



# AGENDA | REGULAR TOWN COUNCIL MEETING

March 22, 2022 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

## Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Audra Killingworth

Council Members: Brett D. Gantt; Cheryl F. Stallings; Terry Mahaffey; Edward Gray

Town Manager: Catherine Crosby | Assistant Town Managers: Shawn Purvis and Marty Stone

Interim Town Clerk: Julie Reid | 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](#) Julie Reid, Interim Town Clerk

Motion to approve the minutes from 03/08/2022

[CN2](#) Julie Reid, Interim Town Clerk

Motion to approve the Apex Tax Report dated February 5, 2022

[CN3](#) Taylor Wray, Cultural Arts Marketing and Events Specialist

Motion to accept a donation of public art from CAPS-Citizen for Apex Parks and approve placement at its current location.

[CN4](#) David Wood, Halle Cultural Arts Center Manager

Motion to appoint Jennifer Arey and Kimberly Brugh to the Bee City Committee

[CN5](#) Angela Reincke, Parks Planning Project Manager

Motion to approve and authorize the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions acceptable to the Town Attorney; and approve and authorize the Town Manager to execute a Maintenance Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions acceptable to the Town Attorney.

[CN6](#) Angela Reincke, Parks Planning Project Manager

Motion to approve and authorize the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Middle Creek Greenway (PHI and PHII), subject to terms and conditions acceptable to the Town Attorney.

[CN7](#) Sarah Van Every, Senior Planner

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Case #21CZ14 Holland Road Mixed Use Assembly PUD, Geno Ray, LG Investments Inc., petitioner, for the properties located at 7528 Humie Olive Rd; 2236 Old US 1 Hwy, 1001, 1004, 1005 Red Cardinal Lane 3104; & 3116 Holland Rd (PINs 0720992587, 0720998487, 0730095707, 0731001087, 0731003359, 0731004075, 0730091779).

[CN8](#) Matt Echols, Utilities Engineer

Motion to award a sewer rehabilitation contract to Tri-State Utilities, LLC, and to authorize the Town Manager to execute the contract on behalf of the Town.

[CN9](#) Vance Holloman, Finance Director

Motion to approve amendments to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administration Services, Exhibit A - Apex Customer Assistance Program Guidelines and to delegate authority to the Town Manager to sign this amendment.

[CN10](#) Mary Beth Manville, Human Resources Director

Motion to approve the extension of the Emergency Sick Leave and Quarantine Leave provisions of the COVID-19 Vaccine Incentive Policy for Town employees, until such time as deemed appropriate by the Town Manager.

## PRESENTATIONS

[PR1](#) Julie Coco, PE (NC Department of Environmental Quality)

NCDEQ recognition of the Town's S&E Program.

## 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.

## 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

- [PH1](#) Liz Loftin, Senior Planner  
Public Hearing and possible motion to approve Rezoning Application #21CZ32 Chapel Ridge Towns PUD. The applicant, Toll Brothers, Inc., seeks to rezone approximately 21.60 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way.
- [PH2](#) Joanna Helms, Economic Development Director  
Public Hearing to consider and receive public input on providing an economic development incentive for "Project Real" in accordance with the Town's policy (Development Investment Grant).
- [PH3](#) Amanda Bunce, Current Planning Manager  
Public hearing and possible motion regarding an amendment to the 2045 Land Use Map in the vicinity of NC 751 and US 64.  
AND
- [PH4](#) Amanda Bunce, Current Planning Manager  
Public hearing and possible motion to adopt an Ordinance on the Question of Annexation- Apex Town Council's intent to annex the William Stephen Mills, Ronald Horton Mills, Jr and Peggy Gray, Trustee property containing 132.11 acres located at 104, 106 and Unassigned Off NC Hwy 751, Chatham County, Annexation 726 into the Town's corporate limits.  
AND
- [PH5](#) Amanda Bunce, Current Planning Manager  
Public Hearing and possible motion to approve Rezoning Application #22CZ02 Project Real and Ordinance. The applicant, Maggie Houston, Beacon Development, seeks to rezone approximately 132.11 acres from R1 (Chatham County) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751.
- [PH6](#) Shannon Cox, Long Range Planning Manager  
Public hearing and possible motion regarding amendments to the Transportation Plan for North Salem Street between Davis Drive and Laura Duncan Road.

## OLD BUSINESS

UNFINISHED BUSINESS

NEW BUSINESS

UPDATES BY TOWN MANAGER

CLOSED SESSION

WORK SESSION

ADJOURNMENT

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: 03/22/2022

## Item Details

Presenter(s): Julie A. Reid, Interim Town Clerk

Department(s): Office of the Town Clerk

### Requested Motion

Motion to approve minutes of the March 8, 2022 of the Regular Town Council Meeting.

