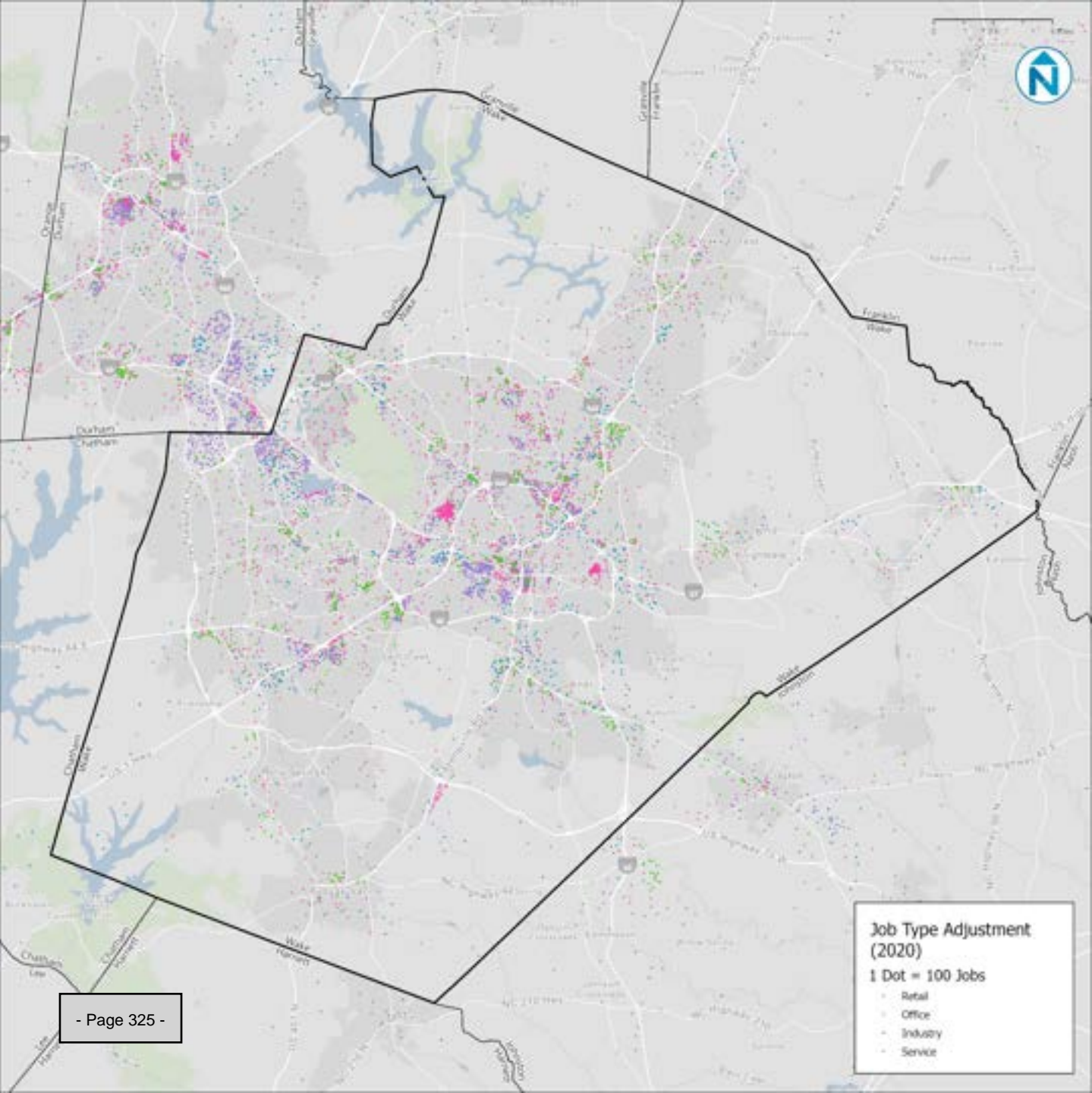
As a result, the potential for transit ridership at jobs serving clients, patients, students and customers is greater than purely office jobs. As part of understanding transit demand, therefore, the study team adjusted demand to place a greater weight on employment sites that attract workers, customers and clients (see table below).

In Wake County, this means that while job density at the Research Triangle Park is high, most jobs are in the office sector and do not generate sustained demand. Conversely, downtown Raleigh has many more service and retail jobs. Other areas with clusters of high demand include the area around Crabtree Valley Mall and UNC Rex Hospital, Triangle Town Center, North Carolina State University and the Wake Med Cary campus, at the intersection of Kildare Farm Road and Tryon Road.

Job Types and Transit Demand

Jobs by Demand Generated	Demand compared to avg job	Demand compared to residents per acre
Service & Retail	1.3	2.5
Office & Industrial	0.9	1.7

Source: Nelson\Nygaard National Research



Appendix B: Community Profile Data Sources

Key demographic statistics for each CFA community were calculated using the following data sources:

- US Census Bureau 2022 American Community Survey (ACS) 5-Year Estimates
- US Census Bureau 2021 Longitudinal Employer-Household Dynamics (LEHD) Origin-Destination Employment Statistics

Ongoing and upcoming development data for each CFA community were either provided directly by the community or collected using publicly available community-specific GIS data. The project team then assigned developments to standardized development type and status categories. Specific data sources for each community are described in the table on the right.

Community	Development Data Source
Apex	Development in Apex web map
Cary	Developments data
Fuquay-Varina	What's Coming to Fuquay-Varina? web map
Garner	Provided by community
Holly Springs	Provided by community
Knightdale	Provided by community
Morrisville	Provided by community
Raleigh	Development Plans data
Rolesville	Development Projects web map
Wake Forest	Active Developments web map
Wendell	Provided by community
Zebulon	Interactive Development web map

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: UNFINISHED

BUSINESS

Meeting Date: February 11, 2025

Item Details

Presenter(s): Lauren Staudenmaier, Planner II

Department(s): Planning

Requested Motion

Continued from the January 28th Town Council Meeting.

Possible motion concerning Rezoning Application No. 24CZ15 Green Level Towns PUD. The applicant, Mike Hunter, W&W Partners, Inc, seeks to rezone approximately 6.035 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 7924 Green Level Church Road.

Approval Recommended?

The Planning Department recommends approval.

The Planning Board held a Public Hearing on January 13, 2025 and by a vote of 6-3 recommended approval of the rezoning with the conditions offered by the applicant.

Item Details

The property to be rezoned is identified as PIN 0723935325.

Attachments

- UB1-A1: Staff Report - Rezoning Case No. 24CZ15 Green Level Towns PUD
- UB1-A2: Planning Board Report to Town Council - Rezoning Case No. 24CZ15 Green Level Towns PUD



STAFF REPORT

Rezoning #24CZ15 Green Level Towns PUD

February 11, 2025 Town Council Meeting



The public hearing for this rezoning was held on January 28, 2025 and was closed. The vote was continued to February 11, 2025. Proposed standards that have changed since that time are shown in bold.

All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

BACKGROUND INFORMATION:

Location: 7924 Green Level Church Road
Applicant: Mike Hunter, W&W Partners, Inc.
Authorized Agent: Matthew Carpenter, Parker Poe
Owner: W&W Properties, Inc.

PROJECT DESCRIPTION:

Acreage: ±6.035 acres
PIN: 0723935325
Current Zoning: Rural Residential (RR)
Proposed Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ)
2045 Land Use Map: Medium Density Residential
Town Limits: ETJ

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Rural Residential (RR); Medium Density Residential-Conditional Zoning (MD-CZ #13CZ35)	Single-family (Crestmont Subdivision)
South:	Planned Unit Development-Conditional Zoning (PUD-CZ #13CZ18)	Single-family (Greenmoor Subdivision)
East:	Planned Unit Development-Conditional Zoning (PUD-CZ #13CZ18)	Greenmoor Subdivision; Greenmoor HOA
West:	Rural Residential (RR)	Farm; Green Level Church Road

EXISTING CONDITIONS:

The property to be rezoned is located on the east side of Green Level Church Road, north of the Greenmoor Subdivision, and south of the Crestmont Subdivision. The property currently has residential structures and two 30' wide electrical easements. The property is heavily vegetated in the southeastern and east portion of the site with a stream parallel to the southeastern property line. The site contains two wetlands and a portion of a 100' Town of Apex Riparian Buffer along the eastern property line.

NEIGHBORHOOD MEETING:

The applicant conducted the neighborhood meetings on July 10, 2024 and on December 12, 2024. The neighborhood meeting reports are attached.

WCPSS COORDINATION:

A Letter of Impact from Wake County Public School System (WCPSS) was received for this rezoning and is included in the staff report packet. WCPSS indicates that elementary, middle, and high schools within the current assignment area for this rezoning/development are anticipated to have insufficient capacity for future

STAFF REPORT

Rezoning #24CZ15 Green Level Towns PUD

February 11, 2025 Town Council Meeting



students. School expansion or construction within the next five years may address concerns at the middle and high school grade level.

2045 LAND USE MAP:

The 2045 Land Use Map classifies the subject property as Medium Density Residential. The proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is consistent with the Medium Density Residential land use classification.

PROPOSED PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing a Planned Unit Development Plan with uses and development standards as follows:

Permitted Uses:

The development includes residential uses. The Rezoned Lands may be used for, and only for, the uses listed below. The permitted uses are subject to the limitation and regulations stated in the UDO and any additional limitation or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

Residential:

1. Single-family
2. Townhouse
3. Duplex
4. Accessory Apartment*

* Homeowner Association covenants shall not restrict the construction of accessory dwelling units.

Utilities:

1. Utility, minor

Recreational:

1. Greenway
2. Park, active
3. Park, passive
4. Recreation facility, private

Proposed Design Controls:

Proposed Land Area: 6.035

Maximum Number of units*: 32 units

Maximum Built-Upon Area: 65%

	Townhouses**	Single-Family	Duplex	Recreation facility, private
Minimum Lot Size	None	5,000 square feet	None	None
Minimum Lot Width	18 ft.	50 ft.	None	None
Maximum Height	3 stories, 36 ft. ***	3 stories, 36 ft.	3 stories, 36 ft.	3 stories, 36 ft.

*No Townhouse building shall include more than four (4) units.

**No townhouse buildings shall front Hillman Bend.

***No townhouse building along Hillman Bend shall exceed 2 stories.

STAFF REPORT

Rezoning #24CZ15 Green Level Towns PUD

February 11, 2025 Town Council Meeting



SETBACKS:

	Proposed Minimum Setbacks	
Townhouse	Front	15'
	Front (garage) (from sidewalk or back-of-curb where no sidewalk exists)	20'
	Side	0' (10' for end units)
	Side (corner)	15'
	Rear	15'
	Building to buffer/RCA	10'
	Parking to buffer/RCA	5'
Single-family	Front	25'
	Front (garage) (from sidewalk or back-of-curb where no sidewalk exists)	N/A
	Side	6' minimum/16' total
	Side (corner)	15'
	Rear	20'
	Building to buffer/RCA	10'
	Parking to buffer/RCA	5'
Duplex	Front	15'
	Front (garage) (from sidewalk or back-of-curb where no sidewalk exists)	20'
	Side	8'
	Side (corner)	15'
	Rear	15'
	Building to buffer/RCA	10'
	Parking to buffer/RCA	5'
Recreation facility, Private	Front	15'
	Side	10'
	Side (corner)	15'
	Rear	25'
	Building to buffer/RCA	10'
	Parking to buffer/RCA	5'

STAFF REPORT

Rezoning #24CZ15 Green Level Towns PUD

February 11, 2025 Town Council Meeting



PROPOSED RCA & BUFFERS:

The project will have at least 30% of the total area in Resource Conservation Area and landscape buffers. If the development is for single-family homes and mass graded, it shall provide an additional 5% RCA required for mass grading under UDO Section 7.2.5.B.8.

Residential Buffers:

Perimeter Buffers:	UDO Required	Proposed
Along the northern property line	15' Type A	15' Type A
Along the eastern property line	15' Type A	15' Type A
Along Green Level Church Road	30' Type B	30' Type B
Along the southern property line except as listed below	15' Type A	15' Type A
Along the shared property line with PIN 0723931058	15' Type A	30' Type B (townhouses or duplex developed) 15' Type A (single-family developed)
Along the southeastern property line as shown on the Concept Plan	15' Type A	50' Type B (townhouses or duplex developed) 15' Type A (single-family developed)

ARCHITECTURAL STANDARDS:

The proposed development offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Changes to the exterior materials, roof, windows, doors, process, trim, etc. are allowable with administrative approval at the staff level. Further details shall be provided at the time of development plan submittal. The following conditions shall apply:

Single-family:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
3. Eaves shall project at least 12 inches from the wall of the structure.
4. Garage doors shall have windows, decorative details or carriage-style adornments on them.
5. The garage shall not protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.
6. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - a. Windows
 - b. Bay window
 - c. Recessed window
 - d. Decorative window
 - e. Trim around the windows
 - f. Wrap around porch or side porch
 - g. Two or more building materials
 - h. Decorative brick/stone
 - i. Decorative trim
 - j. Decorative shake
 - k. Decorative air vents on gable
 - l. Decorative gable
 - m. Decorative cornice
 - n. Column
 - o. Portico
 - p. Balcony
 - q. Dormer



8. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
9. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
10. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
11. Front porches shall be a minimum of 5 feet deep.
12. No more than 25% of single-family lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.

Duplexes:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Front facing garage doors shall have windows, decorative details or carriage-style adornments on them.
3. The project shall include a minimum of two (2) or more garage door styles.
4. Entrances shall have a covered porch/stoop area leading to the front door.
5. The garage cannot protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.
6. The visible side of a unit on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
7. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
8. The rear and side elevations of the units facing public right-of-way shall have trim around the windows.
9. Side and rear elevations shall include architectural features to break up the flat walls both vertically and horizontally.
10. Buildings shall have no more than one unadorned side-gabled roof in a row within a single building.

Townhouses:

1. Vinyl siding is not permitted; however vinyl windows, decorative elements and trim are permitted.
2. The roofline cannot be a single mass; it shall be broken up horizontally and vertically between every other unit.



3. Front facing garage doors shall have windows, decorative details, or carriage-style adornments on them.
4. The project shall include a minimum of two (2) or more garage door styles.
5. Entrances shall have a covered porch/stoop area leading to the front door.
6. The garage cannot protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.
7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements, such as, but not limited to, the following:
 - a. Windows
 - b. Bay window
 - c. Recessed window
 - d. Decorative window
 - e. Trim around the windows
 - f. Wrap around porch or side porch
 - g. Two or more building materials
 - h. Decorative brick/stone
 - i. Decorative trim
 - j. Decorative shake
 - k. Decorative air vents on gable
 - l. Decorative gable
 - m. Decorative cornice
 - n. Column
 - o. Portico
 - p. Balcony
 - q. Dormer
8. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and include varied trim, shutter, and accent colors complementing the siding color.
9. The rear and side elevations of units facing public rights of way shall have trim around the windows.
10. Side and rear elevations shall include architectural features to break up the flat walls both vertically and horizontally.
11. Townhouse buildings shall have no more than one unadorned side-gabled roof in a row in a single building.
12. End townhouse elevations facing a public right of way shall have a portico or covered entrance.

ENVIRONMENTAL ZONING CONDITIONS:

1. If Hillman Bend is not extended to the south, the project shall install signage adjacent to the wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed.
2. The HOA shall not prohibit clover or other mixed grasses.
3. The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer.
4. A minimum of 70% of landscaping shall be native or nativar species.
5. To reduce irrigation requirements, the project shall select and plant only warm season grasses.
6. The project shall install a minimum of one (1) pet waste station.
7. All homes shall be pre-configured with solar conduit.

NATURAL RESOURCE AND ENVIRONMENTAL DATA:

The project is located within the Cape Fear River Basin. The Town's Watershed Protection Overlay District Map shows the site is within the Primary Watershed Protection Overlay District. The project site does not sit within a designated current or future 100-year floodplain as shown on the Town of Apex Watershed & FEMA Map dated April 2015. FIRM Panel 3720072200J dated May 2, 2006 does not include a floodplain within the property boundary.

**PARKING:**

Parking for the development shall meet the requirements of UDO Section 8.3.

SIGNAGE:

All signage for this PUD shall comply with Apex UDO Section 8.7 *Signs*.

PUBLIC FACILITIES:

The proposed PUD shall be designed to comply with the Town's Sewer and Water Master Plan and Standards and Specifications. The development will be served water and sewer by the Town of Apex.

STORMWATER MANAGEMENT:

The PUD stormwater control devices shall be designed and constructed to exceed UDO standards so that the post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1-year, and 10-year storm events. The development shall meet all stormwater management requirements for quality and quantity treatment in accordance with UDO Section 6.1.

APEX TRANSPORTATION PLAN/ACCESS AND CIRCULATION:

All proposed roadway infrastructure and right-of-way dedications shall be consistent with the Town of Apex Comprehensive Transportation Plan and Bicycle and Pedestrian System Plan in effect at the time of development approval.

- The project shall dedicate right of way and widen the eastern half of Green Level Church Road for the length of the property's Green Level Church Road frontage based on a minimum 84-foot back to back curb and gutter 4-lane divided major thoroughfare typical section with a 10-foot Side Path in a 110-foot right of way.
- To the north of the property, the existing Hillman Bend stub street and sidewalk conclude short of the property's northern property line (the "Crestmont Stub Street"). To the south of the property, the existing Hillman Bend stub street and sidewalk conclude short of the property's southern property line (the "Greenmoor Stub Street"). The project shall extend the Crestmont Stub Street south and the Greenmoor Stub Street north to the property line and construct a neighborhood street across the property to connect the two existing stub streets and sidewalks (the "Hillman Bend Extension"). The Hillman Bend Extension shall be based on a minimum 27-foot curb and gutter residential street section in a 50-foot right of way. Any fees in lieu collected by the Town for the Crestmont Stub Street or the Greenmoor Stub Street shall be available to the developer to construct the Hillman Bend Extension.
- If developer proposes direct public street access to Green Level Church Road, it shall be constructed as channelized right-in/right-out only and located a minimum of 375 feet north of the Greenmoor Path intersection. If developer does not propose direct public street access to Green Level Church Road, a temporary construction entrance shall be located on Green Level Church Road to serve construction traffic access until final subdivision plat.

PEDESTRIAN AND BICYCLE IMPROVEMENTS:

- 5-foot sidewalks on both sides of the Hillman Bend Extension.
- If single-family homes are constructed, 5-foot sidewalks on both sides of the internal neighborhood street as required by UDO Section 2.3.4.
- If townhomes and/or duplexes are constructed, a 5-foot sidewalk on one side of the internal neighborhood street as required by UDO Section 7.5.

STAFF REPORT

Rezoning #24CZ15 Green Level Towns PUD

February 11, 2025 Town Council Meeting



- A 10-foot side path on Green Level Church Road for the length of the property's Green Level Church Road frontage.
- If the project does not have driveway access on to Green Level Church Road, Developer shall construct a pedestrian connection to the side path on Green Level Church Road.

ENVIRONMENTAL ADVISORY BOARD:

This rezoning was heard by the Apex Environmental Advisory Board (EAB) per Unified Development Ordinance (UDO) Section 2.1.9.A.2.c. on October 17, 2024. The zoning conditions suggested by the EAB are listed below with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.	Not added
If Hillman Bend is not extended to the south, the project shall install signage adjacent to wooded or natural condition Resource Conservation Area.	Added
A solar PV system of at least 4kW shall be installed on at least 6 homes within the development. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development. The buildings on which these PV systems are located shall be identified on the Master Subdivision Plan, which may be amended from time to time.	Not added; A zoning condition provided that all homes shall be pre-configured with solar conduit.
Plant a minimum of three fruit trees in HOA common that are a minimum of 0.5-inch caliper and 2 feet in height at planting. Such trees shall be native or adaptive species to North Carolina.	Not added
The HOA shall not prohibit clover or other mixed grasses.	Added
In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.	Not added

PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY COMMISSION:

The project will require a fee-in-lieu of park land dedication for a maximum of 32 units. The fee in lieu will be calculated using the 2025 rates. The final unit count and total fee-in-lieu will be calculated at Master Subdivision Plan.

AFFORDABLE HOUSING:

Based on the adopted 2021 Apex Affordable Housing Plan and the 2023 Affordable Housing Incentive Zoning Policy, the Housing Program recommends at least five percent (5%) of the residential units or lots to be designated as affordable or workforce housing. The Policy recommendation applies to residential and mixed use rezoning applications that propose 20 or more residential units. ~~The proposed PUD does not include an affordable housing condition.~~



The rezoning proposes a minimum of five percent (5%) of the total residential units on the property shall be affordable housing units. The applicant provided a condition for affordable units for sale and for rent.

For sale affordable units (the “For Sale Units”) shall be subject to the following terms and conditions:

- The For Sale Units shall be constructed on-site and sold (includes unit price and lot price) at a mutually agreeable maximum affordable median income ownership initial sales price (the “Initial Sales Price”).
- The For Sale Units shall be occupied by households earning no more than one-hundred thirty five (135%) of the Raleigh NC Metropolitan Statistical Area (MSA), Area Median Income (AMI) as most recently published by HUD (the “Income Limit”). For purposes of calculating the Initial Sales Price for the For Sale Units, affordable shall mean a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner’s insurance, homeowner’s association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership (the “Housing Costs”). For purposes of the calculation, monthly Housing Costs shall not exceed thirty percent (30%) of the Income Limit divided by twelve (12).
- A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of twenty (20) years (the “Affordability Period”) shall be recorded in the Wake County Registry against the For Sale Units concurrently at the close of escrow upon the sale of each For Sale Unit.
- Developer will work with the Town to identify qualifying buyers for the first sale of the For Sale Units (the “First Sale”). Following the First Sale of the For Sale Units, Developer shall not be responsible for managing the For Sale Units or performing marketing, applicant screening, and selection related to future sales of the For Sale Units. Town staff will assist with the administrative duties of the For Sale Units during the Affordability Period.

For rent affordable units (the “Rental Units”) shall be subject to the following terms and conditions:

- The Rental Units shall be occupied by low-income households earning no more than eighty percent (80%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income, as most recently published by the U.S. Department of Housing and Urban Development (HUD) for a period of twenty (20) years starting from the date of issuance of the first residential Certificate of Occupancy (the “Affordability Period”).
- Prior to issuance of the first Certificate of Occupancy for the Rental Units, a restrictive covenant between the Town and property owner shall be executed and recorded in the Wake County Registry to memorialize the affordable housing terms and conditions.
- During the Affordability Period, the property owner shall submit annual compliance reports to the Town to verify compliance with the affordable housing terms and conditions.
- Following expiration of the Affordability Period, this affordable housing condition shall expire, and the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the Rental Units may be freely marketed and leased at market rate rents.

**PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of Rezoning #24CZ15 with the conditions as offered by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on January 13, 2025 and by a vote of 6-3 recommended approval with the conditions as proposed by the applicant. The reasons for the dissenting votes include:

- The scale of homes of both adjacent communities to the north and south are single detached homes, which is different from the proposed higher density town homes.
- Current problems of traffic during school peak rush hours and insufficient space in schools will remain, and may worsen since timeline for widening the full length of Green Level may be 20+ years.
- Not having any affordable housing.
- Compatibility- the density and appears of town homes is incompatible with the surrounding neighborhoods. Single family infill would fit the area.
- The Right-in Right- out access on Green Level should be full access but due to existing neighborhood entrances, this is the only option. This will create more cut through traffic into the Greenmoor neighborhood routing onto Hillman Bend, then to Greenmoor Path to ultimately turn left onto Green Level Church Road.
- A lot of units for the space and short space for the exit on Green Level.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map classifies the subject property as Medium Density Residential, which allows a density up to seven (7) units an acre. The proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is consistent with the Medium Density Residential land use classification.

The proposed rezoning is reasonable and in the public interest because it will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population. The proposed townhouse use is generally consistent and compatible with the surrounding single-family subdivisions. The townhouse use has conditions related front yard setbacks, architectural standards, limiting townhouse buildings to four units, and the townhouse height adjacent to Hillman Bend to two stories. The proposed rezoning provides increased buffers along the southern property boundary if the development designs a subdivision with townhouse or duplex units. The increased buffer provides additional separation to the existing single-family lots to preserve the adjacent subdivisions character while providing a cohesive transition in land use types. The proposed townhouse conditions maintain compatibility with the adjacent subdivisions while providing housing type flexibility.

The proposed transportation conditions are consistent with the Town of Apex Transportation Plan and Bicycle and Pedestrian Plan. The rezoning includes constructing an extension to complete Hillman Bend with sidewalk on both sides, which provides additional vehicular and pedestrian connectivity to the area.



PLANNED UNIT DEVELOPMENT DISTRICT AND CONDITIONAL ZONING STANDARDS:

Standards

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

1. *Planned Unit Development (PUD-CZ) District*

In approving a Planned Development (PD) Zoning District designation for a PUD-CZ, the Town Council shall find the PUD-CZ district designation and PD Plan for PUD-CZ demonstrates compliance with the following standards:

a) *Development parameters*

- (i) The uses proposed to be developed in the PD Plan for PUD-CZ are those uses permitted in Sec. 4.2.2 *Use Table*.
- (ii) The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed use areas as specified on the 2045 Land Use Map. The location of uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.
- (iii) The dimensional standards in Sec. 5.1.3 *Table of Intensity and Dimensional Standards, Planned Development Districts* may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.
- (iv) The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details*, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Apex Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.
- (v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation,



and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.

- (vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.
- (vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.
- b) *Off-street parking and loading.* The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.3 *Off-Street Parking and Loading*, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the PUD-CZ is submitted as part of the PD Plan that is determined to be suitable for the PUD-CZ, and generally consistent with the intent and purpose of the off-street parking and loading standards.
- c) *RCA.* The PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.1.2 Resource Conservation Area, except that the percentage of RCA required under Sec. 8.1.2 may be reduced by the Town Council by no more than 10% provided that the PD Plan for PUD-CZ includes one or more of the following:
 - (i) A non-residential component;
 - (ii) An overall density of 7 residential units per acre or more; or
 - (iii) Environmental measures including but not limited to the following:
 - a. The installation of a solar photovoltaic (PV) system on a certain number or percentage of single-family or townhouse lots or on a certain number or percentage of multifamily, mixed-use, or nonresidential buildings. All required solar installation shall be completed or under construction prior to 90% of the building permits being issued for the approved number of lots or buildings. For single-family or townhouse installations, the lots on which these homes are located shall be identified on the Master Subdivision Plat, which may be amended;
 - b. The installation of a geothermal system for a certain number or percentage of units within the development; or
 - c. Energy efficiency standards that exceed minimum Building Code requirements (i.e. SEER rating for HVAC).
- d) *Landscaping.* The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.
- e) *Signs.* Signage in the PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.7 *Signs*, except that the standards can be varied if a master signage plan is submitted for review and approval concurrent with the PD plan and is determined by the Town Council to be suitable for the PUD-CZ and generally consistent with the intent and purpose of the sign standards of the UDO. The master signage plan shall have design standards that are exceptional and provide for



higher quality signs than those in routine developments and shall comply with Sec. 8.7.2 *Prohibited Signs*.

- f) *Public facilities*. The improvements standards and guarantees applicable to the public facilities that will serve the site shall comply with Article 7: *Subdivision* and Article 14: *Parks, Recreation, Greenways, and Open Space*.
 - (i) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site transportation circulation system. The on-site transportation circulation system shall be integrated with the off-site transportation circulation system of the Town. The PD Plan for PUD-CZ shall be consistent with the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details* and show required right-of-way widths and road sections. A Traffic Impact Analysis (TIA) shall be required per Sec. 13.19.
 - (ii) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, and are efficiently integrated into off-site potable water and wastewater public improvement plans. The PD Plan shall include a proposed water and wastewater plan.
 - (iii) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads shall be planned and programmed for the development proposed in the PD Plan for PUD-CZ, and the development is conveniently located in relation to schools and police protection services.
 - (iv) The PD Plan shall demonstrate compliance with the parks and recreation requirements of Sec. Article 14: *Parks, Recreation, Greenways, and Open Space* and Sec. 7.3.1 *Privately-owned Play Lawns* if there is a residential component in the PUD-CZ.
- g) *Natural resource and environmental protection*. The PD Plan for PUD-CZ demonstrates compliance with the current regulatory standards of this Ordinance related to natural resource and environmental protection in Sec. 6.1 *Watershed Protection Overlay District*, Sec. 6.2 *Flood Damage Prevention Overlay District*, and Sec. 8.1 *Resource Conservation*.
- h) *Storm water management*. The PD Plan shall demonstrate that the post-development rate of on-site storm water discharge from the entire site shall not exceed pre-development levels in accordance with Sec. 6.1.7 of the UDO.
- i) *Phasing*. The PD Plan for PUD-CZ shall include a phasing plan for the development. If development of the PUD-CZ is proposed to occur in more than one phase, then guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.
- j) *Consistency with 2045 Land Use Map*. The PD Plan for PUD-CZ demonstrates consistency with the goals and policies established in the Town's 2045 Land Use.
- k) *Complies with the UDO*. The PD Plan for PUD-CZ demonstrates compliance with all other relevant portions of the UDO.

CONDITIONAL ZONING STANDARDS:

The Planning Board shall find the PUD-CZ designation demonstrates compliance with the following standards. 2.3.3.F:

Legislative Considerations

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or



not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Rezoning #24CZ15

Pink Azalea Ct

Crestmont

Canoe Creek Ln

Duggins Pt

Blue Cedar Dr

Hillman Bnd

Greenmoor

Balmoor Trce

Greenmoor Path

Green Level Church Rd

0 200 400
Feet

PLANNED UNIT DEVELOPMENT APPLICATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Application #: 24CZ15 Submittal Date: August 1, 2024
Fee Paid: \$ Check #:

PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP

Project Name: Green Level Towns PUD
Address(es): 7924 Green Level Church Road
PIN(s) 0723935325

Acreage: 6.035
Current Zoning: Rural Residential (RR) Proposed Zoning: Planned Unit Development Conditional (PUD-CZ)
Current 2045 LUM Designation: Medium Density Residential

Is the proposed rezoning consistent with the 2045 LUM Classification(s)? Yes ☒ No ☐

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use:	Acreage:	<u>None</u>
Area proposed as non-residential development:	Acreage:	<u>N/A</u>
Percent of mixed use area proposed as non-residential:	Percent:	<u>N/A</u>

Applicant Information

Name: W&W Partners, Inc. c/o Matthew J. Carpenter
Address: 301 Fayetteville Street, Suite 1400
City: Raleigh State: NC Zip: 27601
Phone: 919-835-4032 E-mail: MatthewCarpenter@ParkerPoe.com

Owner Information

Name: Same as Applicant
Address:
City: State: Zip:
Phone: E-mail:

Agent Information

Name: Matthew Carpenter
Address: 301 Fayetteville Street, Suite 1400
City: Raleigh State: Nc Zip: 27601
Phone: 919-835-4032 E-mail: MatthewCarpenter@ParkerPoe.com
Other contacts: Brian Richards; Urban Design Partners; 919-275-5002; BRichards@urbandesignpartners.com

PLANNED UNIT DEVELOPMENT APPLICATION

Application #: **24CZ15**

Submittal Date: **August 1, 2024**

PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS:

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments. The PD text and plan should demonstrate how the standards of Sec. 2.3.4.F are met by the proposed rezoning.

LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

The 2045 LUM designates the property as Medium Density Residential which recommends single-family homes, duplexes, and townhomes up to 6 units per acre to provide "a transition from the more urbanized areas of Apex to the Low Density neighborhoods in the western part of the study area." The PUD proposes single-family homes, duplexes and townhomes at an overall density of approximately 5.3 units/acre and is therefore consistent with the Medium Density Residential LUM designation.

2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The proposed development is compatible with the character of surrounding land uses. The property is an infill site with existing single-family neighborhoods adjacent - Crestmont to the north and Greenmoor to the east and south. The Crestmont zoning (Rezoning case 13CZ35) - approved in 2014 - permits an overall density of 4 units/acre and a total of 282 units. The Crestmont subdivision was constructed with 163 units, which equates to 2.31 units/acre. The Greenmoor zoning (Rezoning Case 13CZ18) - approved in 2013 - permits an overall density of 2.9 units/acre and a total of 287 units. The Greenmoor zoning was amended in 2014 to permit additional density of 3.56 units/acre and a total of 180 units in the southern portion of the PUD. The Greenmoor subdivision has an overall density of 2.70 units/acre with a total of 467 units.

Although this PUD proposes a higher maximum per acre density of 5.3 units/acre, it only proposes a total of 32 additional homes and is considered Medium Density Residential under the 2045 Land Use Map, consistent with the designation of both adjacent neighborhoods. As required by the proposed architectural conditions, and as shown in the submitted elevations, the homes will be of similar character and quality to surrounding neighborhoods. Finally, the site will be adequately buffered from adjacent single-family homes. Adjacent to the north is an approximately 130-foot

3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

The proposed PUD will comply with all applicable Supplemental Standards in UDO Section 4.4.

PETITION PROCESS INFORMATION

4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

The site will be adequately buffered from adjacent single-family homes. Adjacent to the north is a 130-foot wide RCA and easement area owned by the Crestmont HOA, that, together with the proposed 15-foot perimeter buffer, will provide over 145 feet of separation between the proposed townhomes and existing single-family homes in Crestmont. Required buffers have been widened along the southern property line adjacent to existing single-family lots; with a 30-foot buffer in the southwest and a 50-foot buffer in the southeast. The majority of existing tree coverage is located in the southeastern portion of the site and will likely be used as RCA. The project will meet UDO requirements for trash, service delivery, parking and loading, odors, noise, glare, and vibration. The project will improve traffic circulation by connecting an important gap in neighborhood streets.

5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

The proposed PUD will preserve required RCAs and follow all local, state, and federal regulations regarding environmental impacts. If jurisdictional streams or wetlands exist on the property, the project will meet all applicable riparian buffer and wetland regulations.

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

The proposed PUD will not have an adverse impact on public facilities and services. The project will improve vehicular and pedestrian connectivity by closing a gap in existing neighborhood streets. The project will pay the required parks and rec fee in lieu of dedication, subject to review and recommendation by the Parks and Rec Board.

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

The proposed use will not have adverse effects on health, safety, or welfare of residents of the Town or its ETJ. Rather, it will help add to the housing supply in Apex.

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

The PUD will not be substantially detrimental to adjacent properties. As required by the proposed architectural conditions, and as shown in the submitted elevations, the homes will be of similar character and quality to surrounding neighborhoods. Additionally, the site will be adequately buffered from adjacent single-family homes. Adjacent to the north is a 130-foot wide RCA and easement area owned by the Crestmont HOA, that, together with the proposed 15-foot perimeter buffer, will provide over 145 feet of separation between the proposed townhomes and existing single-family homes in Crestmont. There is a similar Greenmoor HOA common area to the south that will provide separation between the proposed townhomes and existing Greenmoor homes. In the two areas closest to existing single-family homes, the southeast and southwest corners of the site, 50 and 30-foot buffers are provided for adequate separation.

PETITION PROCESS INFORMATION

9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

The PUD will not constitute a nuisance or hazard. As discussed above, the PUD will close an important gap in the street/sidewalk network and will meet all UDO requirements for light and noise.

10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

The PUD will comply with all other applicable standards of the Ordinance.

DEVELOPMENT NAME APPROVAL APPLICATION

Application #: 24CZ15 Submittal Date: August 1, 2024

Fee for Initial Submittal: No Charge

Fee for Name Change after Approval: \$500*

Purpose

To provide a consistent and clearly stated procedure for the naming of subdivisions and/or developments and entrance roadways (in conjunction with *Town of Apex Address Policy*) so as to allow developers to define and associate the theme or aesthetics of their project(s) while maintaining the Town's commitment to preserving the quality of life and safety for all residents of Apex proper and extraterritorial jurisdiction.

Guidelines

- ✓ The subdivision/development name shall not duplicate, resemble, or present confusion with an existing subdivision/development within Apex corporate limits or extraterritorial jurisdiction except for the extension of an existing subdivision/development of similar or same name that shares a continuous roadway.
- ✓ The subdivision/development name shall not resemble an existing street name within Apex corporate limits or extraterritorial jurisdiction unless the roadway is a part of the subdivision/development or provides access to the main entrance.
- ✓ The entrance roadway of a proposed subdivision/development shall contain the name of the subdivision/development where this name does not conflict with the Town of Apex *Road Name Approval Application* and *Town of Apex Address Policy* guidelines.
- ✓ The name "Apex" shall be excluded from any new subdivision/development name.
- ✓ Descriptive words that are commonly used by existing developments will be scrutinized more seriously in order to limit confusion and encourage distinctiveness. A list of commonly used descriptive words in Apex's jurisdiction is found below.
- ✓ The proposed subdivision/development name must be requested, reviewed and approved during preliminary review by the Town.
- ✓ A \$500.00 fee will be assessed to the developer if a subdivision/development name change is requested after official submittal of the project to the Town.*

*The imposed fee offsets the cost of administrative changes required to alleviate any confusion for the applicant, Planning staff, other Town departments, decision-making bodies, concerned utility companies and other interested parties. There is no charge for the initial name submittal.

Existing Development Titles, Recurring

	Residential	Non-Residential
10 or more	Creek, Farm(s), Village(s),	Center/Centre
6 to 9	Crossing(s), Park, Ridge, Wood(s)	Commons, Park
3 to 5	Acres, Estates, Glen(s), Green*, Hills	Crossing(s), Plaza, Station, Village(s)

*excludes names with Green Level

DEVELOPMENT NAME APPROVAL APPLICATION

Application #: 24CZ15

Submittal Date: August 1, 2024

Proposed Subdivision/Development Information

Description of location: 7924 Green Level Church Road

Nearest intersecting roads: Greenmoor Path/Green Level Church Road

Wake County PIN(s): 0723935325

Township: White Oak

Contact Information (as appropriate)

Contact person: Matthew Carpenter

Phone number: 919-835-4032 Fax number: N/A

Address: 301 Fayetteville Street, Suite 1400, Raleigh, NC 27601

E-mail address: MatthewCarpenter@ParkerPoe.com

Owner: W&W Partners, Inc.

Phone number: Fax number:

Address: 1000 Darrington Drive, Suite 105, Cary, NC 27513

E-mail address:

Proposed Subdivision/Development Name1st Choice: Green Level Towns2nd Choice (Optional):**Town of Apex Staff Approval:**

Town of Apex Planning Department Staff

Date

STREET NAME APPROVAL APPLICATION

Application #: 24CZ15

Submittal Date: August 1, 2024

Wake County Approval Date: _____

Guidelines:

- No names duplicating or sounding similar to existing road names
- Avoid difficult to pronounce names
- No individuals' names
- Avoid proper names of a business, e.g. Hannaford Drive
- Limit names to 14 characters in length
- No directionals, e.g. North, South, East, West
- No punctuation marks, e.g. periods, hyphens, apostrophes, etc.
- Avoid using double suffixes, e.g. Deer Path Lane
- All names must have an acceptable suffix, e.g. Street, Court, Lane, Path, etc.
- Use only suffixes which are Town of Apex approved
- Town of Apex has the right to deny any street name that is determined to be inappropriate

Information:

Description of location: 7924 Green Level Church Road

Nearest intersecting roads: Hillman Bend stub streets

Wake County PIN(s): 0723935325

Township: White Oak

Contact information (as appropriate)

Contact person: Matthew Carpenter

Phone number: 919-835-4032 Fax number: N/A

Address: 301 Fayetteville Street, Suite 1400, Raleigh, NC 27601

E-mail address: MatthewCarpenter@parkerpoe.com

Owner: W&W Partners, Inc. c/o Matthew J. Carpenter

Phone number: 919-835-4032 Fax number: N/A

Address: 301 Fayetteville Street, Suite 1400, Raleigh, NC 27601

E-mail address: MatthewCarpenter@parkerpoe.com

STREET NAME APPROVAL APPLICATION

Application #: 24CZ15

Submittal Date: August 1, 2024

of roads to be named: 1

Please submit twice as many road names as needed, with preferred names listed first. Proposed road names should be written exactly as one would want them to appear. Town of Apex Planning Department staff will send all approved street names to the Wake County GIS Department for county approval. Please allow several weeks for approval. Upon approval Wake County GIS – Street Addressing will inform you of the approved street names.

Example: Road Name Suffix

Hunter Street

1	TBD at Master Subdivision	11	
2		12	
3		13	
4		14	
5		15	
6		16	
7		17	
8		18	
9		19	
10		20	

TOWN OF APEX STAFF APPROVAL

Town of Apex Staff Approval

Date

WAKE COUNTY STAFF APPROVAL:

GIS certifies that _____ names indicated by checkmark ☒ are approved.
Please disregard all other names.

Comments:

Wake County GIS Staff Approval

Date

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: 24CZ15

Submittal Date: August 1, 2024

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

7924 Green Level Church Road

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

W&W Partners, Inc., the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: W&W Partners, Inc.

TOWN OF APEX

BY: Matthew J. Carpenter

BY: _____

Authorized Agent

Authorized Agent

DATE: August 1, 2024

DATE: _____

AGENT AUTHORIZATION FORM

Application #: 24CZ15

Submittal Date: August 1, 2024

W&W Partners, Inc. is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 7924 Green Level Church Road; PIN 0723935325

The agent for this project is: Matthew J. Carpenter

☐ I am the owner of the property and will be acting as my own agent

Agent Name: Matthew J. Carpenter

Address: 301 Fayetteville Street, Suite 1400, Raleigh, NC 27601

Telephone Number: 919-835-4032

E-Mail Address: MatthewCarpenter@parkerpoe.com

Signature(s) of Owner(s)*

W & W Partners, Inc.
a North Carolina corporation

DocuSigned by:

Mike Hunter

6EDBB64D0DE848F...

Michael L. Hunter

Attach additional sheets if there are additional owners.

*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

7924 Green Level Church Rd. PWD.

AFFIDAVIT OF OWNERSHIP

Application #: 24CZ15

Submittal Date: August 1, 2024

The undersigned, Matthew J. Carpenter (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

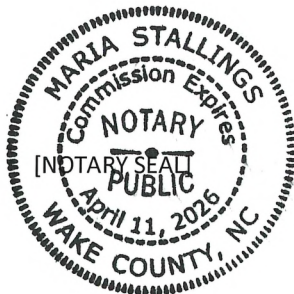
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 7924 Green Level Church Rd. and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated N/A, and recorded in the Wake County Register of Deeds Office on N/A, in Book N/A Page N/A.
4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on N/A, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on N/A, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 19th day of July, 2024.

Matthew J. Carpenter (seal)
Matthew J. Carpenter
Type or print name

STATE OF NORTH CAROLINA
COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Matthew Carpenter, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Maria Stallings
Notary Public
State of North Carolina
My Commission Expires: April 11, 2026

Legal Description
7924 Green Level Church Road

BEGINNING at a 1/2" iron pipe found at the North East corner of the property owned by Howard L. Holt and Mary Louise W. Holt, said pipe being South 15°37'08" West 145.00 feet from a 1/2" iron pipe found on the eastern right of way of Hillman Bend (50' Public Right of Way) and near the intersection with Canoe Creek Lane (Public Right of Way) having NC Grid Coordinates (NAD83/2011) of N=733,578.79, . E=2,029,903.93, thence from said BEGINNING point South 05°18'23" West 304.28 feet to a 1 1/8" iron pipe found, thence South 66°40'05" West 125.41 feet to a 1 1/8" iron pipe found, thence South 83°45'39" West 196.15 feet to a 1 1/8" iron pipe found, thence North 48°34'27" West 140.68 feet to a 1 1/8" iron pipe found, thence South 76°56'11" West 315.54 feet to a point on the eastern right of way of Green Level Church Road S.R. 1625 (Variable Width Public Right of Way), thence along said right of way South 76°56'11" West 20.58 feet to a 5/8" rebar set, thence leaving said right of way South 76°56'11" West 29.74 feet to a point in Green Level Church Road S.R. 1625, thence North 00°18'44" East 366.19 feet to a point in Green Level Church Road S.R. 1625, thence South 89°48'45" East 30.31 feet to a 5/8" rebar set on the eastern right of way of Green Level Church Road S.R. 1625 (Variable Width Public Right of Way), thence leaving said right of way South 89°48'45" East 767.85 feet to the point and place of BEGINNING, containing 6.035 Acres more or less inclusive of 0.249 Acres in Green Level Church Road S.R. 1625 Right of Way.

Wake County Residential Development Notification

Please complete each section of this form and submit with your application.

Please complete each section of this form and submit with your application.

Please send any questions about this form to:
studentassignment-gis-group@wcpss.net.

Developer Company Information	
Company Name	W&W Partners, Inc. c/o Matthew J. Carpenter
Company Phone Number	919-835-4032
Developer Representative Name	Matthew J. Carpenter
Developer Representative Phone Number	919-835-4032
Developer Representative Email	MatthewCarpenter@parkerpoe.com

New Residential Subdivision Information	
Date of Application for Subdivision	approx. February 2024
City, Town or Wake County Jurisdiction	Town of Apex
Name of Subdivision	TBD
Address of Subdivision (if unknown enter nearest cross streets)	7924 Green Level Church Road
REID(s)	0115613
PIN(s)	0723935325

Projected Dates Information	
Subdivision Completion Date	2026
Subdivision Projected First Occupancy Date	2026

Lot by Lot Development Information																	
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Square Foot Range		Price Range		Anticipated Completion Units & Dates					
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family																	
Townhomes	32					32		2000	3500			2026	32				
Condos																	
Apartments																	
Other																	

7924 Green Level Church Road
PUD

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

I, Matthew J. Carpenter, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B Neighborhood Meeting.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at virtually via Zoom (location/address) on July 10, 2024 (date) from 5:30PM (start time) to 6:30PM (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

7/19/24
Date

By: [Signature]

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Matthew Carpenter, a Notary Public for the above State and County, on this the 19th day of July, 2024.