### Approval Recommended?

Yes

### Item Details

N/A

## Attachments

- 2022.03.08 Meeting





## MINUTES - REGULAR TOWN COUNCIL MEETING

MARCH 8, 2022 AT 6:00 PM

COUNCIL CHAMBERS – APEX TOWN HALL, 73 HUNTER STREET

### WELCOME AND COMMENCEMENT

The regular meeting of the Apex Town Council was called to order by Mayor Gilbert. The Mayor began the meeting with a welcome and invocation saying

“The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds the community together. Inviting members from different faith communities to deliver an invocation at the beginning of our council meetings supports this unity, recognizes that not everyone practices the same traditions, we welcome you to have a private moment of silence. I would like to reflect on something that affects our entire community, nation and world. As we reflect on recent events and the crisis in the Ukraine, let us amplify our message of unity showing respect, love and prayers for Ukrainians impacted, even here in our community, and showing we stand in solidarity with them. At this time to show our support, please join in a moment of silence.”

The mayor asked that all attending join him in the Pledge of Allegiance. He also asked that members of the audience wishing to speak to please use the sign up sheet in the front of the room.

#### *Town Council and Administration:*

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Audra M. Killingsworth, and Council Members Brett D. Gantt, Terry Mahaffey, Cheryl F. Stallings and Edward Gray. Also, in attendance were Town Manager Catherine Crosby, Assistant Town Managers Shawn Purvis and Marty Stone, Interim Town Clerk Julie Reid, and Town Attorney Laurie L. Hohe.

### CONSENT AGENDA

Items CN5 and CN9 were removed from the consent agenda. A motion was made to approve the revised consent agenda. (Motion: Mayor Pro Tem Killingsworth, second: Council Member Gant) Approved 5-0).

**Item CN1      Approval for one “Police Officer” badge, one handgun, and one motorcycle helmet be declared “surplus,” that the price for such handgun and helmet be set at \$1.00 (One Dollar), and the badge, handgun, and helmet be awarded to Retiring Police Officer Darrell L. Roberson**

**Item CN2      Approval of the Minutes of the February 18, 2022 Budget Retreat Meeting and the February 22, 2022 Regular Town Council Meeting as presented.**

**Item CN3      Approval of the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of February 22, 2022.**

Amendments approved on February 22, 2022, were:

1. The amendment to UDO Secs. 4.2.2 Use Table and 4.4.2 Supplemental Standards, Public and Civic Uses require a neighborhood meeting to be held prior to the submittal of any Minor or Major Site Plan for the use “School, public or private” to allow nearby owners and residents a chance to review the proposed plan and offer comments to the applicant prior to submittal.

2. The amendment to UDO Sec. 2.1.9 Apex Environmental Advisory Board removes a reference to the Environmental Committee of Town Council which was dissolved in December 2021.

3. The amendment to UDO Sec. 4.3.5 Use Classifications, Commercial Uses expands the definition of glass sales to allow for a wholesale business option in addition to retail sales.

4. The amendment to UDO Sec. 8.2.8.B.1 Screening Methods, Dumpsters allows wood as a material for the gates of dumpster enclosures associated with Wake County Landmark or other historic structures so that the material may be consistent with the historic nature of the property.

5. The amendments to UDO Sec. 8.2.6.C.4 General Buffering Requirements, No Development Within the Required Buffer corrects a typographical error to a section reference and require buffers along Fully- and Limited-Controlled Access Highways that contain a public utility easement to have a minimum 20-foot-wide planting area consistent with the requirement for Thoroughfare and Street front buffers.

**Item CN4      Approval to Set a Public Hearing for March 22, 2022 Town Council meeting.**

Rezoning Application #21CZ32

From Rural Residential (RR) to Planned Unit Development- Conditional Zoning (PUD-CZ)

Name of Development: Chapel Ridge Towns PUD.

Applicant: Toll Brothers, Inc

Location: 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way (approximately 21.60 acres) PINs 0732333570, 0732337537, 07323470080, 0732345135, 0732430661 and Barnside Lane right-of-way

**Item CN5      Removed from the Consent Agenda**

**Item CN6      Approval of Resolution Number 2022-0308-3 to Abandon certain portions of existing greenway easements, located in Sweetwater Subdivision upon dedication of new greenway easements also located in Sweetwater Subdivision.**

- Item CN7** Approval of an encroachment agreement between the Town and property owners Christopher Adkins and spouse Christina Adkins to install a private driveway that will encroach 575 square (SF) onto the Town's Public Utility Easement and authorize the Town Manager to execute the same. The location of the Public Utility Easement is on a residential lot know as 1861 Blue Jay Point (also known as Wake County Pin # 0721-34-8491, Book of Maps 2016, Page 00542).
- Item CN8** Approval and authorization for the Town Manager to execute Contract Amendment #3 for GMP 4 with Construction Manager at Risk, J M Thompson, in the amount of \$4,234,090.53 for the new Pleasant Park Project and approve corresponding Capital Project Ordinance Amendment No. 2022-03.
- Item CN9** Removed from the Consent Agenda

**PRESENTATIONS**

- PR1** Mayor Gilbert and members of the Council read a Proclamation declaring March 18, 2022 Arbor Day in the Town of Apex. The Town Council and members of the Tree Citizen Advisory Panel will commemorate Arbor Day by planting seven trees at Hunter Street Park on March 18, 2022. The seven trees represent the seven years Apex has been designated as a Tree City USA.
- PR2** Mayor Gilbert and members of the Council read a Proclamation declaring March 2022 as Women's History Month. The Mayor called upon all citizens to celebrate the numerous contributions women have made to our community, state, nation and the world.

**REGULAR MEETING AGENDA**

**PUBLIC FORUM**

There were no requests to speak on this item.

**PUBLIC HEARINGS**

- Item PH1** Rezoning Request #21CZ14 Public Hearing and Possible Action  
 From Rural Residential (RR) to Planned Unit Development- Conditional Zoning (PUD-CZ)  
 Name of Development: Holland Road Mixed Use Assembly PUD  
 Applicant: Gebo Ray, LG Investments Inc.  
 Location: 7528 Humie Olive Road, 2236 Old US 1 Highway, 1001, 1004, 1005 Red Cardinal Lane, 3104, 3116 Holland Road (approximately 28.68 acres) PINs 0720992587, 0720998487, 070095707, 0731001087, 0791003359, 0731004075, 0730091779)

Staff member, Amanda Bunce, gave a briefing to the Council. Information regarding surrounding land uses (largely residential) and existing use of the site (two residential structures, out buildings and the remainder wooded). The staff reviewed the existing 2045 land use designations for the site. Permitted uses within the proposed development were reviewed. The proposed design controls were also reviewed, including maximum density, height, setbacks, buffers built upon area and Resource Conservation Area (RCA). She noted that the developer has requested a reduction in the RCA to 25% for the entire site.

**2045 LAND USE MAP:**

The 2045 Land Use Map designates the subject properties as Medium Density Residential, Medium/High Density Residential, and Commercial Services. The proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is generally consistent with those Land Use Map designations. The proposed rezoning includes a mix of residential uses and commercial uses. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to remove the Medium/High Density Residential area, expand the Medium Density Residential area and reduce the Commercial Services area per NCGS 160D-605(a).

**Reviews and coordination**

**Wake County Public School (WCPSS) coordination:** WCPSS indicates there is insufficient capacity for elementary, middle school and high school students within the current assignment area. Further, they indicated that transportation would be required. They did indicate that School expansion or construction within the next five years would address concerns at the elementary and high school levels.

**Public Facilities:** The project's construction will consist of the extension of public facilities to serve the site. All public facilities and infrastructure shall comply with the Town of Apex Sewer and Water Master Plans and the Town of Apex Standards and Specifications.

**Stormwater Management:** The development shall meet all stormwater management requirements for quality and quantity treatment per Section 6.1.7 of the Uniform Development Ordinance.

**Affordable Housing:** The applicant met with Senior Planner Sarah Van Every and Housing Program Manager Christopher "C.J." Valenzuela to discuss possible options to contribute to affordable housing and has proposed the following:

At least two (2) residential restricted median-income affordable housing townhome ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership initial sales price (includes unit price and lot price) that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD).