Maria Stallings
Notary Public
Maria Stallings
Print Name

My Commission Expires: April 11, 2026

NOTICE OF NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

June 26, 2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at
7924 Green Level Church Road 0723935325

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type		Approving Authority
<input checked="" type="checkbox"/>	Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/>	Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/>	Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/>	Special Use Permit	Board of Adjustment (QJPH*)
<input checked="" type="checkbox"/>	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

The applicant is proposing to rezone the property to Planned Unit Development-Conditional Zoning (PUD-CZ)

to permit townhouses, single-family homes, and other related uses.

Estimated submittal date: August 1, 2024

MEETING INFORMATION:

Property Owner(s) name(s): W & W Properties, Inc.; c/o Matthew Carpenter

Applicant(s): same as Owner

Contact information (email/phone): matthewcarpenter@parkerpoe.com; (919) 835-4032

Meeting Address: Virtual (Zoom) - See attached notice letter

Date/Time of meeting**: July 10, 2024

Welcome: 5:30 PM Project Presentation: 5:30 PM Question & Answer: 6:00 PM

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.

To: Neighboring Property Owners and Tenants
From: Matthew J. Carpenter
Date: June 26, 2024

Re: Notice of Virtual Neighborhood Meeting

You are invited to attend a virtual neighborhood meeting on July 10, 2024 at 5:30 PM to discuss an upcoming application to rezone an approximately 6.032-acre property located at 7924 Green Level Church Road (PIN 0723935325) as more particularly shown on the attached Vicinity Map. The property is currently zoned Rural Residential (RR) and is proposed to be rezoned to Planned Unit Development-Conditional Zoning (PUD-CZ) to permit townhouses, single-family homes, and other related uses.

During the meeting, the applicant will describe the nature of the rezoning request and field any questions from the public. Enclosed are: (1) a vicinity map outlining the location of the property; (2) a zoning map of the subject area; (3) a preliminary concept plan, (4) a project contact information sheet; and (5) a common construction issues & who to call information sheet.

The meeting will be held virtually. You can participate online via Zoom or by telephone. To participate in the Zoom online meeting:

Visit:	https://zoom.us/join
Enter the following meeting ID:	854 3144 8493
Enter the following password:	056522

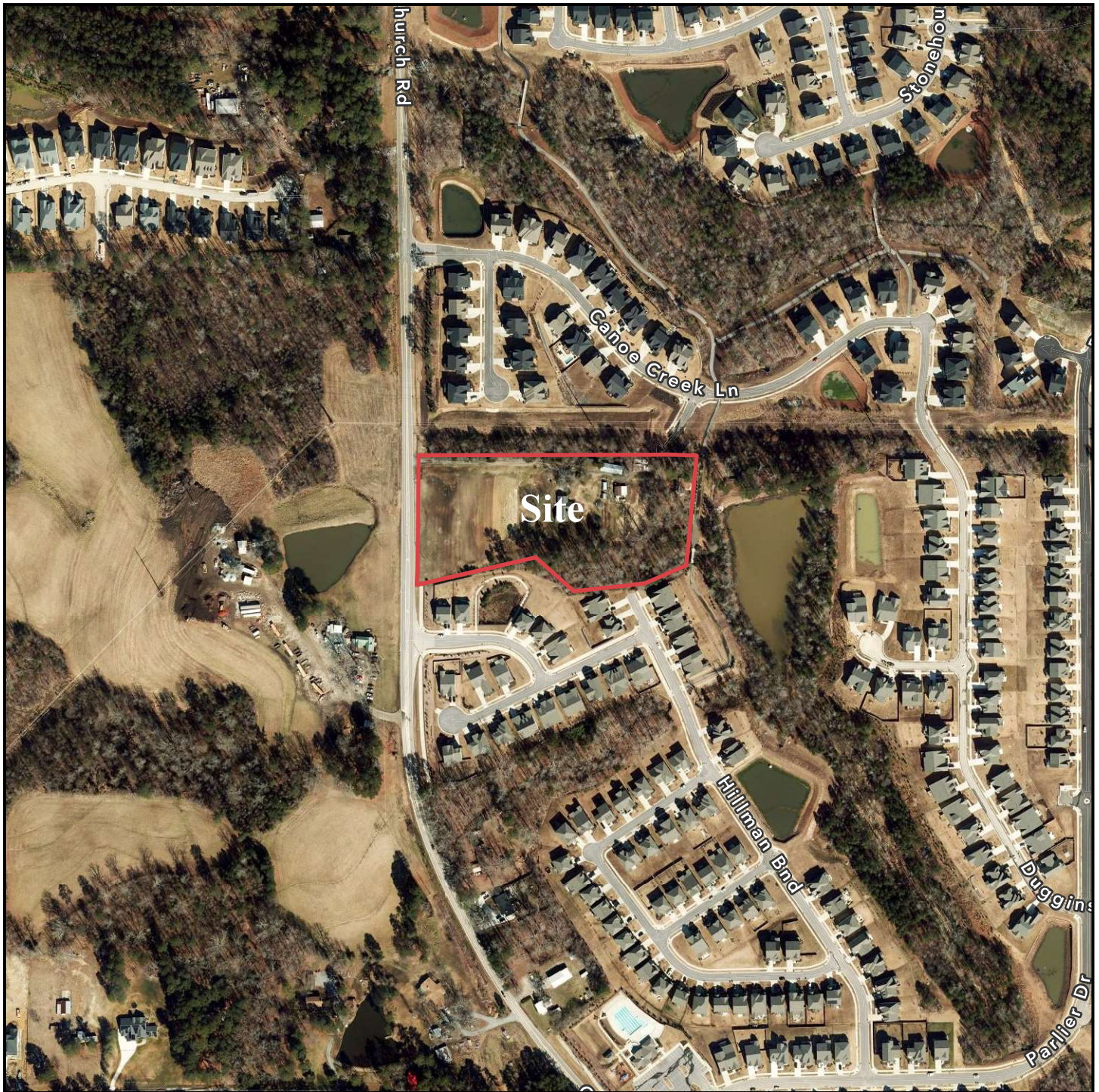
To participate by telephone:

Dial:	1 929 205 6099
Enter the following meeting ID:	854 3144 8493
Enter the Participant ID:	#
Enter the Meeting password:	056522

If you have any questions about this rezoning, please contact me at (919) 835-4032 or via email at matthewcarpenter@parkerpoe.com.

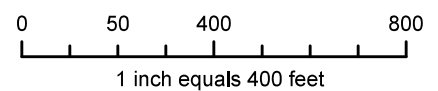
Sincerely,


Matthew Carpenter



7924 Green Level Church Road

Vicinity Map



Disclaimer

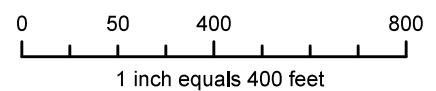
iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.



7924 Green Level Church Road

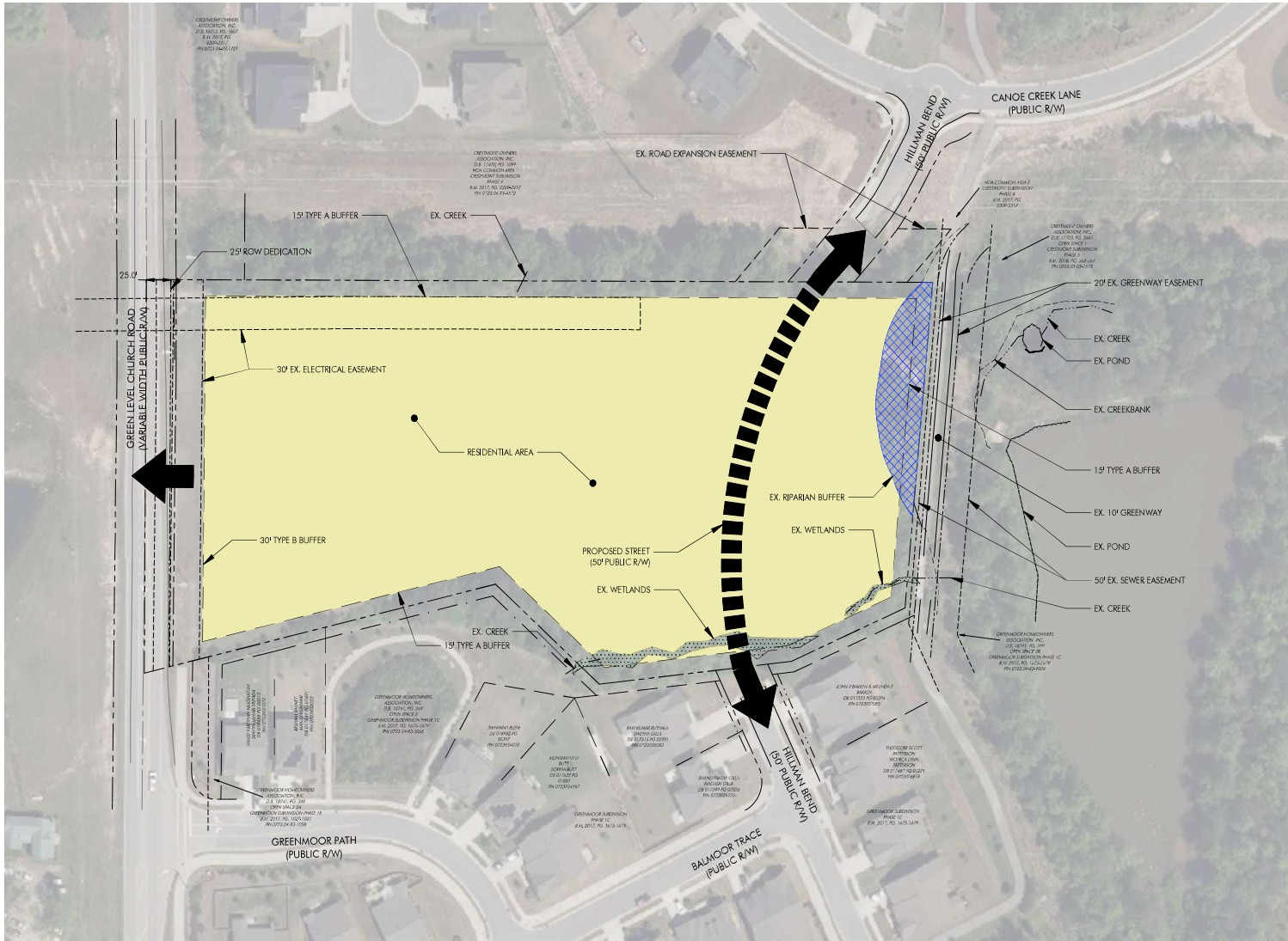
Zoning Map

Current Zoning: RR



Disclaimer

iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.



SITE DATA

ACRES:	±5.77 AC TOTAL
PIN:	0723935325
EXISTING ZONING:	RR (RURAL RESIDENTIAL)
PROPOSED ZONING:	PUD (PLANNED USE DISTRICT)
EXISTING LAND USE:	RESIDENTIAL
PROPOSED LAND USE:	TOWNHOMES

DEVELOPMENT SUMMARY

BUFFERS	
NORTH:	15' (TYPE A) BUFFER
EAST:	15' (TYPE A) BUFFER
SOUTH:	15' (TYPE A) BUFFER
WEST:	30' (TYPE B) BUFFER
RCA REQUIREMENT	30% OF DEVELOPMENT 75,402 SF REQUIRED

LEGEND

	RESIDENTIAL
	RIPARIAN BUFFER
	WETLAND AREA

NOTES

1. THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE PRIOR TO REZONING APPLICATION SUBMITTED.
2. THIS EXHIBIT WAS PREPARED USING AVAILABLE RECORD INFORMATION, GIS MAPS, RECORD PLANS, AERIAL IMAGERY, AND LAND RECORDS.
3. THIS PLAN WILL BE SUBJECT TO REVIEW AND APPROVAL BY LOCAL AND STATE PLANNING AND ENGINEERING REVIEW AGENCIES.
4. THE WORK OF THIS PRODUCT IS THE PROPERTY OF URBAN DESIGN PARTNERS, PLLC. NO USE OR REPRODUCTION OF THIS PLAN IS PERMITTED WITHOUT WRITTEN AUTHORIZATION FROM URBAN DESIGN PARTNERS, PLLC.



GREEN LEVEL CHURCH ROAD | PUD CONCEPT PLAN

APEX, NC



JUNE 24, 2024

24-RDU-014

150 Fayetteville St. Suite 1310 Raleigh, NC 27601 | urbandesignpartners.com | 919.275.5002

PROJECT CONTACT INFORMATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Development Contacts:

Project Name: Green Level Church Road PUD Zoning: RR

Location: 7924 Green Level Church Road

Property PIN(s): 0723935325 Acreage/Square Feet: 6.032 ac

Property Owner: W & W Properties, Inc.; c/o Matthew Carpenter

Address: 301 Fayetteville Street, Suite 1400

City: Raleigh State: NC Zip: 27601

Phone: 919-835-4032 Email: MatthewCarpenter@parkerpoe.com

Developer: Same as Owner

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: Urban Design Partners, attn: Brian Richards

Address: 150 Fayetteville Street, Suite 1310

City: Raleigh State: NC Zip: 27601

Phone: (919) 275-5002 Fax: N/A Email: brichards@urbandesignpartners.com

Builder (if known): Same as Owner

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager	(919) 372-7468
Public Works - Transportation Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Matt Echols, Utility Engineering Manager (Water & Sewer)	(919) 372-7505
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

NEIGHBORHOOD MEETING SIGN-IN SHEET

This document is a public record under the North Carolina Public Records Act and may be published on the Town’s website or disclosed to third parties.

Meeting Address: virtual via Zoom
Date of meeting: July 10, 2024 Time of meeting: 5:30 PM
Property Owner(s) name(s): W&W Properties, Inc.
Applicant(s): W&W Properties, Inc.

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	John Bakken	445 Hillman Bend			yes
2.	M. Usman Butt	421 Greenmoor Path			yes
3.	Swetha Gilla	446 Hillman Bend			yes
4.	Sr Gilla	446 Hillman Bend			yes
5.	Ravi Ruthala	442 Hillman Bend			yes
6.	Lisa Yarborough	2424 Balmoor Trace			yes
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town’s website or disclosed to third parties.

Property Owner(s) name(s): W&W Properties, Inc.

Applicant(s): W&W Properties, Inc.

Contact information (email/phone): c/o Matthew J. Carpenter; MatthewCarpenter@parkerpoe.com; 919-835-4032

Meeting Address: virtual via Zoom

Date of meeting: July 10, 2024 Time of meeting: 5:30

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be “Noted” or “No Response”. There has to be documentation of what consideration the neighbor’s concern was given and justification for why no change was deemed warranted.

Question/Concern #1:
See attached

Applicant’s Response:

Question/Concern #2:

Applicant’s Response:

Question/Concern #3:

Applicant’s Response:

Question/Concern #4:

Applicant’s Response:

Summary of First Neighborhood Meeting
PUD Rezoning
7924 Green Level Church Road

I. WELCOME

- a. Introduction of development team
 - i. Matthew Carpenter w/ Parker Poe
 - ii. Mike Hunter w/ W&W Properties Inc., the property owner and developer
 - iii. Brian Richards w/ Urban Design Partners, Landscape Architect
- b. Explanation of process. This is the pre-filing neighborhood meeting for a potential rezoning request, the very first step in a long development process. So, the purpose of tonight's meeting is to explain our plans and take your feedback into consideration as we put together our rezoning application.

II. PRESENTATION

- a. Site Overview - location, existing uses adjacent, and surrounding development in progress.
- b. 2045 Land Use Map (LUM) Designation
 - i. The LUM is the primary policy document the Town uses to evaluate rezoning request. This property is designated Medium Density Residential which recommends single-family homes and townhomes with an overall density of up to 6 units/acre.
- c. Existing and Proposed Zoning
 - i. Existing zoning is Residential which only allows large lot single-family homes. The proposed zoning district is Planned Unit Development Conditional (PUD-CZ). The purpose of the rezoning is to allow a small townhome development.
- d. Draft PUD Plan
 - i. As part of our PUD rezoning submittal, we'll include a concept plan that will show approximate location of proposed uses, buffers, conceptual access locations, etc.
 - ii. Current plans show around 32 townhome units. The plan is for large, upscale townhome units to meet rising demand from empty nesters in the Triangle. The units will not be age restricted, but we've seen rising demand as aging Apex and Wake County residents age, want less maintenance, but want to stay in the area.
 - iii. The goal is to have a driveway on Green Level Church Road and also to connect to the two existing Hillman Bend stub streets, but circulation and access are subject to review by Town staff.
 - iv. Connection to the two stub streets is required by the Town's UDO.
 - v. We'll have 15-foot buffers along the northern and southern property lines. Between the buffer and existing HOA common area, there will be significant separation to the north.
 - vi. We're also required to preserve 30% RCA. Exact areas haven't been delineated, but these areas will include streams (if any), existing tree canopy, etc.
- e. Rezoning Process and Timeline
 - i. As I mentioned, this is the very first step in the rezoning process.

- ii. After this meeting, the next step is application submittal which will likely be August 1.
- iii. After submittal, the application will be reviewed by Town staff from each department. Staff will provide comments and we will revise our application and resubmit until all staff comments have been addressed.
- iv. After staff comments have been addressed, the case will go to Planning Board. Planning Board will hold a public hearing, review the case, and make a recommendation to Town Council.
- v. Two weeks following the Planning Board meeting, Town Council will hold a public hearing and make the final decision on the rezoning. The full process will likely take around six months.

III. QUESTION AND ANSWER

- a. ***I am concerned about property values. My property has an enviable location that will be significantly changed by this proposal.***
 - i. These townhomes will be high quality units, generally consistent with the quality and character of surrounding neighborhoods; so, we don't expect negative impacts to property values. We will also have perimeter buffers and RCA which could be located near your home, although final RCA locations will be determined at Master Subdivision Plan.
- b. ***Hi, if townhomes are built in this location, how many homes do you expect to be built?***
 - i. Around 32. The PUD will include a maximum, but the final unit count will be determined at Master Sub Plan once full site engineering has been done.
- c. ***What does RCA mean?***
 - i. RCA means Resource Conservation Area. These are areas that have to be set aside as undisturbed. They typically include wetlands, stream buffers, and existing tree canopy.
- d. ***There are wetlands on the property. Do you plan to add a proper street or a bridge to walk on?***
 - i. The Hillman Bend connection will be a proper neighborhood street with a 5-foot sidewalk. We'll also be installing a connection to the greenway trail to the east.
- e. ***Will there be any single-family homes on Hillman Bend or all townhomes?***
 - i. The current plan is for fall townhomes
- f. ***What about ADA units?***
 - i. The units will meet all minimum building code requirements. Given the target market, there will likely be further accessibility accommodations - larger walkways, first floor master bedrooms, etc.
- g. ***I'm concerned about draining into/onto the bordering houses in Grenmoore. The drainage is already not good. Any additional runoff into the buffer area could increase erosion and standing water or existing lots.***
 - i. Currently, the property is in a natural state, so drainage is not contained or handled by stormwater control devices. The Town's UDO requires that we treat all our stormwater runoff onsite. It does not permit runoff onto adjacent properties. So, when we file our Master Subdivision Plan we will have to show how we are handling stormwater runoff - likely through one or more stormwater detention ponds.

h. Any plans for expanding Green Level Church Road?

- i. Yes, the Town's transportation plan shows Green Level Church Road as a wider street section. Typically, as part of a development project, the Town requires right of way dedication to facilitate future widening.

i. Would you be able to add a sidewalk on Green Level Church road to extend the sidewalks to connect the neighborhoods?

- i. On Green Level Church Road, this project will construct a 5-foot sidewalk for the length of the property's frontage. On Hillman Bend, the project will connect the two street and sidewalk stubs to create a continuous sidewalk connection between the two neighborhoods.

OWNER	MAILING ADDRESS	
AMARAPINI, APPA RAO AMARAPINI, SUNEETA	2409 CANOE CREEK LN	APEX NC 27523-7130
BAKKEN, JOHN R BAKKEN, MELINDA E	445 HILLMAN BND	APEX NC 27523-8508
BARKLEY, ANTHONY BARKLEY, JENNIFER	1008 CELANDINE DR	APEX NC 27502-4162
BASNET, RESHAM KUNWAR, MANJU	409 GREENMOOR PATH	APEX NC 27523-8513
BENEDICT, JON B FAMOLARE, CHRISTY F	2401 BALMOOR TRCE	APEX NC 27523-8514
BHAT, ANIKET ANAT CO-TRUSTEE TEMBE, RUCHA CO-TRUSTEE	2409 BALMOOR TRCE	APEX NC 27523-8514
BODD, PHANI S TRUSTEE BODD, VIJAYA YALAMANCHILI TRUSTEE	6104 RUNNING SPRINGS RD	SAN JOSE CA 95135-2209
BUTT, MUHAMMAD U BUTT, SOPHIA	421 GREENMOOR PATH	APEX NC 27523-8513
CHAGALETI, RAJESH CHANDRA S BATCHALA, SRUJINI	312 PINK AZALEA CT	APEX NC 27523-7129
CHITTILLA, RAMA K CHITTILLA, SUJATHA	2417 BALMOOR TRCE	APEX NC 27523-8514
CHTCHPROV, PAVEL CHTCHPROV, KELLY MCHUGH	2404 CANOE CREEK LN	APEX NC 27523-7130
CONWAY, WENDY A CONWAY, GREGORY R	457 HILLMAN BND	APEX NC 27523-8508
CRESTMONT OWNERS ASSOCIATION INC	TROY GEORGE	1100 PERIMETER PARK DR STE 112
CRESTMONT OWNERS ASSOCIATION INC	812 SALEM WOODS DR STE 202	RALEIGH NC 27615-3346
GILLA, BHANU PRATAP GILLA, NAGASRI	CHARLESTON MANAGEMENT CORPORATION	PO BOX 97243
GREENMOOR HOMEOWNERS ASSOCIATION INC	446 HILLMAN BND	APEX NC 27523-8508
GWYNN, ELIZABETH MCLAUGHLIN TRUSTEE THE GWYNN LIVING TRUST	CAS INC	PO BOX 83
HARRINGTON, DONALD EARL WILLIAMS, JAMIE	2420 BALMOOR TRCE	APEX NC 27523-8514
JAFFER, GHULAM HAIDER NAWAB, SYEDA NUZHAT	2413 CANOE CREEK LN	APEX NC 27523-7130
JAIN, MAYUR JAIN, STUTI	2432 BALMOOR TRCE	APEX NC 27523-8514
KLAVON, CLAUDIA JEAN	2405 CANOE CREEK LN	APEX NC 27523-7130
KWON, MYONG O OH, MYOUNG SUN	2413 BALMOOR TRCE	APEX NC 27523-8514
MATHEW, LEENA ANNIE PHILIP, THOMAS STEPHEN	2419 CANOE CREEK LN	APEX NC 27523-7130
NRAGHATAM, VAMSI VARDHAN SRIPADA, SRAYYA LAHARI	316 PINK AZALEA CT	APEX NC 27523-7129
PATTERSON, THEODORE SCOTT PATTERSON, MONICA LYNN	405 GREENMOOR PATH	APEX NC 27523-8513
RAO, SMRITIAKSHAY RAO, AKSHAY VEDVYAS	449 HILLMAN BND	APEX NC 27523-8508
RATHORE, JITENDRA S RATHORE, HEMAKUMARI J	2400 CANOE CREEK LN	APEX NC 27523-7130
RUSH, SHAWNNA	313 PINK AZALEA CT	APEX NC 27523-7129
RUTHALA, RAVI KUMAR GILLA, SWETHA	417 GREENMOOR PATH	APEX NC 27523-8513
SUBBARAO, HARINARAYAN KASHYAP, SUMITRA R	442 HILLMAN BND	APEX NC 27523-8508
SWAFFORD, JEREMY SWAFFORD, AMANDA SUE	308 PINK AZALEA CT	APEX NC 27523-7129
VEDANTAM, TEJASWI SRINIVASA TRUSTEE KODURU, APARNA TRUSTEE	425 GREENMOOR PATH	APEX NC 27523-8513
W&W PROPERTIES INC	317 PINK AZALEA CT	APEX NC 27523-7129
YARBOROUGH, MICHAEL D YARBOROUGH, LISA M D	1000 DARRINGTON DR STE 500	CARY NC 27513-8134
YATES GREEN LEVEL FARM LLC	2424 BALMOOR TRCE	APEX NC 27523-8514
APEX TOWN OF	2132 CARPENTER UPCHURCH RD	CARY NC 27519-7003
Current Tenant	PO BOX 250	APEX NC 27502
Current Tenant	2405 BALMOOR TRCE	APEX NC 27523
Current Tenant	7905 Green Level Church RD	APEX NC 27523
Current Tenant	7924 Green Level Church RD	APEX NC 27523
Current Tenant	453 Hillman BND	APEX NC 27523

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

I, Matthew J. Carpenter, do hereby declare as follows:
Print Name

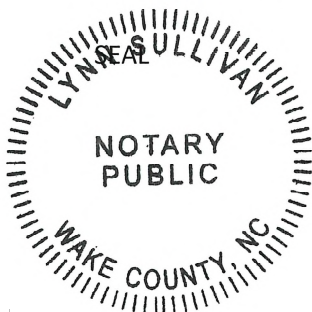
1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B Neighborhood Meeting.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at virtually via Zoom (location/address) on 12/12/2024 (date) from 5:30 PM (start time) to 6:30 PM (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

12/16/2024
Date

By: [Signature]

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lynn Sullivan, a Notary Public for the above State and County, on this the 16th day of December, 2024.