**Apex Transportation Plan/Access and Circulation:** Based on the recommendation of the Transportation (TIA and approval by Town Staff and the NCDOT, the final transportation improvement zoning conditions shall be provided:

1. Developer shall widen Holland Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 5-foot sidewalk and

- dedication based on a minimum 80-foot right-of-way.
2. Developer shall propose a maximum of two (2) access points to Holland Road. A full-movement access shall be located approximately 950 feet north of Old US 1. A right-in/right-out access shall be located approximately 350 feet north of Old US 1 with right-turn channelization designed according to Apex and NCDOT standards.
  3. Developer shall provide additional frontage widening along Holland Road to extend the exclusive southbound right turn lane at Old US 1 to the right-in/right-out access when that right-in/right-out access is constructed for an approximate total length of 350 feet.
  4. Developer shall propose a maximum of one (1) access point to Old US 1. The right-in/right-out access point shall be proposed approximately 275 feet west of Holland Road and restricted by installation of a concrete median along the center of Old US 1, based on NCDOT standards.
  5. Developer shall widen Old US 1 at the time the access point is constructed by adding a second westbound through-lane starting at Holland Road and terminating at the westbound right-turn lane at Humie Olive Road, and a 6-foot paved shoulder for a future bike lane, with a 5-foot sidewalk, and dedication based on a minimum 110-foot right-of-way.
  6. Developer shall widen Humie Olive Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 10-foot side path and dedication based on a minimum 80-foot right-of-way.
  7. Developer shall propose a maximum of one (1) access point to Humie Olive Road. The full-movement access point shall be proposed approximately 600 feet west of Old US 1 Highway and Developer shall provide additional widening to construct a westbound right turn lane with 75 feet of storage and an eastbound left-turn lane with 175 feet of storage, plus applicable full-width deceleration and taper length.
  8. Developer shall provide separate left- and right-turn lanes exiting the access point with 150 feet of internal protected storage, measured from the edge of Humie Olive Road to the first crossing internal access.
  9. Developer shall extend the eastbound left-turn lane on Old US 1 at Humie Olive Road to provide a minimum of 225 feet of storage plus applicable full-width deceleration and taper length prior to the first certificate of occupancy in the commercial phase.
  10. Developer shall extend the northbound left-turn lane on Friendship Road at Old US 1 to provide a minimum of 150 feet of storage plus applicable full-width deceleration and taper length prior to the first certificate of occupancy in the commercial phase.

**Environmental Advisory Board:** Met on April 15, 2021 and the following conditions were discussed:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on April 15, 2021. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Increase design storm for retention basins in flood-prone areas. Option 2: Increase design storm pre- and post-attenuation requirement to the 25-year storm.	Added

Install signage near environmental sensitive areas in order to: Reduce pet waste near SCM drainage areas; and Eliminate fertilizer near SCM drainage areas.	Added
Increase biodiversity: Plant pollinator-friendly flora Plant native flora (Refer to the Apex Design & Development Manual for approved native species).	Added
Improve soil quality to be amenable for a variety of native and non-invasive plantings	Added condition for native plantings
Install pet waste stations in neighborhoods	Added
Include solar conduit in building design	Added
Install timers or light sensors or smart lighting technology for exterior lighting.	Added
Include International Dark Sky Association compliance standards. Outdoor lighting shall be shielded in a way that focuses lighting to the ground. Lighting that minimizes the emission of blue light to reduce glare shall be used.	Added
Incorporate natural lighting techniques into building design whether residential or non-residential.	Added
Maintain connections between RCAs to preserve habitat if possible.	Added
Move play area to residential side (north side) for better accessibility of open green space.	Added

*Parks, Recreation, and Cultural Resources Advisory Commission:* The Commission made a unanimous recommendation for a fee-in-lieu of dedication with a credit for construction of a greenway trail if an opportunity is identified at the time of the Master Subdivision Plan review and approval. The recommendation is based on the 2022 rates and proposed maximum lot county provided:

Single-family detached Units:	$\$3,753.89 \times 10 = \$37,538.90$
Single-family attached Units:	$\$2,528.25 \times 100 = \$252,825.00$
Total residential fee in lieu per current unit count:	$\$290,363.90$

Staff note: The fee-in-lieu rate is based on the date of the PUD approval, not on the date of the Commission's recommendation.

## MEETINGS

A neighborhood meeting was held on April 27, 2021. After meeting with the neighborhood, the developer agreed to install 30-foot type E buffers along the roadways and along Holland Road in the residential areas and would increase to a type B buffer. Along the western boundary a 10-foot type B buffer is proposed and continues as the property line turns west to Humie Olive Road. The applicant agreed to place a 20-foot type A or type B buffer or a 30-foot type A buffer at different

locations along the northern boundary. All buffers the applicant agreed to exceed the requirements of the USO.

**RECOMMENDATIONS:**

**Planning and Community Development Department:** Recommends approval with the additional conditions offered by the applicant. The additional conditions include:

1. To increase the width of the Thoroughfare Buffers the two roads
2. To conduct a signal warrant analysis, and install a traffic signal if warranted
3. To provide two homes at 100% of the Wake County AMI.

**Planning Board Recommendation:** Recommends approval with the additional conditions offered by the applicant. A public hearing was held by the Planning Board on February 14, 2022.