[Signature]
Notary Public
Lynn Sullivan
Print Name

My Commission Expires: 11/16/2027

NOTICE OF NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

November 27, 2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at
7924 Green Level Church Road 0723935325

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type		Approving Authority
<input checked="" type="checkbox"/>	Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/>	Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/>	Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/>	Special Use Permit	Board of Adjustment (QJPH*)
<input type="checkbox"/>	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

The applicant is proposing to rezone the property to Planned Unit Development-Conditional Zoning (PUD-CZ)

to facilitate a development consisting of townhomes, single-family homes, and other related uses.

Estimated submittal date: Submitted on August 1, 2024

MEETING INFORMATION:

Property Owner(s) name(s): W & W Properties, Inc.

Applicant(s): Parkway Properties Group, LLC c/o Matthew Carpenter

Contact information (email/phone): matthewcarpenter@parkerpoe.com; (919) 835-4032

Meeting Address: Virtual (Zoom) - See attached notice letter

Date/Time of meeting**: December 12, 2024

Welcome: 5:30 PM Project Presentation: 5:30 PM Question & Answer: 6:00 PM

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.

To: Neighboring Property Owners and Tenants
From: Matthew J. Carpenter
Date: November 27, 2024

Re: Notice of Second Virtual Neighborhood Meeting

You are invited to attend a second virtual neighborhood meeting on December 12, 2024 at 5:30 PM to discuss 24CZ15, the requested rezoning of 7924 Green Level Church Road (PIN 0723935325) as more particularly shown on the attached Vicinity Map. The property is currently zoned Rural Residential (RR) and is proposed to be rezoned to Planned Unit Development-Conditional Zoning (PUD-CZ) to permit townhomes, single-family homes, and other related uses.

During the meeting, the applicant will describe the nature of the rezoning request, provide updates since the first neighborhood meeting, and field any questions from the public. Enclosed are: (1) a vicinity map outlining the location of the property; (2) a zoning map of the subject area; (3) an updated preliminary concept plan; (4) a Land Use Map exhibit; (5) a project contact information sheet; and (6) a common construction issues & who to call information sheet.

The meeting will be held virtually. You can participate online via Zoom or by telephone. To participate in the Zoom online meeting:

Visit:	https://zoom.us/join
Enter the following meeting ID:	818 9473 5946
Enter the following password:	542794

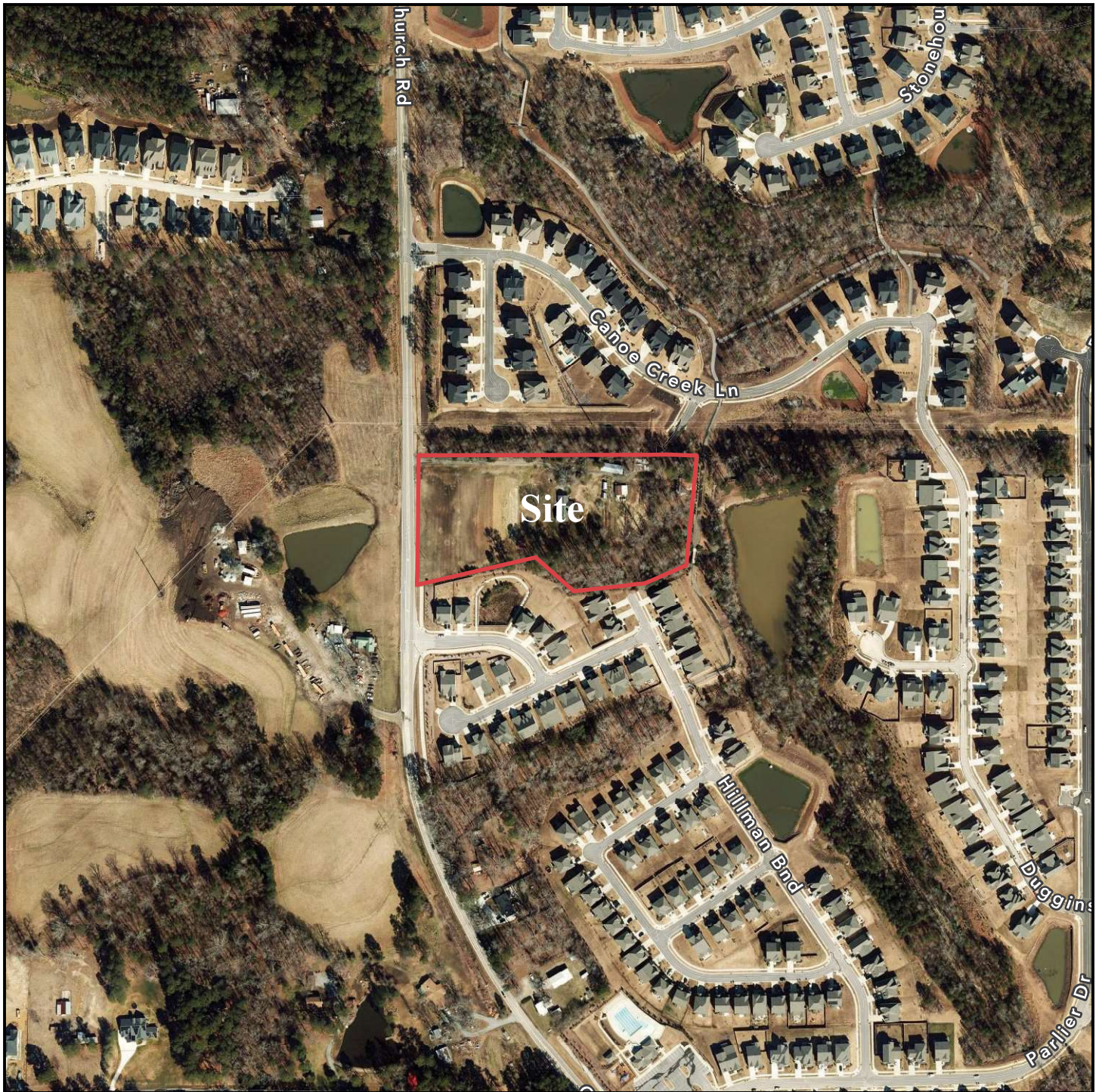
To participate by telephone:

Dial:	1 929 205 6099
Enter the following meeting ID:	818 9473 5946 #
Enter the Participant ID:	#
Enter the Meeting password:	542794 #

If you have any questions about this rezoning, please contact me at (919) 835-4032 or via email at matthewcarpenter@parkerpoe.com.

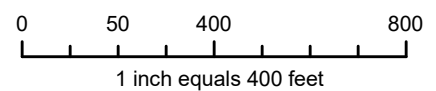
Sincerely,


Matthew Carpenter



7924 Green Level Church Road

Vicinity Map



Disclaimer

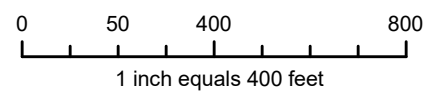
iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.



7924 Green Level Church Road

Zoning Map

Current Zoning: RR



Disclaimer

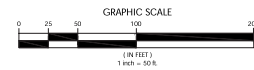
iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.



- NOTES:**
- BOUNDARY INFORMATION PROVIDED BY:
BORCHERS & PLANTE, P.C.
305 TOWN ROAD
HARRISBURG, NC 27507
(919) 895-8008
 - PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY
 - CONTACT THE UTILITY COMPANY TO RELOCATE ANY EXISTING UTILITY POLES. ALL EXISTING FACILITIES WHICH CONFLICT WITH THE IMPROVEMENTS UNDER THE SCOPE OF THIS PROJECT MUST BE RELOCATED AT THE EXPENSE OF THE APPLICANT.
 - ALL DEVELOPMENT CREATING A TOTAL 20,000 SQUARE FEET OF IMPERVIOUS AREA SINCE SEPTEMBER 1978 WILL REQUIRE STORM DRAINAGE DETENTION.
 - TREES WITHIN THE STREET RIGHT-OF-WAY ARE PROTECTED BY LAW.
 - TRASH SERVICE FOR THE SITE WILL BE CONTRACTED THROUGH A PRIVATE COLLECTION COMPANY. COORDINATION FOR SERVICE IS THE RESPONSIBILITY OF THE APPLICANT.
 - DEVELOPMENT ACCESS AND STUE STREET LOCATIONS SHALL BE FINALIZED AT MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
 - PROJECT WILL COMPLY WITH ADOPTED TOWN MASTER PLANS INCLUDING TRANSPORTATION, WATER, SEWER, AND GREENWAYS.
 - THE PROJECT IS REQUESTING FULL TOWN SERVICES, INCLUDING BUT NOT LIMITED TO WATER, SEWER, AND ELECTRICITY.
 - THE PROJECT WILL NOT UTILIZE PRIVATE SEWAGE DISPOSAL.
 - NO SITE DEVELOPMENT ACTIVITY INCLUDING, BUT NOT LIMITED TO, TESTING, CLEARING, INSTALLATION OF SAE MEASURES, OR GRADING SHALL OCCUR UNTIL REQUIRED TREE PROTECTION FENCING HAS BEEN INSTALLED AND POSTED. A TREE PROTECTION FENCING INSTALLATION PLAN MAY BE OBTAINED AT THE PLANNING DEPARTMENT OR ONLINE AT [HTTP://WWW.APRINC.ORG/S/15/APPLICATIONS-SCHEDULES](http://www.aprinc.org/s/15/applications-schedules).
 - THIS PROTECTION FENCING MUST BE PLACED:
A. ONE FOOT AWAY FROM ANY SAVED TREE FOR EACH INCH OF DIAMETER AT BREAST HEIGHT
B. ALONG THE OUTSIDE LINE OF THE 100-YEAR FLOODPLAIN AND THE CURB EDGE OF ANY RIPARIAN BUFFER, AND
C. AT LEAST 10 FEET AWAY FROM ANY OTHER DESIGNATED RICA SUCH AS, BUT NOT LIMITED TO, HISTORIC BUILDINGS AND STRUCTURES, WETLANDS, AND PONDS.
 - ADDITIONAL TREE PROTECTION FENCING MAY BE REQUIRED IN OTHER LOCATIONS CLOSE TO CONSTRUCTION ACTIVITY WHERE IT IS DEEMED NECESSARY BY THE JUDGING THE PROTECTION OFFICER. SUCH AREA MAY INCLUDE, BUT ARE NOT LIMITED TO, COMMON PROPERTY LINES OR NEAR PUBLIC AREAS (SIDEWALKS, ETC.).

LEGEND:

	PROPERTY BOUNDARY
	RIGHT OF WAY LINE
	EASEMENT LINE
	LANDSCAPE BUFFER LINE
	RIPIARIAN LINE
	WETLANDS LINE
	PROPOSED STORMWATER POND
	RESIDENTIAL AREA
	15' TYPE A BUFFER AREA
	30' TYPE B BUFFER AREA
	PLAY AREA
	RIPIARIAN AREA
	WETLANDS AREA
	RESOURCE CONSERVATION AREA (RCA)
	PROPOSED ACCESS CONNECTIONS



150 Fayetteville Rd. #110
Raleigh, NC 27601
P: 919.275.5880
urbanpartners.com

NC Form No. P-2671 SC Use No. C-0004

PRELIMINARY DRAWING
FOR PRELIMINARY SUBMITTALS ONLY

12/08/2024

W&W PROPERTIES, INC.

GREEN LEVEL TOWNS

DEVELOPMENT DIAGRAM

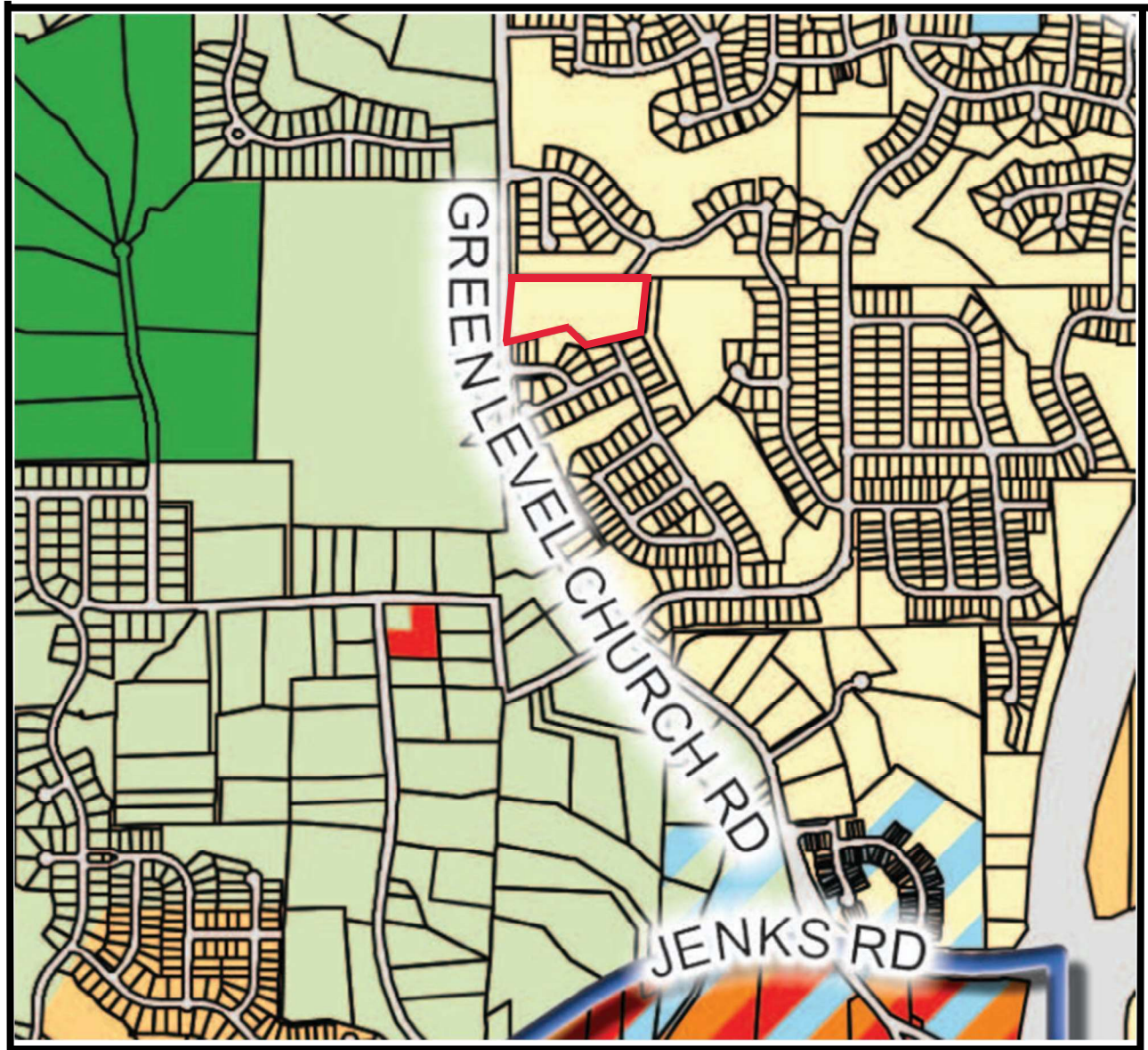
Conceptual Site Plan

7924 GREEN LEVEL CHURCH RD.

NO.	DATE	BY	REVISIONS
1	08/01/24	W&W	ISSUED FOR PERMIT
2	10/02/24	W&W	SUBMITTAL #2
3	11/22/24	W&W	SUBMITTAL #3
4	12/08/24	W&W	SUBMITTAL #4

Project No: 24-RDU-014
Date: 08/01/2024
Sheet No:
C-3.0

2045 LAND USE MAP EXHIBIT



7924 Green Level Church Road

**Current LUM Designation: Medium
Density Residential**

Proposed LUM Designation: No Change



PROJECT CONTACT INFORMATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Development Contacts:

Project Name: Green Level Church Road PUD Zoning: RR

Location: 7924 Green Level Church Road

Property PIN(s): 0723935325 Acreage/Square Feet: 6.035 ac

Property Owner: W & W Properties, Inc.

Address: 1000 Darrington Drive, Suite 500

City: Cary State: NC Zip: 27513-8134

Phone: _____ Email: _____

Developer: Parkway Properties Group, LLC c/o Matthew Carpenter

Address: 301 Fayetteville Street, Suite 1400

City: Raleigh State: NC Zip: 27601

Phone: (919) 835-4032 Fax: N/A Email: matthewcarpenter@parkerpoe.com

Engineer: Urban Design Partners, attn: Brian Richards

Address: 150 Fayetteville Street, Suite 1310

City: Raleigh State: NC Zip: 27601

Phone: (919) 275-5002 Fax: N/A Email: brichards@urbandesignpartners.com

Builder (if known): Parkway Properties Group, LLC c/o Matthew Carpenter

Address: 301 Fayetteville Street, Suite 1400

City: Raleigh State: NC Zip: 27601

Phone: (919) 835-4032 Fax: N/A Email: matthewcarpenter@parkerpoe.com

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager	(919) 372-7468
Public Works - Transportation Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Matt Echols, Utility Engineering Manager (Water & Sewer)	(919) 372-7505
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

NEIGHBORHOOD MEETING SIGN-IN SHEET

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Meeting Address: virtual via Zoom

Date of meeting: December 12, 2024 Time of meeting: 5:30 PM

Property Owner(s) name(s): W&W Properties Inc

Applicant(s): Parkway Properties, c/o Matthew J. Carpenter

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Monica Patterson	449 Hillman Bend			yes
2.	Lisa Yarborough	2424 Balmoor Trace			yes
3.	John Bakken	445 Hillman Bend			yes
4.	M. Usman Butt	421 Greenmoor Path			yes
5.	Bhanu Gilla	446 Hillman Bend			yes
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Use additional sheets, if necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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Property Owner(s) name(s): W&W Properties Inc.

Applicant(s): Parkway Properties c/o Matthew J. Carpenter

Contact information (email/phone): MatthewCarpenter@parkerpoe.com; 919-835-4032

Meeting Address: virtual via Zoom

Date of meeting: December 12, 2024 Time of meeting: 5:30 PM

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be “Noted” or “No Response”. There has to be documentation of what consideration the neighbor’s concern was given and justification for why no change was deemed warranted.

Question/Concern #1:
See attached

Applicant’s Response:

Question/Concern #2:

Applicant’s Response:

Question/Concern #3:

Applicant’s Response:

Question/Concern #4:

Applicant’s Response:

Summary of Second Neighborhood Meeting
PUD Rezoning
7924 Green Level Church Road

I. WELCOME

- a. Introduction of development team
 - i. Matthew Carpenter w/ Parker Poe holding this meeting on behalf of the developer and property owner Parkway Properties
 - ii. Brian Richards w/ Urban Design Partners, Landscape Architect
- b. Explanation of process. This is the second neighborhood meeting for a proposed rezoning on Green Level Church Road. You may remember, we held the pre-filing neighborhood meeting in July and were working on our application. We filed our rezoning application August 1 and over the last several months have been working through staff comments and revising our plans. The purpose of this meeting is to provide updates on the project as we get closer to public hearings.

II. PRESENTATION

- a. Site Overview - location, existing uses adjacent, and surrounding development in progress.
- b. 2045 Land Use Map (LUM) Designation
 - i. The LUM is the primary policy document the Town uses to evaluate rezoning request. This property is designated Medium Density Residential which recommends single-family homes and townhomes with an overall density of up to 6 units/acre.
- c. Existing and Proposed Zoning
 - i. Existing zoning is Residential which only allows large lot single-family homes. The proposed zoning district is Planned Unit Development Conditional (PUD-CZ). The purpose of the rezoning is to allow a small townhome development.
- d. Draft PUD Plan
 - i. This is the current version of the PUD plan. We showed a preliminary plan in July. This plan has a lot more information and hopefully some conditions that will help with some of the concerns we heard at the first neighborhood meeting.
 - ii. The proposed zoning allows a maximum of 32 townhome units, duplexes, and/or single-family units, but the plan is for all townhomes. The plan is for large, upscale townhome units to meet rising demand from empty nesters in the Triangle. The units will not be age restricted, but we've seen rising demand as aging Apex and Wake County residents age, want less maintenance, but want to stay in the area.
 - iii. Access on Green Level Church Road will be limited to right in/right out only
 - iv. Connection to the two stub streets is required by the Town's UDO.
 - v. We've expanded buffers in all areas adjacent to existing single-family lot lines. At the southwest, we've committed to a 30' buffer which is double the 15' required buffer. At the southeast, we've committed to a 50' buffer.
 - vi. We've also added conditions to help the proposed townhomes be compatible with existing single-family neighborhoods, including:
 - 1. No townhomes can front on Hillman Bend

- 2. Townhome buildings have a maximum of four units each
- 3. Townhomes on Hillman Bend limited to two stories.
- vii. We're also required to preserve 30% RCA. Exact areas haven't been delineated, but these areas will include streams (if any), existing tree canopy, etc.
- e. Rezoning Process and Timeline
 - i. We anticipate public hearings in January. The Planning Board will review the case, hold a public hearing, and make a recommendation to Council. Following the Planning Board meeting, Town Council will hold a public hearing and make the final decision whether to approve or deny the rezoning case.

III. QUESTION AND ANSWER

- a. ***How will mosquito control be measured in the stormwater retention pond?***
 - i. The pond will be designed to meet all Town of Apex standards. Mosquito control will likely be handled by the property management company hired by the HOA. I don't know the exact methods that will be implemented, but can check.
- b. ***Did I read that there will be access to the greenway?***
 - i. Yes. Our original plans showed a direct connection from our development to the existing greenway to the east. However, that connection would have required a stream/wetlands disturbance. Staff's preference is that we connect the new Hillman Bend sidewalk to the existing greenway connection to the north to avoid the stream/wetlands disturbance.
- c. ***What speed control features will be implemented on the street?***
 - i. Often, the best way to slow vehicles is through the design of the street. The internal neighborhood street will be very short from Green Level Church to Hillman Bend which should limit speeding. Regarding Hillman Bend, speed bumps and other traffic calming measures can be requested but must be approved and implemented by Town transportation staff.
- d. ***What was the initial number of units introduced at the first neighborhood meeting?***
 - i. 32 units. The 32 units is the maximum number of residential units permitted by the PUD. Once we get to subdivision plans and lay out the site, it may wind up being fewer total lots, depending on how many will fit with the required stormwater pond, buffers, and other site features.
- e. ***Has there been discussion of deer crossing?***
 - i. Not specifically. I know from driving out here there are a lot of deer. Generally speaking, new development and street lights help with deer.
- f. ***Where will the parking be? Are we getting a parking lot on Hillman Bend?***
 - i. Each unit is required to have two parking spaces that will be satisfied through a garage and driveway space. A small amount of guest parking is also required and we don't anticipate it will be on Hillman Bend.
- g. ***Are all townhomes limited to two stories?***
 - i. The townhomes on Hillman Bend are limited to two stories. The max height for the other townhomes is three stories. The plan is for two story townhomes with an additional half story and/or pitched roof. We wanted to keep the three story maximum to be sure the proposed units aren't over the height limit.

- h. ***Will the units be sold or leased?***
 - i. The current plan is for these to be for sale units

OWNER	MAILING ADDRESS	
AMARAPINI, APPA RAO TRUSTEE AMARAPINI, SUNEETA TRUSTEE	2409 CANOE CREEK LN	APEX NC 27523-7130
BAKKEN, JOHN R BAKKEN, MELINDA E	445 HILLMAN BND	APEX NC 27523-8508
BARKLEY, ANTHONY BARKLEY, JENNIFER	1008 CELANDINE DR	APEX NC 27502-4162
BASNET, RESHAM KUNWAR, MANJU	409 GREENMOOR PATH	APEX NC 27523-8513
BENEDICT, JON B FAMOLARE, CHRISTY F	2401 BALMOOR TRCE	APEX NC 27523-8514
BHAT, ANIKET ANAT CO-TRUSTEE TEMBE, RUCHA CO-TRUSTEE	2409 BALMOOR TRCE	APEX NC 27523-8514
BODD, PHANI S TRUSTEE BODD, VIJAYA YALAMANCHILI TRUSTEE	6104 RUNNING SPRINGS RD	SAN JOSE CA 95135-2209
BUTT, MUHAMMAD U BUTT, SOPHIA	421 GREENMOOR PATH	APEX NC 27523-8513
CHAGALETI, RAJESH CHANDRA S BATCHALA, SRUJINI	312 PINK AZALEA CT	APEX NC 27523-7129
CHITTILLA, RAMA K CHITTILLA, SUJATHA	2417 BALMOOR TRCE	APEX NC 27523-8514
CHTCHEPROV, PAVEL CHTCHEPROV, KELLY MCHUGH	2404 CANOE CREEK LN	APEX NC 27523-7130
CONWAY, WENDY A CONWAY, GREGORY R	457 HILLMAN BND	APEX NC 27523-8508
CRESTMONT OWNERS ASSOCIATION INC	TROY GEORGE	1100 PERIMETER PARK DR STE 112
CRESTMONT OWNERS ASSOCIATION INC	812 SALEM WOODS DR STE 202	RALEIGH NC 27615-3346
CRESTMONT OWNERS ASSOCIATION INC	CHARLESTON MANAGEMENT CORPORATION	PO BOX 97243
GILLA, BHANU PRATAP GILLA, NAGASRI	446 HILLMAN BND	APEX NC 27523-8508
GREENMOOR HOMEOWNERS ASSOCIATION INC	CAS INC	PO BOX 83
GWYNN, ELIZABETH MCLAUGHLIN TRUSTEE THE GWYNN LIVING TRUST	2420 BALMOOR TRCE	APEX NC 27523-8514
HARRINGTON, DONALD EARL WILLIAMS, JAMIE	2413 CANOE CREEK LN	APEX NC 27523-7130
JAFFER, GHULAM HAIDER NAWAB, SYEDA NUZHAT	2432 BALMOOR TRCE	APEX NC 27523-8514
JAIN, MAYUR JAIN, STUTI	2405 CANOE CREEK LN	APEX NC 27523-7130
KLAVON, CLAUDIA JEAN	2413 BALMOOR TRCE	APEX NC 27523-8514
KWON, MYONG O OH, MYOUNG SUN	2419 CANOE CREEK LN	APEX NC 27523-7130
MATHEW, LEENA ANNIE PHILIP, THOMAS STEPHEN	316 PINK AZALEA CT	APEX NC 27523-7129
NIRAGHATAM, VAMSI VARDHAN SRIPADA, SRAVYA LAHARI	405 GREENMOOR PATH	APEX NC 27523-8513
PATTERSON, THEODORE SCOTT PATTERSON, MONICA LYNN	449 HILLMAN BND	APEX NC 27523-8508
RAO, SMRITI AKSHAY RAO, AKSHAY VEDVYAS	2400 CANOE CREEK LN	APEX NC 27523-7130
RATHORE, JITENDRA S RATHORE, HEMAXIKUMARI J	313 PINK AZALEA CT	APEX NC 27523-7129
RUSH, SHAWNNA	417 GREENMOOR PATH	APEX NC 27523-8513
RUTHALA, RAVI KUMAR GILLA, SWETHA	442 HILLMAN BND	APEX NC 27523-8508
SUBBARAO, HARINARAYAN KASHYAP, SUMITRA R	308 PINK AZALEA CT	APEX NC 27523-7129
SWAFFORD, JEREMY SWAFFORD, AMANDA SUE	425 GREENMOOR PATH	APEX NC 27523-8513
VEDANTAM, TEJASWI SRINIVASA TRUSTEE KODURU, APARNA TRUSTEE	317 PINK AZALEA CT	APEX NC 27523-7129
W&W PROPERTIES INC	1000 DARRINGTON DR STE 500	CARY NC 27513-8134
YARBOROUGH, MICHAEL D YARBOROUGH, LISA M D	2424 BALMOOR TRCE	APEX NC 27523-8514
YATES GREEN LEVEL FARM LLC	2132 CARPENTER UPCHURCH RD	CARY NC 27519-7003
APEX TOWN OF	PO BOX 250	APEX NC 27502
Current Tenant	2405 Balmoor TRCE	APEX NC 27523
Current Tenant	7905 Green Level Church RD	APEX NC 27523
Current Tenant	7924 Green Level Church RD	APEX NC 27523
Current Tenant	453 Hillman BND	APEX NC 27523

MORRISVILLE NC 27560-9119

RALEIGH NC 27624-7243

PINEHURST NC 28370-0083

APEX ENVIRONMENTAL ADVISORY BOARD

Suggested Zoning Conditions



Project Name: Green Level Towns PUD

Date: _____

The Town of Apex Environmental Advisory Board offers this general list of suggested rezoning conditions for rezoning applicants to consider before filling a rezoning petition. The purpose of this list is to encourage and recommend implementation of exceptional environmental practices for future development that exceeds Town requirements. The Board will review each rezoning pre-application request and expand on suggested conditions by offering specific recommendations on a case-by-case basis.

The decision to include any of the recommendations below is voluntary by the applicant and the Board does not expect applicants to add all of the suggested conditions. Planning staff will include all zoning conditions suggested by this Board and will note which conditions have been added by the applicant in the staff reports to the Planning Board and Town Council. Applicants should review this list before meeting with the Board. NOTE: Text in green indicates suggested zoning condition language from Planning Staff. Underlined text indicates text or numbers that may be changed based on the specific project. Additional conditions may be suggested by the EAB at the meeting.

This document is divided into two parts:

- Part I – Residential applies to single-family dwellings and townhome subdivisions, but does not include the parking lots, exterior building lights or exterior architecture.
- Part II – Non-Residential includes condominiums, apartments, and multi-family, common areas in residential developments (e.g. amenity areas, parking lots, exterior building lights, and exterior architecture), commercial, office, and industrial areas. Your development may include elements of each part.

Please be sure to read and complete the entire document. Please provide a response to each goal and/or sub-goal. Any proposed modifications to the green zoning language should be listed in the section at the end of the document.

Part I – Residential

Single-family dwelling and townhome subdivisions (excluding parking lots, exterior building lights and exterior architecture).

STORMWATER AND WATER CONSERVATION – WATER QUALITY (1-5)	YES	NO	N/A
Goal 1. Increase riparian buffer widths from surface waters in environmentally sensitive areas. The project shall increase the riparian buffer width by at least ____ feet above the minimum required by the Unified Development Ordinance. The additional buffer width shall be measured from the top of bank on each side of the stream.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 2. Install signage near environmental sensitive areas in order to reduce pet waste and excess nutrient inputs near Stormwater Control Measure (SCM) drainage areas.			

Environmental Advisory Board – Suggested Zoning Conditions

STORMWATER AND WATER CONSERVATION – WATER QUALITY (1-5)	YES	NO	N/A
The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer, in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Goal 3. Implement Low Impact Development (LID) techniques as defined by the NC Department of Environmental Quality. The project shall install a minimum of _____ Low Impact Development Technique as defined and approved by the NC Department of Environmental Quality. The specific type of LID technique shall be reviewed and approved by the Water Resources Department at site or subdivision plan review.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 4. Increase pervious surface to reduce stormwater runoff and pollutant concentrations. <u>Option 5.1:</u> Install pervious pavements where practicable (e.g. when parking maximums are exceeded). The Department of Public Works & Transportation does not currently support these options within the right-of-way (ROW). These may be done on private sites, but not within the public ROW. a. The project shall utilize pervious pavement when constructing the parking spaces for parking lot-style townhomes. The specific type of pervious pavement system shall be reviewed and approved by the Water Resources Department at site or subdivision plan review. The selected system shall be maintained by the developer and/or owner's association. AND/OR b. The project shall utilize pervious pavement when constructing the driveways for residential units. The specific type of pervious pavement system shall be reviewed and approved by the Water Resources Department at site or subdivision plan review. The selected system shall be maintained by the developer and/or owner's association.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 5. Use the stormwater captured in the on-site SCM to irrigate landscaping within the development. At least _____ SCM shall be designed and constructed to provide irrigation to the surrounding landscaping on site. The design shall be reviewed and approved by the Water Resources Department at site plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLANTING AND LANDSCAPING (6-13)	YES	NO	N/A
Goal 6. Preserve tree canopy and prioritize medium to large, healthy, desirable species. <u>Option 6.1:</u> Preserve existing trees (percentage-based). Numbers shown may be changed based on project. The project shall preserve a minimum of _____% of the existing tree canopy. Where the project abuts adjacent developments, special effort shall be taken to locate the preserved trees adjacent to areas of preserved open space, including but not limited to, RCA, perimeter landscape buffers, riparian buffers, and/or HOA maintained open spaces. <u>Option 6.2:</u> Replace canopy (percentage- or DBH size-based) where there is sufficient space. The project shall replace any large type trees, that measure 18-inches in caliper size or larger, and small type trees, that measure 8-inches in caliper size or larger, that are removed as a part of the development. The ratio of replacement shall be 1 large tree to 1 replacement tree of similar species or mature size. The UDO's required landscaping may be used to satisfy this requirement. To determine the number of trees that must be replaced, a tree survey for the full property shall be provided to the Planning Department. The survey shall be independently verified by a third-party licensed arborist.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Environmental Advisory Board – Suggested Zoning Conditions

PLANTING AND LANDSCAPING (6-13)	YES	NO	N/A
Goal 7. Plant trees to improve energy efficiency. <u>Option 7.1:</u> Plant deciduous shade trees on southern side of buildings. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <u>Option 7.2:</u> Plant evergreen trees as a windbreak on northern side of buildings. To improve energy efficiency, the project shall plant evergreen trees on the northern side of all buildings to act as a windbreak. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A			
Goal 8. Increase biodiversity. Note: Invasive species are prohibited. Please see the Town's Design and Development Manual for a link to the list of prohibited species. <u>Option 8.1:</u> Plant pollinator-friendly flora. Provide diverse and abundant pollinator and bird food sources (e.g. Snectar, pollen, and berries from blooming plants) that bloom in succession from spring to fall. (Refer to the Apex Design & Development Manual for suggested native species). a. The project shall ensure that <u>70</u> % of the landscaping shall be native species, which shall provide diverse and abundant pollinator and bird food sources. Special attention shall be paid to providing diverse and abundant pollinator and bird food sources, including plants that bloom in succession from spring to fall. Landscaping shall be coordinated with and approved by the Planning Department at site or subdivision review. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <u>Option 8.2:</u> Provide and allow for undisturbed spaces (e.g. leaf piles, unmown fields, fallen trees) for nesting and overwintering for native pollinators and wildlife. In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <u>Option 8.3:</u> Retain and protect old ponds if the dam is structurally sound. To preserve and protect existing species, existing ponds shall be preserved if structurally sound. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <u>Option 8.4:</u> Increase the number of native trees and shrubs. a. The project shall increase biodiversity within perimeter buffers, common owned open space, and other landscape areas by providing a variety of native and adaptive species for the canopy, understory and shrub levels. A minimum of _____ % of the species selected shall be native or a native of North Carolina. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <p style="text-align: center;">AND/OR</p> b. No single species of native or adaptive vegetation shall constitute more than <u>20%</u> of the plant material of its type within a single development site. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A			
Goal 9. Implement xeriscaping in design, which will use landscaping that requires less irrigation and chemical use. Contact Planning for assistance, if needed. a. The project commits to planting only drought tolerant plants, of which _____ % of the plants selected shall be native. Landscaping shall be coordinated with and approved by the Planning Department at site or subdivision review. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <p style="text-align: center;">OR</p> b. To reduce irrigation requirements, the project shall select and plant only warm season grasses. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A			
Goal 10. Promote the benefits of native pollinators. The project shall plant at least _____ native pollinator demonstration garden within the development. The developer shall coordinate with a local or state agency that specializes in the design or certification of such gardens. Informational signage regarding the purpose of the garden and selected vegetation shall be provided. The pollinator garden shall be maintained by the developer or HOA. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A			
Goal 11. Improve soil quality to be amenable for a variety of native and non-invasive plantings.			

Environmental Advisory Board – Suggested Zoning Conditions

PLANTING AND LANDSCAPING (6-13)	YES	NO	N/A
To encourage the establishment of healthy plants, reduce fertilizers, and reduce stormwater runoff, topsoil shall be retained on site and a minimum of 4 inches of topsoil shall be placed on each lot and within disturbed common areas.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 12. Increase perimeter buffer requirements, especially in transitional areas (nonresidential to residential areas). The UDO requires a ____-foot buffer along the ____perimeter of the property. The applicant shall add ____-foot buffer in that location, which would be an increase of ____-feet above the requirement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 13. Reduce impacts to resource conservation Areas (RCAs). a. The project shall install signage adjacent to wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed. OR b. A farm-style split rail fence shall be installed where wooded or natural condition Resource Conservation Area (RCA) abuts individual residential lots.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUSTAINABLE BUILDINGS (14)	YES	NO	N/A
Goal 14. Apply for green building certifications, such as LEED, Energy Star, BREEAM, Green Globes, NGBS Green, or GreenGuard. The project shall be designed to meet the requirements for one of the green building certifications listed above. A third-party consultant shall be hired to evaluate the project and certify to the Town of Apex that the project meets the standards for the certification. The applicant shall forward a copy of the certification application to the Town of Apex Planning Department to verify that the application has been submitted.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WASTE MANAGEMENT (15)	YES	NO	N/A
Goal 15. Encourage the proper disposal of pet waste to reduce environmental impacts. <i>Numbers shown may be changed based on project.</i> The project shall install at least one (1) pet waste station per 25 residential units throughout the community in locations that are publicly accessible, such as adjacent to amenity centers, SCMs, sidewalks, greenways or side paths. If there fewer than 25 homes, at least one (1) pet waste station shall be installed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CLEAN ENERGY (16-18)	YES	NO	N/A
Goal 16. Install rooftop solar on buildings. a. A solar PV system of at least ____ kW shall be installed on at least ____homes within the development. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development. The lot(s) on which this home/these homes is/are located shall be identified on the Master Subdivision Plat, which may be amended from time to time. AND/OR b. A solar PV system shall be installed on a minimum of ____model home. All solar installation required by this condition shall be completed or under construction prior to ____% of the building permits being issued for the development. The lot(s) on which this home/these homes is/are located shall be identified on the Master Subdivision Plat, which may be amended from time to time. AND/OR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Environmental Advisory Board – Suggested Zoning Conditions

CLEAN ENERGY (16-18)	YES	NO	N/A
c. The amenity center for the project shall include a rooftop solar PV system with a capacity of at least ____ kWhs.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 17. Include solar conduit in building design. All homes shall be pre-configured with conduit for a solar energy system.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Goal 18. Encourage clean transportation. The developer shall install at least ____ electric vehicle charging station in amenity centers or common area parking lots.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part II - Non-Residential

Includes condominiums, apartments, and multi-family, common areas in residential developments (e.g. amenity areas, parking lots, exterior building lights, and exterior architecture), commercial, office, and industrial areas.

STORMWATER AND WATER CONSERVATION – WATER QUANTITY (1)	YES	NO	N/A
Goal 1. Increase design storm for retention basin in flood-prone areas. The UDO requires that treatment for the first 1-inch of runoff will be provided such that the removal of 85% Total Suspended Solids is achieved. Each option is intended to be used as an improvement to the minimum UDO requirements. If an area is already required to mitigate the 25-year storm, option b should not be selected.			
a. Post-development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, 25-year and <u>100-year storm events</u> in accordance with the Unified Development Ordinance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OR			
b. Post development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, and <u>25-year storm events</u> in accordance with the Unified Development Ordinance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

STORMWATER AND WATER CONSERVATION – WATER QUALITY (2-7)	YES	NO	N/A
Goal 2. Increase riparian buffer widths from surface waters in environmentally sensitive areas. The project shall increase the riparian buffer width by at least ____ feet above the minimum required by the Unified Development Ordinance. The additional buffer width shall be measured from the top of bank on each side of the stream.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 3. Limit tree clearing, stormwater control measures (SCM), or infrastructure in either zone of the riparian buffer. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 4. Install signage near environmental sensitive areas in order to reduce pet waste and excess nutrient inputs near Stormwater Control Measure (SCM) drainage areas. The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer, in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Goal 5. Implement low impact development (LID) techniques as defined by the NC Department of Environmental Quality. The project shall install a minimum of ____ Low Impact Development Technique as defined and approved by the NC Department of Environmental Quality. The specific	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Environmental Advisory Board – Suggested Zoning Conditions

Applicant Clarification/Additional Language:

Additional Board Recommendations:

GREEN LEVEL TOWNS

Planned Unit Development

Apex, North Carolina

Submittal Dates

First Submittal: August 1, 2024

Second Submittal: October 4, 2024

Third Submittal: November 1, 2024

Fourth Submittal: December 1, 2024

Fifth Submittal: December 20, 2024

Sixth Submittal: December 27, 2024

Seventh Submittal: January 2, 2025

Developer

W&W Partners, Inc.

1000 Darrington Drive

Suite 500

Cary, NC 27513

Landscape Architect

Urban Design Partners

150 Fayetteville Street, Suite 1310

Raleigh, NC 27601

Land Use Attorney

Matthew J. Carpenter

Parker Poe Adams & Bernstein LLP

301 Fayetteville Street, Suite 1400

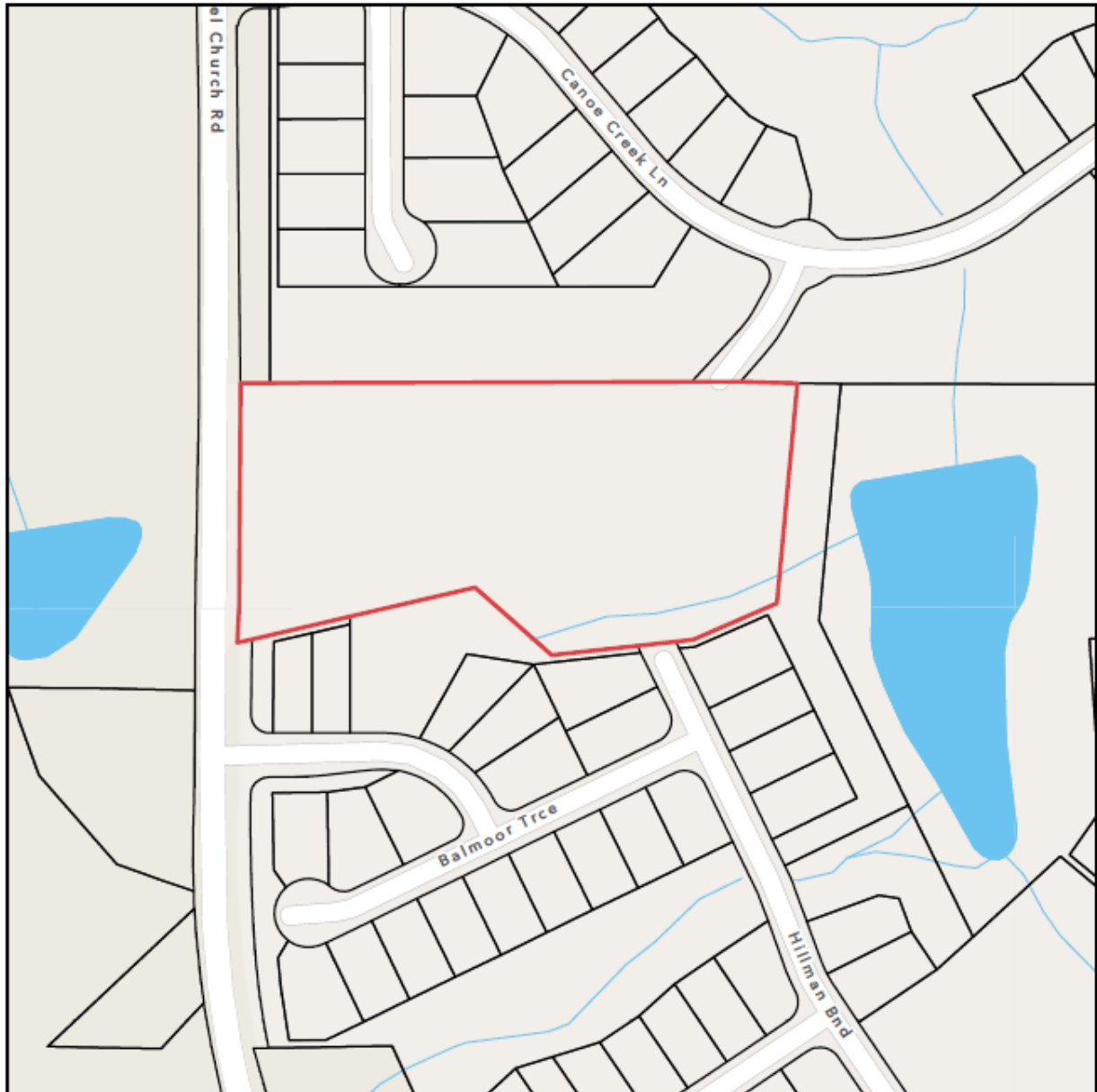
Raleigh, NC 27601



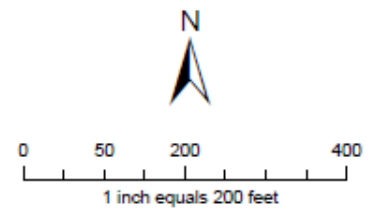
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VICINITY MAP



PUD Vicinity Map



PROJECT DATA

Name of Project:	Green Level Towns PUD
Property Owner and Developer:	W&W Partners, Inc. 1000 Darrington Drive, Suite 500 Cary, NC 27513
Prepared by:	Parker Poe Adams & Bernstein LLP 301 Fayetteville Street, Suite 1400 Raleigh, NC 27601
Current Zoning:	Rural Residential (RR)
Proposed Zoning:	Planned Unit Development-Conditional Zoning (PUD-CZ)
Current 2045 LUM Designation:	Medium Density Residential
Proposed 2045 LUM Designation:	Medium Density Residential
Site Address:	7924 Green Level Church Road
Property Identification Number:	0723935325
Total Acreage:	6.035
Area Designated as Mixed Use on LUM:	None
Area Proposed as Non-Residential:	None

PURPOSE STATEMENT

This document and the accompanying exhibits submitted herewith (collectively, the “PUD”) are provided pursuant to the Town of Apex Unified Development Ordinance (“UDO”) Planned Unit Development provisions. This PUD addresses the development of a 6.035-acre infill site on Green Level Church Road. The property is in the Town’s ETJ and primarily undeveloped with existing single-family residential structures.