The additional conditions include:

1. To increase the width of the Thoroughfare Buffers along two roads.
2. To conduct a signal warrant analysis, and install a traffic signal if warranted
3. To provide two homes at 100% of the Wake County AMI.

**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 designates the site as Medium Density Residential, Medium/High Density Residential, and Commercial Services. The proposed PUD is generally consistent with that land use classification. The proposed rezoning includes a mix of residential uses and commercial uses. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to remove the Medium/High Density Residential area, expand the Medium Density Residential area, and reduce the Commercial Services area per NCGS 160D-605(a).

Approval of the rezoning is reasonable and in the public interest because the petition provides a transition between housing types and lower and higher residential densities, provides for a mix of neighborhood-level non-residential uses to develop along the three thoroughfares that will serve existing development, provides two units of median-income affordable housing, and provides pedestrian accommodations.

**PUBLIC HEARING**

The Mayor declared the Public Hearing opened and asked for comments. Public comment received via email had been distributed to Council members. Several speakers had prepared handouts illustrating their issues. The following individuals asked to address the Council:

Jeff Roach                      1125 Peakway

Jodi Clarke	2219 Vasari Drive
Nidaa Hossenlopp	2212 Vasari Drive
Melissa McGurk	2216 Vasari Drive
Kerry Joyce	2140 Vecchio Lane
Kenton Kaplan	2208 Vasari Drive
Rynal Stephenson	Farrington Place, Raleigh

There were questions about the housing set aside. Mr. Valenzuela reviewed the agreement and explained how the formula for establishing the cost of units was calculated. In response to a question whether 2 units was a “big deal”, he compared the cost benefits of the requirements versus the two units. He also referred to NCGS 157-3 relating to requirements where actual funds are contributed by the Town, which is not the case with this development. He also explained how the Town would assist in the provision of a list of qualified buyers.

There were questions about the offset intersection at the corner of this development, the configuration of streets within the development, and the improvements that will be made to adjacent roads. There was concern expressed that there was no plan for the land created between this development and the new Holland Road alignment. There were also concerns expressed about the proximity of the school and the traffic generated at certain times of the day. Mr. Dalton addressed many of these questions. The developer indicated he has asked for a mini round about at the south end of Vasari Drive to be included in the design.

Concerns were expressed about commercial traffic and new residents using Vasari Drive. A citizen reminded the developer that he had committed to a two-car garage and additional two car parking for each housing unit.

Concern was expressed that a homeowner’s association, in charge of storm water improvement maintenance, might hire an unqualified company. Further, that as residents of Vasari Drive, they have no influence on the Home Owner’s association maintenance. There was discussion about the possible use of Bioretention cells, wet pond with fencing or wetlands with mosquito control. Ms. Bolin explained the requirements for storm water structures, the required quarterly inspections and maintenance of them. She also explained the enforcement tools available to the Town.

There was discussion of increasing the height of the berms adjacent to Bella Casa to 5 feet. The developer explained that for each foot in rise there must be an increase in the width of the base. There is not enough room for an increase in the base. He expressed his belief that the density of plantings would resolve the issue.

A comparison was made between the Humie Olive Development Concept based on the Apex 2045 plan and the proposed development. The older plan incorporated the realignment of Holland Road, lower density residential development and smaller commercial area. The Council was asked to reduce the density of the development by incorporating more single-family homes and decreasing the number of town homes.

The developer discussed the request for reduction in the RCA. He explained there were no streams, no valuable vegetation and the northern part of the site had been previously cleared. He said they have purchased a second piece of land and will use it as offsite RCA. He said the conservation quality would be much better on the offsite parcel.

The developer was asked to delete daycare and nursing homes from his permitted uses. He agreed that a full-time daily daycare not be allowed, but a drop in (short term) day care be allowed. He agreed to drop the nursing care.

The developer was commended for continuing to work with the neighborhood and staff throughout the process.

There being no further comment, the public hearing was closed.