Green Level Towns aims to meet strong demand in the Apex market for large, upscale, townhomes. With children out of the home, many Wake County and Apex residents of established single-family neighborhoods are downsizing and in search of townhomes that require less maintenance but do not compromise quality. Additional housing types, including single-family homes and duplexes, are permitted to allow the project to respond to changes in demand.

The Town of Apex 2045 Land Use Map (the “LUM”) designates the property as Medium Density Residential which recommends single-family homes, duplexes, and townhomes up to 6 units per acre to provide “a transition from the more urbanized areas of Apex to the Low Density neighborhoods in the western part of the study area.” The PUD proposes single-family homes, duplexes, and townhomes at an overall density of approximately 5.3 units/acre, squarely consistent with the 2045 Land Use Map designation.

CONSISTENCY WITH PLANNED UNIT DEVELOPMENT STANDARDS

- (i) *The uses proposed to be developed in the PD plan for PUD-CZ are those uses permitted in Sec. 4.2.2 Use Table***

RESPONSE: The uses permitted within this PUD are permitted within this designation in the UDO Section 4.2.2 Use Table.

- (ii) *The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed-use areas as specified on the 2045 Land Use Map. The location of the uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.***

RESPONSE: Green Level Towns is an entirely residential project and the property does not have a mixed-use designation on the LUM. The locations of the proposed uses are shown on the attached PD Plan and maximum density and other design guidelines are included in this PUD Text.

- (iii) *The dimensional standards in Sec. 5.1.3 Table of Intensity and Dimensional Standards, Planned Development Districts may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.***

RESPONSE: This PUD specifies intensity and dimensional standards for the project. The proposed PUD is consistent with the UDO Planned Unit Development standards – to provide site specific, high-quality neighborhoods that preserve natural features and exhibit compatibility with, and connectivity to, surrounding land uses. Except as specifically stated in this PUD, the development will comply with all requirements of the UDO and will comply with all applicable requirements of the North Carolina Building Code and the North Carolina Fire Code.

- (iv) *The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Advance Apex: The 2045 Transportation Plan and the Town of Apex Standard Specifications and Standard Details, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Advance Apex: The 2045 Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.***

RESPONSE: The project will close an important gap in pedestrian and vehicular connectivity. As shown on the PD Plan, Hillman Bend is stubbed short of the property's northern and southern property lines. The project will use existing grading and construction easements, and previously collected fees in lieu if available, to construct a new neighborhood street and sidewalk across the property to connect the existing stubs. The project will also include construction of a 10-foot side path along the site's Green Level Church Road frontage.

- (v) *The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.***

RESPONSE: The project will significantly improve pedestrian and vehicular connectivity by closing an existing gap in the street and sidewalk network and constructing a 10-foot side path.

- (vi) *The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.***

RESPONSE: The proposed development is compatible with the character of surrounding land uses. The property is an infill site with existing single-family neighborhoods adjacent - Crestmont to the north and Greenmoor to the east and south. The Crestmont zoning (Rezoning Case 13CZ35) - approved in 2014 - permits an overall density of 4 units/acre and a total of 282 units.

The Crestmont subdivision was constructed with 163 units, which equates to 2.31 units/acre. The Greenmoor zoning (Rezoning Case 13CZ18) - approved in 2013 - permits an overall density of 2.9 units/acre and a total of 287 units. The Greenmoor zoning was amended in 2014 to permit additional density of 3.56 units/acre and a total of 180 units in the southern portion of the PUD. The Greenmoor subdivision has an overall density of 2.70 units/acre with a total of 467 units.

Although this PUD proposes a higher maximum density of 5.3 units/acre, it only proposes a total of 32 additional homes and is considered Medium Density Residential under the 2045 Land Use Map, consistent with the designation of both adjacent neighborhoods. As required by the proposed architectural conditions, and as shown in the submitted elevations, the homes will be of similar character and quality to surrounding neighborhoods. Finally, the site will be adequately buffered from adjacent single-family homes. Adjacent to the north is an approximately 130-foot wide RCA and easement area owned by the Crestmont Home Owners Association (HOA), that, together with the proposed 15-foot Type A perimeter buffer, will provide over 145 feet of separation between the proposed homes and existing single-family homes in Crestmont. To the south, there is Greenmoor HOA common area that provides separation between the proposed townhomes and existing Greenmoor single-family homes. Where there are existing single-family homes adjacent to the southern property line, widened buffers are provided; a 30-foot Type B buffer in the southwest and a 50-foot Type B buffer in the southeast.

(vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.

RESPONSE: The development will feature high quality and thoughtful design. Architectural standards, design controls, and conceptual elevations are included in this PUD.

CONSISTENCY WITH CONDITIONAL ZONING STANDARDS

Green Level Towns is consistent with the conditional zoning standards set forth in UDO Section 2.3.3.F.1-10. Please see the accompanying PUD-CZ Application for the statements of consistency addressing each standard.

PERMITTED USES

The Property may be used for the uses listed below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

The following uses shall be permitted:

Residential

- Single-family
- Townhouse
- Duplex
- Accessory apartment*

* Homeowners Association covenants shall not restrict the construction of accessory dwelling units.

Utilities

- Utility, minor

Recreational

- Greenway
- Park, active
- Park, passive
- Recreation facility, private

AFFORDABLE HOUSING

A minimum of five percent (5%) of the total residential units on the property shall be affordable housing units. The affordable units may be for sale or for rent units, at the election of developer prior to issuance of building permits for the affordable units. Final affordable housing unit floor plan selection which includes unit size and bedroom size will be at the discretion of the developer. If the affordable units calculation results in a fraction between 0.50 and 0.99, the affordable units shall be rounded up to the nearest whole number. If the affordable units calculation results in a fraction between 0.01 and 0.49, the affordable units shall be rounded down to the nearest whole number.

For sale affordable units (the “For Sale Units”) shall be subject to the following terms and conditions:

- The For Sale Units shall be constructed on-site and sold (includes unit price and lot price) at a mutually agreeable maximum affordable median income ownership initial sales price (the “Initial Sales Price”).
- The For Sale Units shall be occupied by households earning no more than one-hundred thirty five (135%) of the Raleigh NC Metropolitan Statistical Area (MSA), Area Median Income (AMI) as most recently published by HUD (the “Income Limit”). For purposes of calculating the Initial Sales Price for the For Sale Units, affordable shall mean a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner’s insurance, homeowner’s association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership (the “Housing Costs”). For purposes of the calculation, monthly Housing Costs shall not exceed thirty percent (30%) of the Income Limit divided by twelve (12).
- A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of twenty (20) years (the “Affordability Period”) shall be recorded in the Wake County Registry against the For Sale Units concurrently at the close of escrow upon the sale of each For Sale Unit.
- Developer will work with the Town to identify qualifying buyers for the first sale of the For Sale Units (the “First Sale”). Following the First Sale of the For Sale Units, Developer shall not be responsible for managing the For Sale Units or performing marketing, applicant screening, and selection related to future sales of the For Sale Units. Town staff will assist with the administrative duties of the For Sale Units during the Affordability Period.

For rent affordable units (the “Rental Units”) shall be subject to the following terms and conditions:

- The Rental Units shall be occupied by low-income households earning no more than eighty percent (80%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income, as most recently published by the U.S. Department of Housing and Urban Development (HUD) for a period of twenty (20) years starting from the date of issuance of the first residential Certificate of Occupancy (the “Affordability Period”).
- Prior to issuance of the first Certificate of Occupancy for the Rental Units, a restrictive covenant between the Town and property owner shall be executed and recorded in the Wake County Registry to memorialize the affordable housing terms and conditions.
- During the Affordability Period, the property owner shall submit annual compliance reports to the Town to verify compliance with the affordable housing terms and conditions.
- Following expiration of the Affordability Period, this affordable housing condition shall expire, and the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the Rental Units may be freely marketed and leased at market rate rents.

DESIGN CONTROLS

Total Project Area	6.035 acres			
Maximum Total Residential Units *	32			
Max Built-Upon Area	65%			
	Townhouses**	Single-Family	Duplex	Recreation facility, private
Minimum Lot Size	None	5,000 square feet	None	None
Minimum Lot Width	18 ft.	50 ft.	None	None
Minimum Setbacks				
Front	15 ft.	25 ft.	15 ft.	15 ft.
Front (garage)	20 ft. (from sidewalk or back-of-curb where no sidewalk exists)	N/A	20 ft. (from sidewalk or back-of-curb where no sidewalk exists)	N/A
Side	0 ft. (10 ft. for end units)	6 ft. min./16 ft. total	8 ft.	10 ft.
Rear	15 ft.	20 ft.	15 ft.	25 ft.
Corner Side	15 ft.	15 ft.	15 ft.	15 ft.
Maximum Building Height***	3 stories/36 ft.	3 stories/36 ft.	3 stories/36 ft.	3 stories/36 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.

* No townhouse building shall include more than four (4) units.

** No townhouse buildings shall front Hillman Bend.

***No townhouse building along Hillman Bend shall exceed 2 stories.

LANDSCAPING, BUFFERING, AND SCREENING

Perimeter buffers shall be built and planted to the following lot width and planting standards:

Location:	Buffer Size & Type:
Along the northern property line	15 ft. Type A
Along the eastern property line	15 ft. Type A
Along Green Level Church Road	30 ft. Type B
Along the southern property line except as listed below	15 ft. Type A
Along the shared property line with PIN 0723931058	30 ft. Type B if townhouses or duplexes are developed 15 ft. Type A if single-family homes are developed
Along the southeastern property line as shown on the Concept Plan	50 ft. Type B if townhouses or duplexes are developed 15 ft. Type A if single-family homes are developed

ARCHITECTURAL STANDARDS

This PUD offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Elevations included are conceptual examples. Final elevations must comply with these architectural standards but may vary from the conceptual elevations. Further details may be provided at the time of Site Plan submittal.

Single-family:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
3. Eaves shall project at least 12 inches from the wall of the structure.
4. Garage doors shall have windows, decorative details or carriage-style adornments on them.
5. The garage shall not protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.

6. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - a. Windows
 - b. Bay window
 - c. Recessed window
 - d. Decorative window
 - e. Trim around the windows
 - f. Wrap around porch or side porch
 - g. Two or more building materials
 - h. Decorative brick/stone
 - i. Decorative trim
 - j. Decorative shake
 - k. Decorative air vents on gable
 - l. Decorative gable
 - m. Decorative cornice
 - n. Column
 - o. Portico
 - p. Balcony
 - q. Dormer
8. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
9. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
10. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
11. Front porches shall be a minimum of 5 feet deep.
12. No more than 25% of single-family lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.

Duplexes:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Front facing garage doors shall have windows, decorative details or carriage-style adornments on them.
3. The project shall include a minimum of two (2) or more garage door styles.
4. Entrances shall have a covered porch/stoop area leading to the front door.
5. The garage cannot protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.
6. The visible side of a unit on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
7. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
8. The rear and side elevations of the units facing public right-of-way shall have trim around the windows.
9. Side and rear elevations shall include architectural features to break up the flat walls both vertically and horizontally.

10. Buildings shall have no more than one unadorned side-gabled roof in a row within a single building.

Townhouses:

1. Vinyl siding is not permitted; however vinyl windows, decorative elements and trim are permitted.
2. The roofline cannot be a single mass; it shall be broken up horizontally and vertically between every other unit.
3. Front facing garage doors shall have windows, decorative details, or carriage-style adornments on them.
4. The project shall include a minimum of two (2) or more garage door styles.
5. Entrances shall have a covered porch/stoop area leading to the front door.
6. The garage cannot protrude more than 1 foot out from the front façade or front porch. Living space above a garage shall not be considered part of the front façade.
7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements, such as, but not limited to, the following:
 - a. Windows
 - b. Bay window
 - c. Recessed window
 - d. Decorative window
 - e. Trim around the windows
 - f. Wrap around porch or side porch
 - g. Two or more building materials
 - h. Decorative brick/stone
 - i. Decorative trim
 - j. Decorative shake
 - k. Decorative air vents on gable
 - l. Decorative gable
 - m. Decorative cornice
 - n. Column
 - o. Portico
 - p. Balcony
 - q. Dormer
8. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and include varied trim, shutter, and accent colors complementing the siding color.

9. The rear and side elevations of units facing public rights of way shall have trim around the windows.
10. Side and rear elevations shall include architectural features to break up the flat walls both vertically and horizontally.
11. Townhouse buildings shall have no more than one unadorned side-gabled roof in a row in a single building.
12. End townhouse elevations facing a public right of way shall have a portico or covered entrance.

PARKING AND LOADING

The PUD will comply with minimum parking standards set forth in UDO Section 8.3.

SIGNAGE

Signage shall comply with UDO Section 8.7.

NATURAL RESOURCES AND ENVIRONMENTAL DATA

RIVER BASINS AND WATERSHED PROTECTION OVERLAY DISTRICTS

The property is in the Primary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Overlay Map 2019. This PUD will comply with all applicable UDO built upon area, vegetated conveyances, structural SCMs and riparian stream buffer requirements.

Resource Conservation Areas (RCA)

This PUD will meet the requirements of UDO Section 8.1.2, Resource Conservation Area, and Section 2.3.4, Planned Development Districts. UDO Section 8.1.2 requires a minimum Resource Conservation Area ("RCA") equal to or greater than 30% of the gross site acreage. If the Development is for single-family homes and mass graded, it shall provide the additional 5% RCA required for mass grading under UDO Section 7.2.5.B.8.

Floodplain

The project site does not sit within a designated current or future 100-year floodplain as shown on the Town of Apex Watershed & FEMA Map dated April 2015. FIRM Panel 3720072200J dated May 2, 2006 does not include a floodplain within the property boundary.

Historic Structures

There are no known historic structures present on the Property.

Environmental Commitments Summary

The following environmental conditions shall apply to the Development:

- If Hillman Bend is not extended to the south, the project shall install signage adjacent to the wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed.
- The HOA shall not prohibit clover or other mixed grasses.
- The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer.
- A minimum of 70% of landscaping shall be native or nativar species.
- To reduce irrigation requirements, the project shall select and plant only warm season grasses.
- The project shall install a minimum of one (1) pet waste station.
- All homes shall be pre-configured with solar conduit.

STORMWATER MANAGEMENT

Stormwater control devices shall be designed and constructed to exceed UDO standards so that post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1-year, and 10-year storm events. Otherwise, the Development shall meet all stormwater management requirements for quality and quantity treatment in accordance with UDO Section 6.1.

Acceptable stormwater structures shall include detention ponds, constructed wetlands, bio-retention areas, or other approved devices consistent with the NC DEQ Stormwater Design Manual and the Town of Apex UDO.

PARKS AND RECREATION

The project shall pay a fee-in-lieu of park land dedication for a maximum of 32 units. The fee in lieu shall be calculated using 2025 rates and deposited with the Town at final plat.

The final unit count and total fee-in-lieu will be calculated at Master Subdivision Plan and Construction Document review.

PUBLIC FACILITIES

The proposed PUD shall meet all Public Facilities requirements as set forth in UDO Section 2.3.4(F)(1)(f) and be designed to comply with the Town's Sewer and Water Master Plan and Standards and Specifications. Road and utility infrastructure shall be as follows:

TRANSPORTATION IMPROVEMENTS

The following conditions regarding transportation improvements apply. Except as set forth herein, all proposed roadway infrastructure and right-of-way dedications will be consistent with the Town of Apex Comprehensive Transportation Plan, as amended with this rezoning.

- The project shall dedicate right of way and widen the eastern half of Green Level Church Road for the length of the property's Green Level Church Road frontage based on a minimum 84-foot back to back curb and gutter 4-lane divided major thoroughfare typical section with a 10-foot Side Path in a 110-foot right of way.
- To the north of the property, the existing Hillman Bend stub street and sidewalk conclude short of the property's northern property line (the "Crestmont Stub Street"). To the south of the property, the existing Hillman Bend stub street and sidewalk conclude short of the property's southern property line (the "Greenmoor Stub Street"). The project shall extend the Crestmont Stub Street south and the Greenmoor Stub Street north to the property line and construct a neighborhood street across the property to connect the two existing stub streets and sidewalks (the "Hillman Bend Extension"). The Hillman Bend Extension shall be based on a minimum 27-foot curb and gutter residential street section in a 50-foot right of way. Any fees in lieu collected by the Town for the Crestmont Stub Street or the Greenmoor Stub Street shall be available to the developer to construct the Hillman Bend Extension.
- If developer proposes direct public street access to Green Level Church Road, it shall be constructed as channelized right-in/right-out only and located a minimum of 375 feet north of the Greenmoor Path intersection. If developer does not propose direct public street access to Green Level Church Road, a temporary construction entrance shall be located on Green Level Church Road to serve construction traffic access until final subdivision plat.

PEDESTRIAN AND BICYCLE IMPROVEMENTS

The project shall include the following pedestrian and bicycle improvements:

- 5-foot sidewalks on both sides of the Hillman Bend Extension.
- If single-family homes are constructed, 5-foot sidewalks on both sides of the internal neighborhood street as required by UDO Section 2.3.4.

- If townhomes and/or duplexes are constructed, a 5-foot sidewalk on one side of the internal neighborhood street as required by UDO Section 7.5.
- A 10-foot side path on Green Level Church Road for the length of the property's Green Level Church Road frontage.
- If the project does not have driveway access on to Green Level Church Road, Developer shall construct a pedestrian connection to the side path on Green Level Church Road.

WATER AND SANITARY SEWER

All lots within the Development will be served by Town of Apex water and sanitary sewer. The utility design will be finalized at the time of Site Plan approval and be based on available facilities adjacent to the site at that time. The design will meet the current Town of Apex Sewer and Water Master Plan and Standards and Specifications. A conceptual utility plan is included in the PUD Concept Plan for reference.

OTHER UTILITIES

Electricity will be provided by Apex Electric. Phone and cable will be provided by the Developer via third parties and shall meet Town of Apex standards as outlined in the UDO.

PHASING

The project may be completed in phases. Final locations of phases will be determined at the time of Master Subdivision Plan review and approval.

CONSISTENCY WITH LAND USE PLAN

The Town of Apex 2045 Land Use Map (the "LUM") designates the property as Medium Density Residential which recommends single-family homes, duplexes, and townhomes up to 6 units per acre to provide "a transition from the more urbanized areas of Apex to the Low Density neighborhoods in the western part of the study area." The PUD proposes single-family homes, duplexes, and townhomes with a maximum density of 5.3 units/acre which is consistent with the Medium Density Residential LUM designation.

COMPLIANCE WITH UDO

The development standards proposed for this PUD comply with those set forth in the Town's Unified Development Ordinance (UDO). This PUD shall be the primary governing document for the development of Green Level Towns. All standards and regulations in this PUD shall control

over general standards of the UDO. Provided, however, that if a specific regulation is not addressed in this PUD, UDO regulations shall control.

EXHIBIT A
Legal Description
The Property

BEGINNING at a ½" iron pipe found at the North East corner of the property owned by Howard L. Holt and Mary Louise W. Holt, said pipe being South 15°37'08" West 145.00 feet from a ½" iron pipe found on the eastern right of way of Hillman Bend (50' Public Right of Way) and near the intersection with Canoe Creek Lane (Public Right of Way) having NC Grid Coordinates (NAD83/2011) of N=733,578.79, . E=2,029,903.93, thence from said BEGINNING point South 05°18'23" West 304.28 feet to a 1 1/8" iron pipe found, thence South 66°40'05" West 125.41 feet to a 1 1/8" iron pipe found, thence South 83°45'39" West 196.15 feet to a 1 1/8" iron pipe found, thence North 48°34'27" West 140.68 feet to a 1 1/8" iron pipe found, thence South 76°56'11" West 315.54 feet to a point on the eastern right of way of Green Level Church Road S.R. 1625 (Variable Width Public Right of Way), thence along said right of way South 76°56'11" West 20.58 feet to a 5/8" rebar set, thence leaving said right of way South 76°56'11" West 29.74 feet to a point in Green Level Church Road S.R. 1625, thence North 00°18'44" East 366.19 feet to a point in Green Level Church Road S.R. 1625, thence South 89°48'45" East 30.31 feet to a 5/8" rebar set on the eastern right of way of Green Level Church Road S.R. 1625 (Variable Width Public Right of Way), thence leaving said right of way South 89°48'45" East 767.85 feet to the point and place of BEGINNING, containing 6.035 Acres more or less inclusive of 0.249 Acres in Green Level Church Road S.R. 1625 Right of Way.