A motion was made to approve Rezoning Application # 21CZ14 Holland Road Mixed Use Assembly PUD as amended and agreed to by the applicant:

1. A signal warrant analysis for the intersection of Holland Road and Old US 1HWY shall be performed by the developer prior to the platting of the 100th lot within the development and developer shall install a traffic signal if permitted by NCDOT at that time. If a traffic signal is not permitted by NCDOT at that time then the developer shall pay a fee in lieu for the anticipated signal design and construction costs based upon an engineer's estimate for the same, excluding any potential right-of-way acquisition costs.
2. the developer shall construct and install a sidewalk from the westernmost edge of the property's Humie Olive Road frontage to Friendship Village. In the event there is not sufficient right-of-way for the sidewalk, then the developer shall pay a fee-in-lieu for such construction
3. To demonstrate the project's commitment to preserving and re-establishing tree canopy in our region, the developer seeks to replant and restore existing tree canopy that is removed from those portions of the property that are anticipated to contain single family and townhome lots. Prior to recording the first subdivision plat for the property, the developer will provide a donation of \$5,500 to a local non-profit organization with a mission towards tree preservation and replacement.
4. Every residential dwelling shall have a minimum two car garage.
5. Remove nursing home/convalescent use

and finds the PUD-CZ designation demonstrates compliance with the standards Section 2.3.3.F. (Motion: Mayor Pro Tem Killingsworth / Second: Councilmember Gray/ Vote: 5-0)

#### **OLD BUSINESS**

No old business was brought before the Council.

#### **UNFINISHED BUSINESS**

No unfinished business was brought before the Council.

#### **NEW BUSINESS**

Items 5 and 9 had been removed from the Consent Agenda and placed in the New Business.

Item CN5 Submitted by Amanda Bunce, Current Planning Manager

Motion to set Public Hearing for the March 22, 2022 Town Council meeting regarding Rezoning Application #22CZ02 Project Real and Ordinance. The applicant, Maggie Houston, Beacon Development, seeks to rezone approximately 132.11 acres from R1 (Chatham County) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751.

AND

CN9 Amanda Bunce, Current Planning Manager

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 Date of Public Hearing for March 22, 2022, on the Question of Annexation – Apex Town Council’s intent to annex Peggy G. Gray property containing 35.22 acres and Reginald and William Mills property containing 96.88 acres located off NC Hwy 751, Annexation #726 into the Town’s corporate limits

A motion was made to set a public hearing for March 22, 2022 regarding Rezoning Application #22CZ02 Project Real and 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 Date of Public Hearing for March 22, 2022, on the Question of Annexation – Apex Town Council’s intent to annex Peggy G. Gray property containing 35.22 acres and Reginald and William Mills property containing 96.88 acres located off NC Hwy 751, Annexation #726 into the Town’s corporate limits. (Motion: Mayor Pro Tem Killingsworth / Second: Councilmember Gant/ Vote: 5-0)

#### **UPDATES BY TOWN MANAGER**

The Town Manager introduced the new Diversity, Equity and Inclusion Director, Linda Jones. She was welcomed by Council.

Ms. Crosby stated that Apex Day is April 30, 2022. She said there was lots of opportunities to volunteer in the community on that day. Anyone wishing to volunteer can sign up on the Town website.

She also said the video of the State of the Town presentation by the Mayor will be available March 10, 2022 after he presents the address to the Chamber of Commerce. It will be on the Town’s website.

She also said we have received information about the Wake County Property Tax Relief for 65+ and veterans. In order to spread the word, residents will be able to see the information on our website and information will be included with the April utility bills.

She said a virtual question and answer session regarding the Downtown Festival District will be held on March 22, 2022. Amanda Bunce will be primary contact on that. More information will be forthcoming.

She asked Mr. Purvis to brief the Council on a grant opportunity to participate with the NCDOT and the Virginia DOT to purchase railroad right-of-way to develop potential inner city and commuter rail including Apex. This is a very large transportation grant. They will be looking for a commitment from Apex for \$30,000. The project has been worked on for several years.

The Town Manager introduced the Interim Town Clerk, Julie Reid.

Ms. Crosby then discussed the first Art Reception held in the lobby of Town Hall just this evening. She said that Lisa Raschke has been working with area schools to highlight art exhibits.

Friday, we held one of the final steps for the Strategic Planning process which will be included in the budget. Sixteen staff members from across the organization met with Zealous to operationalize the priorities set by Council. We are really eager to share that with you.

**CLOSED SESSION**

A motion was made to enter a closed session. (Motion: Council member Gant /Second: Councilmember Stalling/ Vote: 5-0)

CS1 Steve Adams, Real Estate & Public Utilities

Possible motion to go into closed session pursuant to NCGS 143-318.11(a)(5) to discuss the town's negotiating position with respect to acquisition of real property.

CS2 Joanna Helms, Economic Development Director

Possible motion to go into Closed Session pursuant to NCGS 143-318.11(a)(4) to discuss matters related to the location or expansion of business in the area.

**WORK SESSION**

There was no work session.

**ADJOURNMENT**

With no further business and no objections for the Council, Mayor Gilbert adjourned the meeting.

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Julie A. Reid, Interim Town Clerk

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ATTEST:  
Jacques K. Gilbert, Mayor

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Julie Reid, Interim Town Clerk

Department(s): Office of the Town Clerk

### Requested Motion

Motion to approve the Apex Tax Report dated February 5, 2022

### Approval Recommended?

Yes

### Item Details

At the regular meeting held on March 9, 2022, the Wake County Board of Commissioners approved the Apex Tax Report dated February 5, 2022.

### Attachments

- Tax Report





**Board of Commissioners**  
P.O. Box 550 • Raleigh, NC 27602

TEL 919 856 6180  
FAX 919 856 5699

SIG HUTCHINSON, CHAIR  
SHINICA THOMAS, VICE-CHAIR  
VICKIE ADAMSON  
MATT CALABRIA  
MARIA CERVANIA  
SUSAN EVANS  
JAMES WEST

March 10, 2022

Ms. Tesa Silver  
Interim Town Clerk  
Town of Apex  
Post Office Box 250  
Apex, North Carolina 27502

Dear Ms. Silver:

The Wake County Board of Commissioners, in regular session on March 9, 2022, 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,

A handwritten signature in dark ink, appearing to read "Yvonne Gilyard".

Yvonne Gilyard  
Deputy Clerk to the Board  
Wake County Board of Commissioners

Enclosure(s)

Board Report

Return

Date : 03/09/2022

Approved By : *Marcus D. Kinrade*

TO : WAKE COUNTY BOARD OF COMMISSIONERS  
RE: CONSIDERATION OF REFUND FOR TAXES, INTEREST AND PENALTIES FOR APEX

No.	Name of Tax Payer	Account Number	Tax and Penalties	Total Rebate	Total Refund	Request Status
1	JACKSON LAW/PC 3605 GLENWOOD AVE STE 480 RALEIGH NC, 27612	0000458285- 2021- 2021- 000000	City County	314.36 483.64	798.00	798.00 Refund
	Marcus D. Kinrade					
	Wake County Tax Administrator					
			Total City Rebated	314.36		
			Total County Rebated	483.64		
			Total Rebate/Refund	798.00	798.00	

*Marcus D. Kinrade*

CC:  
\*Refund amount may differ from rebated total due to released interest or application of payment to any balance due on the account.

Print Lock

Board Report

Date : 03/09/2022

Return

Approved By : *Kim Barbach*

TO : WAKE COUNTY BOARD OF COMMISSIONERS  
RE: CONSIDERATION OF REFUND FOR TAXES, INTEREST AND PENALTIES FOR APEX

No.	Name of Tax Payer	Account Number	Tax and Penalties	Total Rebate	Total Refund	Request Status
1	GREEN LEVEL WEST 3651 LLC 1000 CRESCENT GRN STE 101 CARY NC, 27518 - 8117	0000463293- 2021- 2021- 0000000	City 172.84 County 265.92	438.76	438.76	Refund
	Marcus D. Kimrade		Total City Rebated 172.84 Total County Rebated 265.92	438.76	438.76	
	Wake County Tax Administrator		Total Rebate/Refund	438.76	438.76	

CC:  
\*Refund amount may differ from rebated total due to released interest or application of payment to any balance due on the account.

Tax Committee Meeting: 02/17/2022

Board of Commissioners Meeting: 03/09/2022

TO: Wake County Board of Commissioners and Town Board of Apex

FOR: Consideration of Requests for Adjustments, Rebates, and/or Refunds of Penalties

Approved by:

*Kim Kinrade*

The Wake County Tax Committee has approved the following policy to recommend relief of the late listing and/or vehicle penalties when at least one of the following conditions apply:

- 1. New to North Carolina
- 2. First time listing
- 3. Previous year listing on time
- 4. Omitted item(s) from listing - Current/previous listing on time
- 5. Military Deployment
- 6. Provided proof of timely listing

Item #	Taxpayer(s)	Description Jurisdiction	Account # / Year For Payment Status	Late List Appealed	Appeal/Request Type	Recommendation	Relief Code
17985	ABC PHONES OF NORTH CAROLINA MARVIN F POER & CO PO BOX 52427 ATLANTA, GA 30355	BUSINESS PERSONAL PROPERTY APEX	0006940860 2021 Paid in Full	\$79.83	Late List Penalty	Granted	6
18021	WM COMPACTOR SOLUTIONS INC MARVIN F POER & CO PO BOX 52427 ATLANTA GA 30355-0427	BUSINESS PERSONAL PROPERTY APEX	0006483758 2021 Paid in Full	\$22.60	Late List Penalty	Granted	6