PUD-CZ

GREEN LEVEL TOWNS

7924 GREEN LEVEL CHURCH ROAD
APEX, NORTH CAROLINA 27523

PROJECT NUMBER: 24-RDU-014

Sheet List Table			
Sheet Number	Sheet Title	Original Date	Revision Date
C-1.0	Cover Sheet	8/1/2024	12/16/2024
C-2.0	Existing Conditions	8/1/2024	12/16/2024
C-2.1	Existing Tree Survey	8/1/2024	12/16/2024
C-3.0	Conceptual Site Plan	8/1/2024	12/16/2024
C-6.0	Conceptual Utility Plan	8/1/2024	12/16/2024
A-1.0	Building Elevations	8/1/2024	12/16/2024
A-1.1	Building Elevations	8/1/2024	12/16/2024



VICINITY MAP

1" = 300'



PROJECT AERIAL

1" = 300'

CONTACT INFO:

LANDSCAPE ARCHITECT:
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DEVELOPER:
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LAND USE ATTORNEY:
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EMAIL: MATTHEWCARPENTER@PARKERPOE.COM

SURVEYOR:
ROBINSON & PLANTE, PC
CONTACT: STUART (BUDDY) PLANTE, III, PLS
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RALEIGH, NC 27607
PHONE: 919-859-6030
EMAIL: BUDDY@ROBINSONPLANTE.COM

WATERSHED PROTECTION OVERLAY DISTRICT: PRIMARY

HISTORIC STRUCTURE: N/A

PARKS AND RECREATION ADVISORY BOARD: \$2,805.34/UNIT

FLOODPLAIN: N/A

DEVELOPMENT SUMMARY:

PIN: 0723935325
TOTAL ACRES: ± 6.035 AC
EXISTING ZONING: RR (RURAL RESIDENTIAL)
PROPOSED ZONING: PUD-CZ (PLANNED UNIT DEVELOPMENT - CONDITIONAL ZONING)
CURRENT 2045 LUM DESIGNATION: MEDIUM DENSITY RESIDENTIAL
PROPOSED 2045 LUM DESIGNATION: MEDIUM DENSITY RESIDENTIAL
AREA DESIGNATED AS MIXED USE ON LUM: NONE
AREA PROPOSED AS NON-RESIDENTIAL: NONE
MAXIMUM RESIDENTIAL UNITS*: 32 UNITS

LOT DESIGN CRITERIA	TOWNHOUSES**	SINGLE-FAMILY	DUPLEX	RECREATION FACILITY
MIN. LOT SIZE:	NONE	5,000 SF	NONE	NONE
MIN. LOT WIDTH:	15'	50'	NONE	NONE
MINIMUM FRONT SETBACK:	15' (20' for garages)	25'	15' (20' for garages)	15'
MINIMUM SIDE SETBACK:	0' (10' FOR END UNITS)	6' MIN/16' TOTAL	8'	10'
MINIMUM REAR SETBACK:	15'	20'	15'	25'
MINIMUM CORNER SIDE SETBACK:	15'	15'	15'	15'
MAX. BUILDING HEIGHT***:	36' (3 STORIES)	36' (3 STORIES)	36' (3 STORIES)	36' (3 STORIES)
MAX. BUILT UPON AREA (PER PUD TEXT):	3.93 AC (65%)	3.93 AC (65%)	3.93 AC (65%)	3.93 AC (65%)
MIN. BUFFER/RCA SETBACKS:	10' (BUILDINGS) 5' (PARKING)	10' (BUILDINGS) 5' (PARKING)	10' (BUILDINGS) 5' (PARKING)	10' (BUILDINGS) 5' (PARKING)
MIN. PARKING REQUIRED:	2 PER UNIT (+0.25 PER UNIT FOR GUEST)	2 PER UNIT	2 PER UNIT	

REQUIRED BUFFERS
ALONG THE NORTHERN PROPERTY LINE 15' TYPE A
ALONG THE EASTERN PROPERTY LINE 15' TYPE A
ALONG GREEN LEVEL CHURCH ROAD 30' TYPE B
ALONG THE SOUTHERN PROPERTY LINE EXCEPT AS LISTED BELOW 15' TYPE A
ALONG THE SHARED PROPERTY LINE WITH PIN 0723931058 30' TYPE B IF TOWNHOUSES OR DUPLEXES ARE DEVELOPED
15' TYPE A IF SINGLE-FAMILY HOMES ARE DEVELOPED
ALONG THE SOUTHERN PROPERTY LINE AS SHOWN ON THE CONCEPT PLAN 50' TYPE B IF TOWNHOUSES OR DUPLEXES ARE DEVELOPED
RCA REQUIRED: 15' TYPE A IF SINGLE-FAMILY HOMES ARE DEVELOPED

THIS PUD WILL MEET THE REQUIREMENTS OF UDO SECTION 8.1.2, RESOURCE CONSERVATION AREA, AND SECTION 2.3.4, PLANNED DEVELOPMENT DISTRICTS. UDO SECTION 8.1.2 REQUIRES A MINIMUM RESOURCE CONSERVATION AREA (RCA) EQUAL TO OR GREATER THAN 30% OF THE GROSS SITE ACREAGE. IF THE DEVELOPMENT IS FOR SINGLE-FAMILY HOMES AND MASS GRADED, IT SHALL PROVIDE ADDITIONAL 5% RCA REQUIRED FOR MASS GRADING UNDER UDO SECTION 7.2.5.B.8.

* NO TOWNHOUSE BUILDING SHALL INCLUDE MORE THAN FOUR (4) UNITS.
** NO TOWNHOUSE BUILDINGS SHALL FRONT HILLMAN BEND.
*** NO TOWNHOUSE BUILDING ALONG HILLMAN BEND SHALL EXCEED 2 STORIES.

PARKS AND RECREATION SITE DATA TABLE
PUD Rezoning: Date of Town Council Approval of Rezoning: MM/DD/YYYY
of single-family detached units x \$4,165.28/unit =
of single-family attached units x \$2,805.34/unit =
Total Fee-in-lieu of dedication =
Acres of Land Dedication: N/A
Public Greenway Trail Construction: N/A

SEWER CAPACITY REQUEST:

UNIT TOTAL: 32 DU (SINGLE-FAMILY & TOWNHOMES)
CAPACITY: 300 GPD
CAPACITY REQUESTED: 300 GPD x 32 DU = 9,600 GPD



150 Fayetteville St Ste 1310
Raleigh, NC 27601
+ 919 275 5002
urbandesignpartners.com

nc firm no: P-2671 sc coa no: C-03044

PRELIMINARY DRAWING
FOR REVIEW PURPOSES ONLY

12/16/2024

W&W PROPERTIES, INC.

GREEN LEVEL TOWNS
DEVELOPMENT DIAGRAM

Cover Sheet

7924 GREEN LEVEL CHURCH RD.

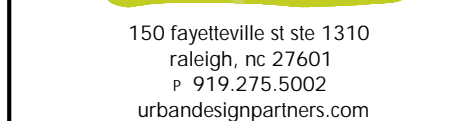
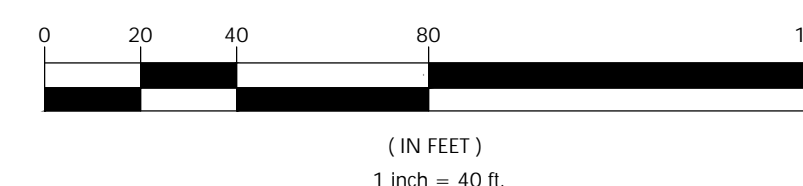
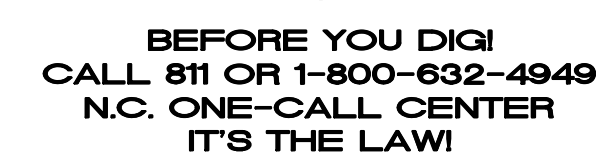
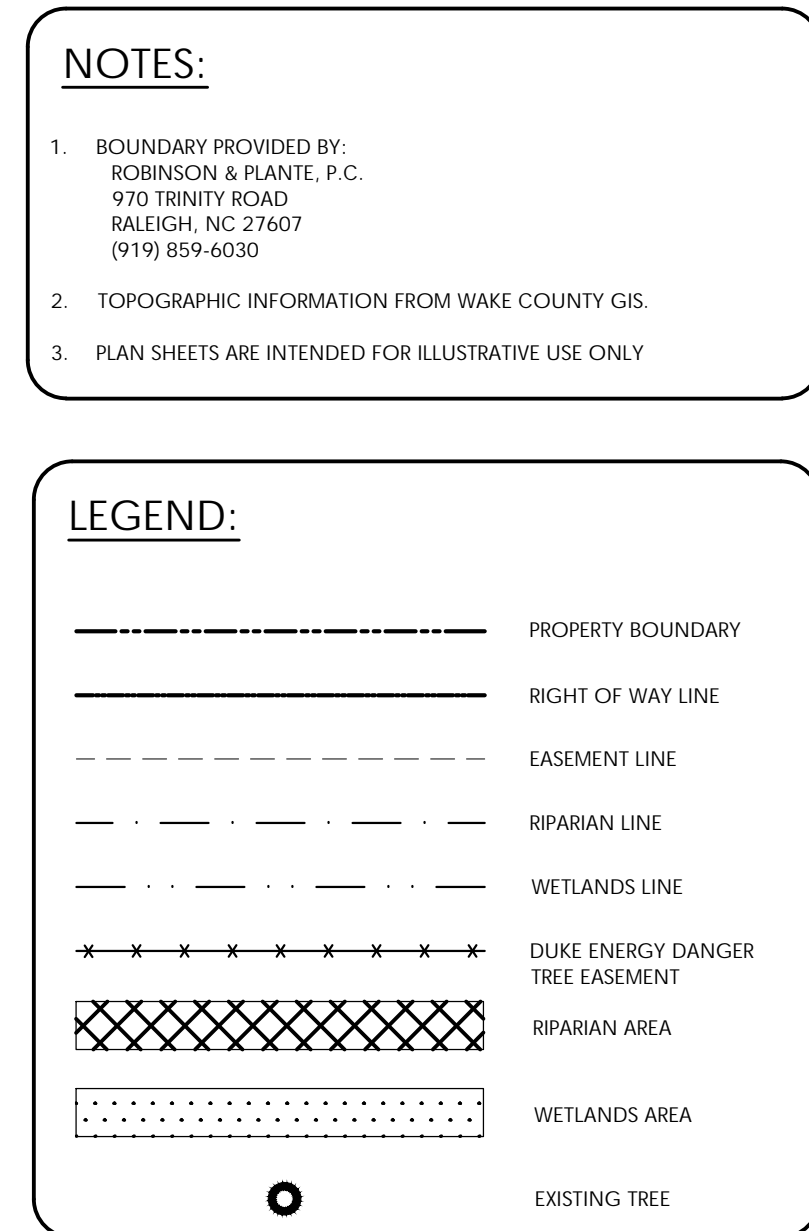
NO.	DATE	BY:	REVISIONS:
1	08.01.24	MEW	Submitted #1
2	10.04.24	MEW	Submitted #2
3	11.01.24	MEW	Submitted #3
4	12.02.24	MEW	Submitted #4
5	12.16.24	MEW	Submitted #5

Project No: 24-RDU-014

Date: 08/01/2024

Sheet No:

C-1.0



nc firm no: P-2671 sc coa no: C-0304

FOR
REFERENCE
ONLY

12/02/2024

W&W PROPERTIES, INC.

1000 DARRINGTON DRIVE
SUITE 500
CARY, NC 27513

GREEN LEVEL TOWNS DEVELOPMENT DIAGRAM

Existing Conditions
7924 GREEN LEVEL CHURCH RD.

NO. DATE: BY: REVISIONS:

Project No: 24-RDU-014

Date: 08/01/2024

Sheet No:

C-2.0



NOTES:

- BOUNDARY PROVIDED BY: ROBINSON & PLANTE, P.C. 970 TRINITY ROAD RALEIGH, NC 27607 (919) 859-6030
- TOPOGRAPHIC INFORMATION FROM WAKE COUNTY GIS.
- TREE LOCATION INFORMATION PROVIDED BY S&EC.
- PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY
- TREES WITHIN THE STREET RIGHT-OF-WAY ARE PROTECTED BY LAW.

LEGEND:

- PROPERTY BOUNDARY
- RIGHT OF WAY LINE
- RIPARIAN LINE
- WETLANDS LINE
- CRITICAL ROOT ZONE
- EXISTING TREE
- RIPARIAN AREA
- WETLANDS AREA



150 Fayetteville St Ste 1310
Raleigh, NC 27601
P: 919.275.5002
urbandesignpartners.com

nc firm no: P-2671 sc cos no: C-03044

FOR
REFERENCE
ONLY

12/16/2024

W&W PROPERTIES, INC.

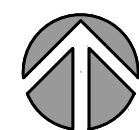
GREEN LEVEL TOWNS DEVELOPMENT DIAGRAM

1000 DARRINGTON DRIVE
SUITE 500
CARY, NC 27513

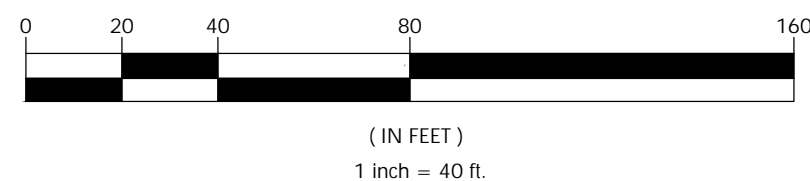
Existing Tree Survey
7924 GREEN LEVEL CHURCH RD.



BEFORE YOU DIG!
CALL 811 OR 1-800-632-4949
N.C. ONE-CALL CENTER
IT'S THE LAW!



GRAPHIC SCALE



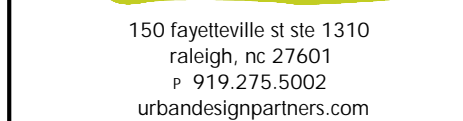
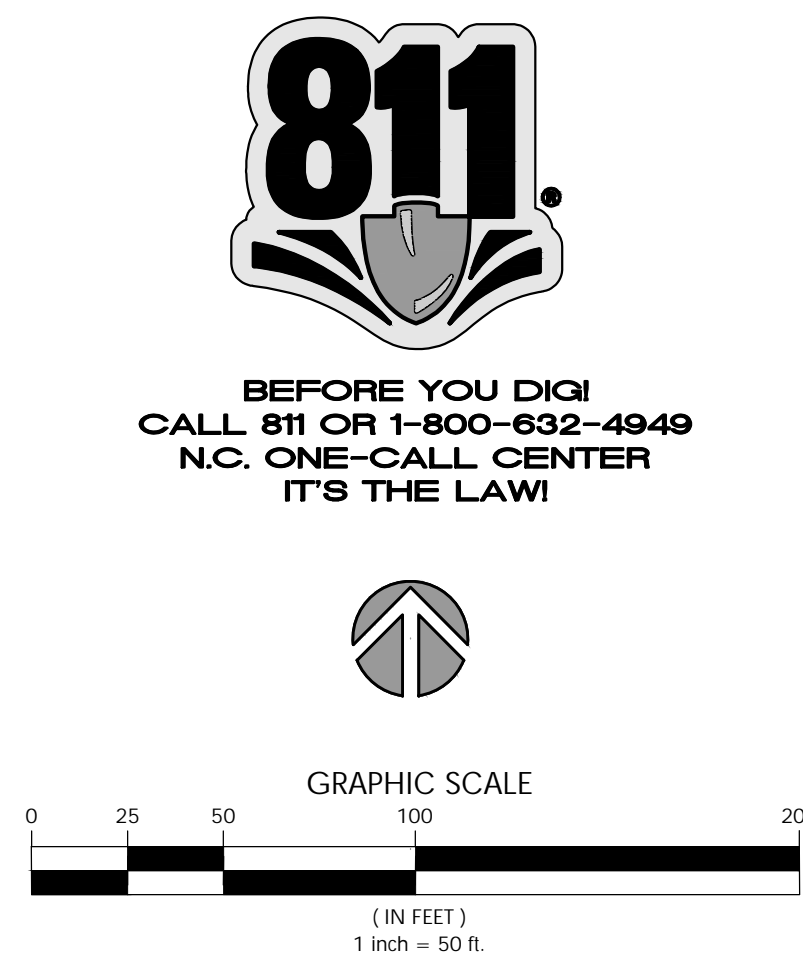
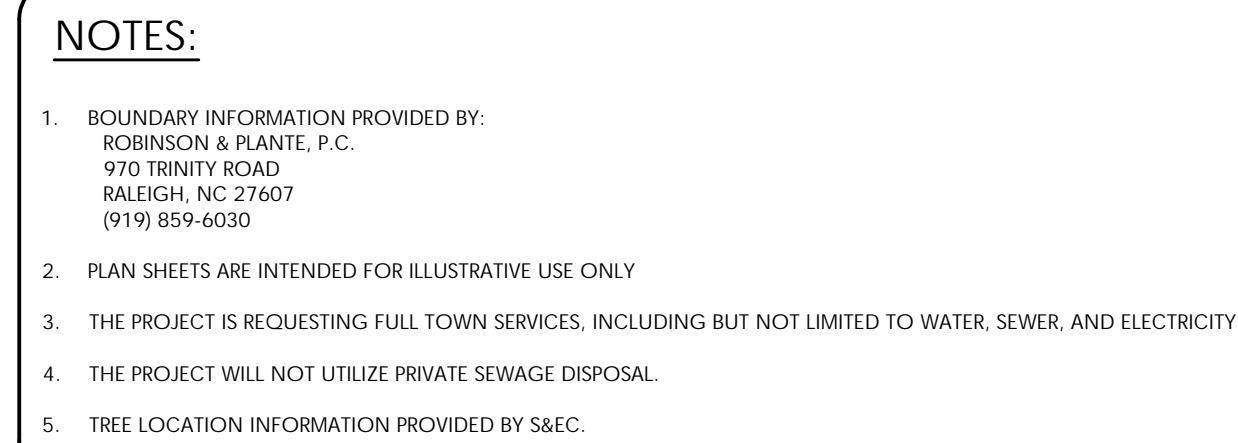
NO. DATE BY: REVISIONS:

Project No: 24-RDU-014

Date: 08/01/2024

Sheet No:

C-2.1



nc firm no: P-2671 sc coa no: C-0304

12/16/2024

Conceptual Utility Plan

NO.	DATE:	BY: REVISIONS:
1	08.01.24	MRW Submittal # 1
2	10.04.24	MRW Submittal # 2
3	11.01.24	MRW Submittal # 3
4	12.02.24	MRW Submittal # 4
5	12.16.24	MRW Submittal # 5

Sheet No:

C-6.0



NOTES:

1. TYPICAL BUILDING ELEVATIONS, WINDOW CONFIGURATIONS, DOOR STYLES, COLORS, AND OTHER ARCHITECTURAL STANDARDS MAY VARY FROM HOME-TO-HOME AND BUILDING-TO-BUILDING.
2. ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY. CONDITIONS ARE INCLUDED WITHIN THE ZONING PD TEXT DOCUMENT.



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PRELIMINARY DRAWING
FOR REVIEW PURPOSES ONLY

12/16/2024

W&W PROPERTIES, INC.

1000 DARRINGTON DRIVE
SUITE 500
CARY, NC 27513

GREEN LEVEL TOWNS
DEVELOPMENT DIAGRAM

Building Elevations

7924 GREEN LEVEL CHURCH RD.

NO.	DATE	BY	REVISIONS
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Project No: 24-RDU-014

Date: 08/01/2024

Sheet No:

A-1.0



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GREEN LEVEL TOWNS
DEVELOPMENT DIAGRAM

Building Elevations
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Project No: 24-RDU-014

Date: 08/01/2024

Sheet No:

A-1.1



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**
CONDITIONAL ZONING #24CZ15
Green Level Towns PUD

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicants: W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP
Authorized Agent: Matthew Carpenter, Parker Poe & Adams & Bernstein LLP
Property Address: 7924 Green Level Church Road
Acreage: ±6.035 acres
Property Identification Number (PIN): 0723935235
2045 Land Use Map Designation: Medium Density Residential
Existing Zoning of Property: Rural Residential (RR)
Proposed Zoning of Property: Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: January 13, 2025 4:30 PM

You may attend the meeting in person or view the meeting through the Town’s YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (322 N. Mason Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: [https://www.apexnc.org/DocumentCenter/View/47967/24CZ15](http://www.apexnc.org/DocumentCenter/View/47967/24CZ15).

Dianne F. Khin, AICP
Planning Director

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX
PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ15

Green Level Towns PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitantes: W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP

Agente autorizado: Matthew Carpenter, Parker Poe & Adams & Bernstein LLP

Dirección de la propiedad: 7924 Green Level Church Road

Superficie: ±6.035 acres

Números de identificación de la propiedad: 0723935235

Designación en el Mapa de Uso Territorial para 2045: Medium Density Residential

Ordenamiento territorial existente de la propiedad: Rural Residential (RR)

Ordenamiento territorial propuesto para la propiedad: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

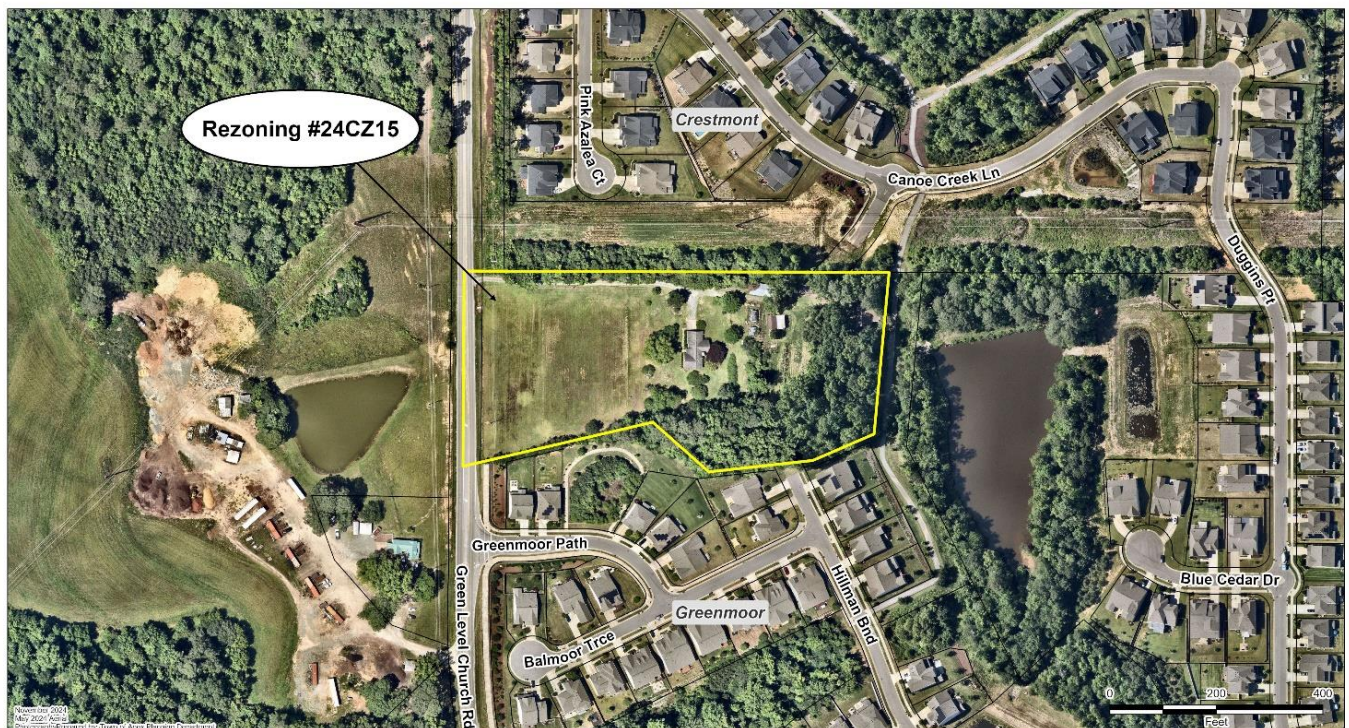
Fecha y hora de la audiencia pública de la Junta de Planificación: 13 de enero de 2025 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (322 N. Mason Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/47967/24CZ15>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning # 24CZ15 Green Level Towns PUD
Project Location: 7924 Green Level Church Road
Applicant or Authorized Agent: Matthew Carpenter
Firm: Parker Poe & Adams Bernstein LLP
Planning Board: January 13, 2025
Public Hearing Date:
Project Planner: Lauren Staudenmaier

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on December 23, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

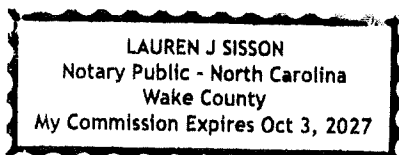
12/23/2024
Date

Shane L. Thur
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lauren J Sisson, a Notary Public for the above

State and County, this the 23rd day of DECEMBER, 202 4.



[Signature]
Notary Public

My Commission Expires: 10 / 03 / 2027



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #24CZ15
Green Level Towns PUD**

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

- Applicants:** W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP
- Authorized Agent:** Matthew Carpenter, Parker Poe & Adams & Bernstein LLP
- Property Address:** 7924 Green Level Church Road
- Acreage:** ±6.035 acres
- Property Identification Number (PIN):** 0723935235
- 2045 Land Use Map Designation:** Medium Density Residential
- Existing Zoning of Property:** Rural Residential (RR)
- Proposed Zoning of Property:** Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

*Comments received prior to the Planning Board public hearing will not be provided to the Town Council.
Separate comments for the Town Council public hearing must be provided by the deadline specified below.*

Town Council Public Hearing Date and Time: January 28, 2025 6:00 PM

You may attend the meeting in person or view the meeting through the Town’s YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

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**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**
CONDITIONAL ZONING #24CZ15
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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ15
Green Level Towns PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitantes: W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP

Agente autorizado: Matthew Carpenter, Parker Poe & Adams & Bernstein LLP

Dirección de la propiedad: 7924 Green Level Church Road

Superficie: ±6.035 acres

Números de identificación de la propiedad: 0723935235

Designación en el Mapa de Uso Territorial para 2045: Medium Density Residential

Ordenamiento territorial existente de la propiedad: Rural Residential (RR)

Ordenamiento territorial propuesto para la propiedad: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

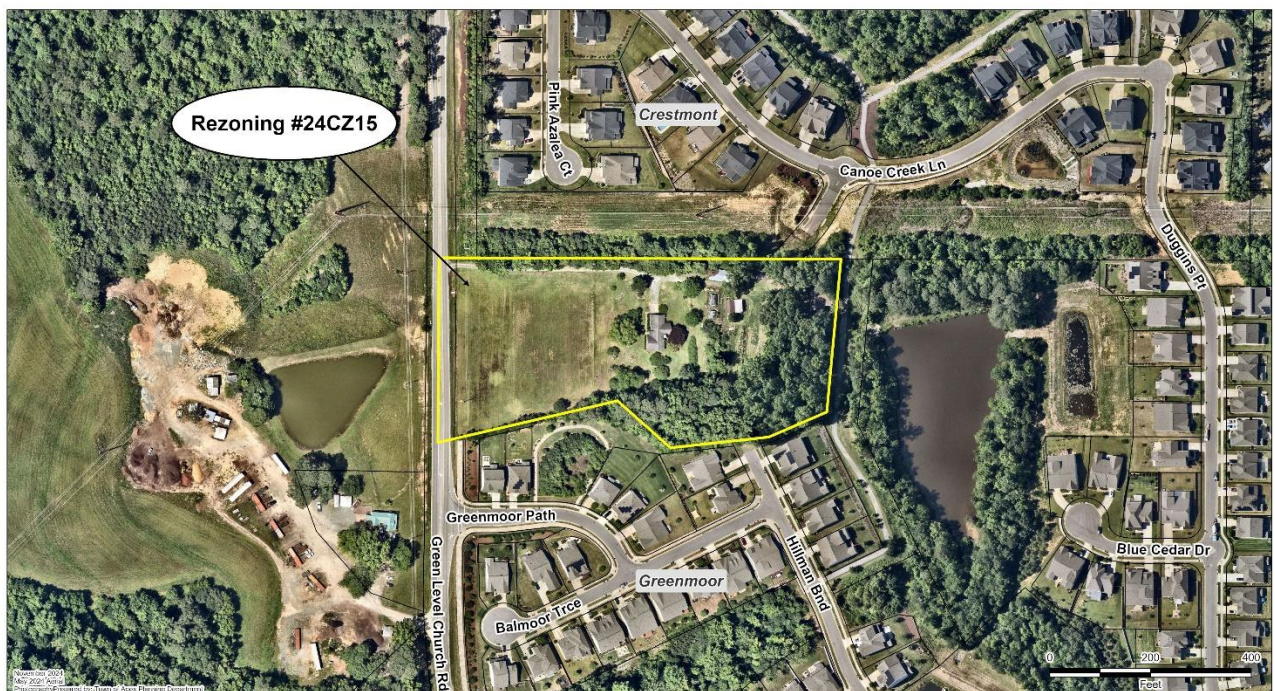
Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 28 de enero de 2025 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/47967/24CZ15>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11
Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #24CZ15 Green Level Towns PUD
Project Location: 7924 Green Level Church Road
Applicant or Authorized Agent: Matthew Carpenter
Firm: Parker Poe & Adams Bernstein LLP
Town Council
Public Hearing Date: January 28, 2025
Project Planner: Lauren Staudenmaier

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on January 6, 2025, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

1/6/2025

Date

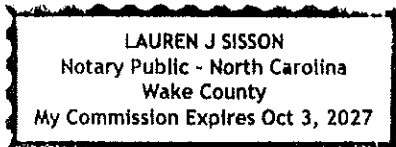
Shirane L. Khan

Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lauren J. Sisson, a Notary Public for the above

State and County, this the 6th day of January, 202 5.



[Signature]

Notary Public

My Commission Expires: 10/03/2027



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**Public Hearing was closed; vote was continued to
February 11, 2025**

PUBLIC NOTIFICATION OF PUBLIC HEARINGS
CONDITIONAL ZONING #24CZ15
Green Level Towns PUD

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

- Applicants:** W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP
- Authorized Agent:** Matthew Carpenter, Parker Poe & Adams & Bernstein LLP
- Property Address:** 7924 Green Level Church Road
- Acreage:** ±6.035 acres
- Property Identification Number (PIN):** 0723935235
- 2045 Land Use Map Designation:** Medium Density Residential
- Existing Zoning of Property:** Rural Residential (RR)
- Proposed Zoning of Property:** Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

*Comments received prior to the Planning Board public hearing will not be provided to the Town Council.
Separate comments for the Town Council public hearing must be provided by the deadline specified below.*

Town Council Public Hearing Date and Time: January 28, 2025 6:00 PM

You may attend the meeting in person or view the meeting through the Town’s YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/47967/24CZ15>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

Se terminó la audiencia pública; la votación ha sido postergada al 11 de febrero de 2025

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ15

Green Level Towns PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitantes: W&W Partners, Inc. & Matthew Carpenter, Parker Poe Adams & Bernstein LLP

Agente autorizado: Matthew Carpenter, Parker Poe & Adams & Bernstein LLP

Dirección de la propiedad: 7924 Green Level Church Road

Superficie: ±6.035 acres

Números de identificación de la propiedad: 0723935235

Designación en el Mapa de Uso Territorial para 2045: Medium Density Residential

Ordenamiento territorial existente de la propiedad: Rural Residential (RR)

Ordenamiento territorial propuesto para la propiedad: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 28 de enero de 2025 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/47967/24CZ15>.

Dianne F. Khin, AICP
Directora de Planificación

Public Hearing Sign Posted By


Signature

8/13/24
Date

Rezoning #24CZ15

Pink Azalea Ct

Canoe Creek Ln

Green Level Church Rd

7924

Greenmoor Path

Balmoor Trce

Hillman Bnd

August 2024
February 2024 Aerial Photography
Prepared by: Town of Apex Planning Department

0 200 400

Feet



WAKE COUNTY PUBLIC SCHOOL SYSTEM

Office of Student Assignment

5625 Dillard Dr.
Cary, NC 27518
studentassignment@wcpss.net

tel: (919) 431-7333
fax: (919) 694-7753

October 11, 2024

Dianne Khin, AICP
Director, Planning Department
Town of Apex
Dianne.Khin@apexnc.org

Dear Dianne,

The Wake County Public School System (WCPSS) Office of School Assignment received information about a proposed rezoning/development within the Town of Apex planning area. We are providing this letter to share information about WCPSS's capacity related to the proposal. The following information about the proposed rezoning/development was provided through the Wake County Residential Development Notification database:

- Date of application: September 3, 2024
- Name of development: 24CZ15 Green Level Towns PUD
- Address of rezoning: 7924 Green Level Church Road
- Total number of proposed residential units: 32
- Type(s) of residential units proposed: Single-family detached; Townhomes

Based on the information received at the time of application, the Office of School Assignment is providing the following assessment of possible impacts to the Wake County Public School System:

- ☐ Schools at all grade levels within the current assignment area for the proposed rezoning/development are anticipated to have sufficient capacity for future students.
- ☒ Schools at the following grade levels within the current assignment area for the proposed rezoning/development are anticipated to have insufficient capacity for future students; transportation to schools outside of the current assignment area should be anticipated:

☒ Elementary

☒ Middle

☒ High

The following mitigation of capacity concerns due to school construction or expansion is anticipated:

- ☐ Not applicable – existing school capacity is anticipated to be sufficient.
- ☐ School expansion or construction within the next five years is not anticipated to address concerns.
- ☒ School expansion or construction within the next five years may address concerns at these grade levels:

☐ Elementary

☒ Middle

☒ High

Thank you for sharing this information with the Town of Apex Planning Board and Town Council as they consider the proposed rezoning/development.

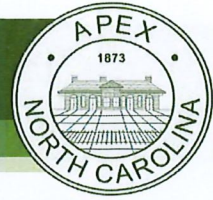
Sincerely,

Susan W. Pullium, MSA
Senior Director

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ15 Green Level Towns PUD

Planning Board Meeting Date: January 13, 2025



Report Requirements:

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION:

Acreage: ±6.035 acres

PIN(s): 0723935235

Current Zoning: Rural Residential (RR)

Proposed Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ)

2045 Land Use Map: Medium Density Residential

Town Limits: ETJ

Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☒ Parks, Recreation, Open Space, and Greenways Plan
☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ15 Green Level Towns PUD

Planning Board Meeting Date: January 13, 2025



Legislative Considerations:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

1. *Consistency with 2045 Land Use Plan.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan.

☒ Consistent ☐ Inconsistent Reason: _____

2. *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

☒ Consistent ☐ Inconsistent Reason: _____

3. *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 *Supplemental Standards*, if applicable.

☒ Consistent ☐ Inconsistent Reason: _____

4. *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

☒ Consistent ☐ Inconsistent Reason: _____

5. *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ15 Green Level Towns PUD

Planning Board Meeting Date: January 13, 2025



6. *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

☒ Consistent ☐ Inconsistent Reason: _____

7. *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

☒ Consistent ☐ Inconsistent Reason: _____

8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

☒ Consistent ☐ Inconsistent Reason: _____

9. *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

☒ Consistent ☐ Inconsistent Reason: _____

10. *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ15 Green Level Towns PUD

Planning Board Meeting Date: January 13, 2025



Planning Board Recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Alyssa Byrd

Seconded by Planning Board member: Steven Rhodes

- ☐ *Approval:* the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.
- ☒ *Approval with conditions:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

Conditions as presented.

- ☐ *Denial:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 6 Planning Board Member(s) voting "aye"

With 3 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

See attached from Tina Sherman, Sarah Soh, Tim Royal

This report reflects the recommendation of the Planning Board, this the 13th day of January 2025.

Attest:

Tina Sherman, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2025.01.13 17:45:21
-05'00'

Dianne Khin, Planning Director

PLANNING BOARD REPORT TO TOWN COUNCIL
Dissenting Member Comments



Planning Board Member Name: Sarah Soh

Meeting Date: 1/13/2025

☒ Rezoning # 24CZ15 Green Level Town Homes PUD

☐ Long Range Plan amendment(s) _____

☐ Other _____

Reason(s) for dissenting vote:

Although the case follows the 2045 LAND USE MAP and the developer proposes the widening of Green Level Church and connectivity of Hillmen Bend, the scale of homes of both adjacent communities to the north and south of the project site are single detached homes, which is different from the proposed higher density town homes.

Current problems of traffic during school peak rush hours and insufficient space in schools will remain, and may worsen since timeline for widening the full length of Green Level may be 20 + years.

I also believe not having any affordable housing is a missed opportunity.

PLANNING BOARD REPORT TO TOWN COUNCIL
Dissenting Member Comments



Planning Board Member Name: Tim Royal

Meeting Date: 01/13/2025

☒ Rezoning # 24CZ15 Green Level Townes

☐ Long Range Plan amendment(s) _____

☐ Other _____

Reason(s) for dissenting vote:

1. Compatibility - The density and appearance of town homes is incompatible with the surrounding neighborhoods. Single family infill would fit the area. Possible custom homes.

2. The Right-in Right-out access on Green level should be full access but due to existing neighborhood entrances, this is the only option. I believe most traffic from this PUD will not go northbound, but will travel southbound towards HWY 64. This will create more cut through traffic into the Greenmoor neighborhood routing onto Hillman Bend, then to Greenmoor Path to ultimately turn left onto Green Level Church Rd.

This rezoning is not in the best interest of the surrounding communities.

PLANNING BOARD REPORT TO TOWN COUNCIL
Dissenting Member Comments



Planning Board Member Name: Tina Sherman

Meeting Date: 1/13/2015

☐ Rezoning # #24CZ15

☐ Long Range Plan amendment(s) _____

☐ Other _____

Reason(s) for dissenting vote:

Not compatible with the area.

A lot of units for the space

Short space for the exit on Green Level

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS
Meeting Date: February 11, 2025

Item Details

Presenter(s): Taylor Wray, Cultural Arts Center Manager

Department(s): Parks, Recreation and Cultural Resources

Requested Motion

Receive as information a proposal from Public Art Committee, and consider a possible motion to purchase and relocate the "Keyhole Portal" and "Doves of Peace" for a combined purchase price \$19,800, as a part of the Town's permanent collection.

Approval Recommended?

Yes

Item Details

The Public Art Committee would like to present "Keyhole Portal" and "Doves of Peace" to the Apex Town Council for purchase and future relocation. "Keyhole Portal" created by Bob Doster, was the 2024-2025 Sculpture Walk Best In Show Winner and "Doves of Peace" created by Timothy Werrell, was the 2024-2025 Sculpture Walk People's Choice Winner. The combined price for both sculptures is \$19,800. "Keyhole Portal" is currently sitting in front of Town Hall and "Doves of Peace" in front of the All State building (on Salem Street) with 2 proposed locations. Timeframe for relocation: Early April 2025.

Attachments

- NB1-A1: PowerPoint with images of sculptures and images of proposed locations





Sculpture Purchase

Apex Public Art Committee
February 2025

Purchase

“Keyhole Portal”
By Bob Doster

Appraisal: \$16,500

Our Price: \$13,200



**2024-2025 Best In Show
Award Winner**

“Keyhole Portal” Relocation to The Depot



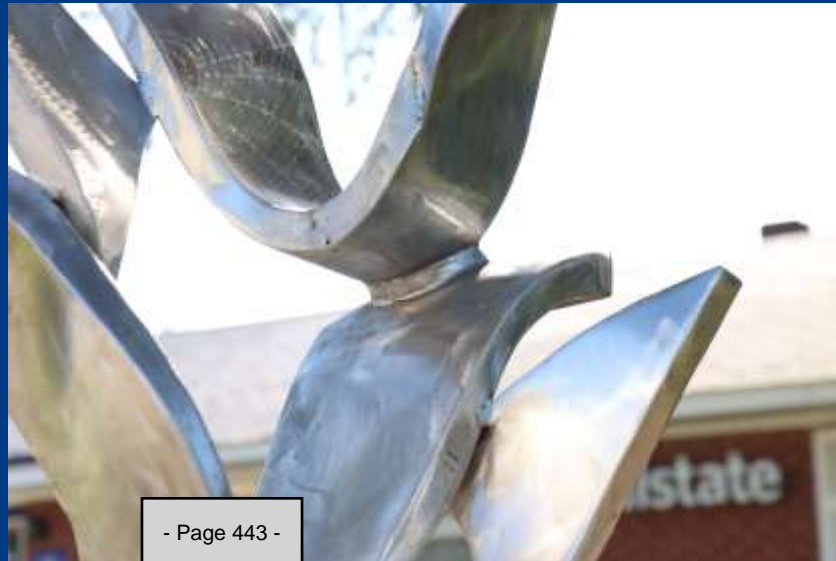
Purchase

“Doves of Peace”
By Timothy Werrell

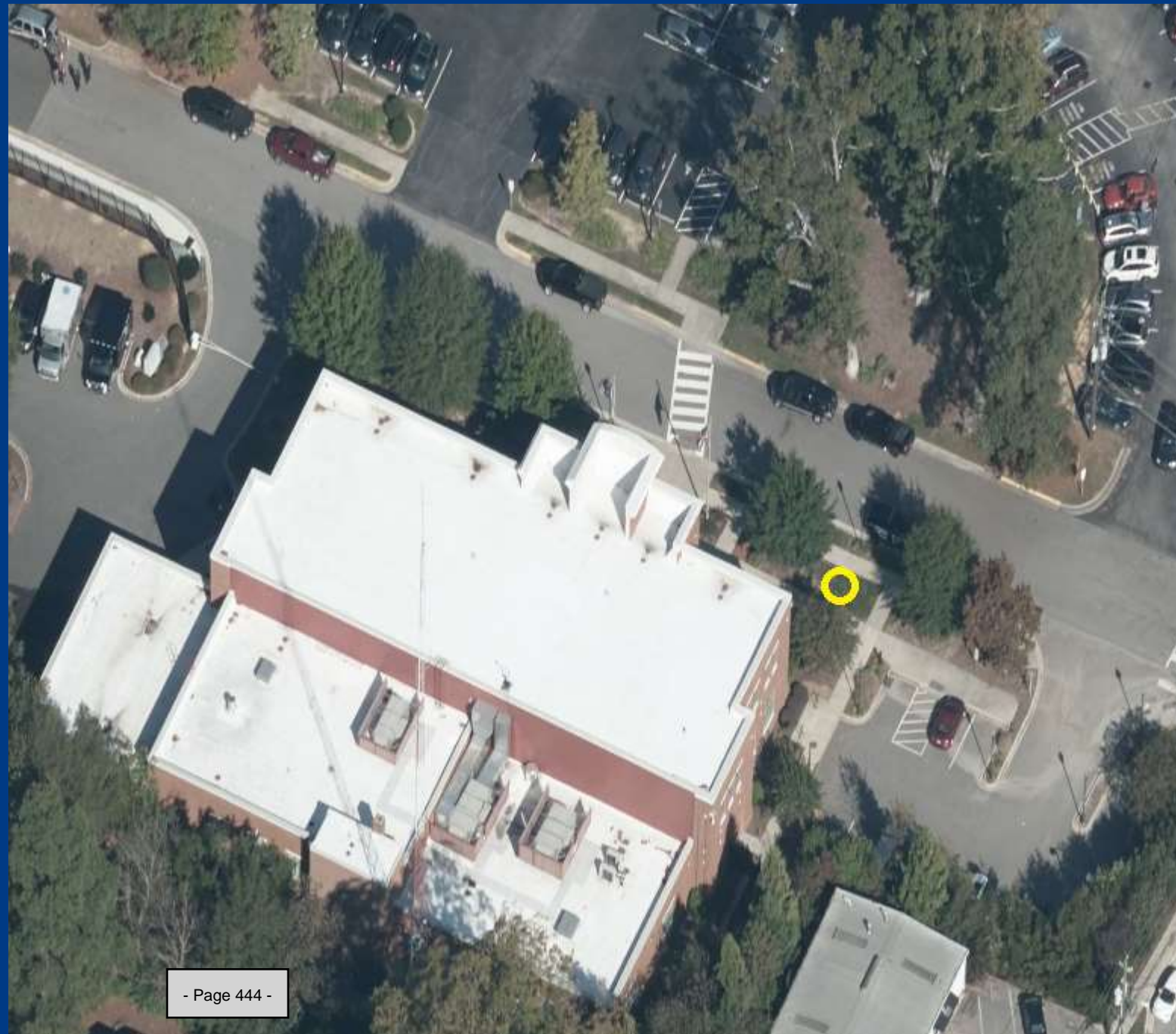
Appraisal: \$10,000

Our Price: \$6,600

**2024-2025 People's
Choice Award Winner**



“Doves of Peace” Relocation to The Police Station



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: February 11, 2025

Item Details

Presenter(s): Daniel Edwards, Senior Capital Projects Manager

Department(s): Town Manager's Office

REMOVED

Requested Motion

~~Motion to award a building construction contract to CT Wilson Construction Co., Inc., for the renovation of the Historical Tunstall House; authorize the Town Manager, or their designee, to execute the contract, and approve corresponding Capital Project Ordinance Amendment 2025-10.~~

Approval Recommended?

Yes

Item Details

The town received three bids for the Historical Tunstall House Renovation Project on December 16, 2024. CT Wilson Construction Co., Inc. of Durham, North Carolina was the lowest responsive, responsible bidder with a total bid price of \$2,750,000.00. The architect's estimate was approximately \$2,000,000.00. Staff and Consultant (Clearscapes Architecture) recommend awarding the contract to CT Wilson Construction Co., Inc.

Capital Project Ordinance Amendment 2025-10 includes allocation of \$3 million in bond proceeds from a LOB (limited obligation bond) and \$400,000 in interest earnings already available in the project fund.

Attachments

- NB2-A1: Capital Project Ordinance Amendment 2025-10 - Construction Contract - Renovation of Historical Tunstall House
- NB2-A2: Recommendation of Award- Construction Contract - Renovation of Historical Tunstall House
- NB2-A3: Certified Bid Tab - Construction Contract - Renovation of Historical Tunstall House
- NB2-A4: Bid Package - Construction Contract - Renovation of Historical Tunstall House
- NB2-A5: Notice of Award - Construction Contract - Renovation of Historical Tunstall House