**This List Requires Board Action**

Tax Committee Members: Natasha Baldwin, City Of Raleigh  
Kim Lorbacher, Wake County Finance  
Jessica Murphy-Rhem, Town Of Cary

*MSDVC*

Marcus Kinrade, Tax Administrator



Wake County Tax Administration

Rebate Details  
01/01/2022 - 01/31/2022  
APEX

DATE 02/05/2022 TIME 7:09:04 PM PAGE 1

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	BILLING YEAR FOR TYPE	OWNER
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805539	148.44	0.00	14.84	0.00	163.28	01/13/2022	0006829772	2020	2020	000000	LEARNING EXPERIENCE, THE
805538	162.11	0.00	16.21	0.00	178.32	01/13/2022	0006829772	2019	2019	000000	LEARNING EXPERIENCE, THE
805537	129.69	0.00	12.97	0.00	142.66	01/13/2022	0006829772	2018	2018	000000	LEARNING EXPERIENCE, THE

<b>SUBTOTALS FOR BUSINESS ACCOUNTS</b>	<b>440.24</b>	<b>0.00</b>	<b>44.02</b>	<b>0.00</b>	<b>484.26</b>		<b>3</b>	<b>Properties Rebated</b>			
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**BUSINESS REAL ESTATE ACCOUNTS**

805891	172.84	0.00	0.00	0.00	172.84	01/19/2022	0000463293	2021	2021	000000	GREEN LEVEL WEST 3651 LLC
804959	2,149.68	0.00	0.00	0.00	2,149.68	01/06/2022	0000174057	2021	2021	000000	BEAZER HOMES LLC

<b>SUBTOTALS FOR BUSINESS REAL ESTATE ACCOUNTS</b>	<b>2,322.52</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>2,322.52</b>		<b>2</b>	<b>Properties Rebated</b>			
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**INDIVIDUAL REAL ESTATE ACCOUNTS**

804590	412.33	0.00	0.00	0.00	412.33	01/05/2022	0000313760	2021	2021	000000	VAN DE VEN, SALINDA
805894	314.36	0.00	0.00	0.00	314.36	01/19/2022	0000458285	2021	2021	000000	MUNIRATHNAM, NAVEEN

<b>SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS</b>	<b>726.69</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>726.69</b>		<b>2</b>	<b>Properties Rebated</b>			
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Wake County Tax Administration

Rebate Details

01/01/2022 - 01/31/2022

APEX

DATE

02/05/2022

TIME

7:09:07 PM

PAGE

2

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	BILLING YEAR FOR TYPE	OWNER
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WILDLIFE BOAT ACCOUNTS

805075	97.64	0.00	9.76	0.00	107.40	01/06/2022	0004201530	2021	2021	000000	LINDLEY, MICHAEL EUGENE
<b>SUBTOTALS FOR WILDLIFE BOAT ACCOUNTS</b>		<b>97.64</b>	<b>0.00</b>	<b>9.76</b>	<b>0.00</b>	<b>107.40</b>	<b>1</b>	<b>Properties Rebated</b>			

<b>TOTAL REBATED FOR APEX</b>	<b>3,587.09</b>	<b>0.00</b>	<b>53.78</b>	<b>0.00</b>	<b>3,640.87</b>	<b>8</b>	<b>Properties Rebated for City</b>			
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# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Taylor Wray, Cultural Arts marketing and Events Specialist

Department(s): Parks, Recreation and Cultural Resources

### Requested Motion

Motion to accept a donation of public art from CAPS-Citizen for Apex Parks and approve placement at its current location.

### Approval Recommended?

Yes

### Item Details

A donation of \$6000 from an anonymous donor was made to CAPS intended to purchase a sculpture from the 2021-2022 Sculpture Walk. CAPS received a recommendation from the Public Art Committee to determine which sculpture to purchase. The recommendation was made to purchase "Inky" by Phil Hathcock, which is currently located by the Apex Police Station on Saunders Street. Staff recommends keeping "Inky" at its current location. There are minimum maintenance requirements as the sculpture is made entirely of rock.

### Attachments

- Image of "Inky" sculpture





# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): David Wood, Halle Cultural Arts Center Manager

Department(s): Parks, Recreation and Cultural Resources

### Requested Motion

Motion to appoint Jennifer Arey and Kimberly Brugh to the Bee City Committee

### Approval Recommended?

Yes

### Item Details

The Bee City Committee is a group of appointed citizens who represent the voice of the citizen as it relates to fostering an ongoing dialogue in Apex to raise awareness of the role native pollinators play in our community and what each of us can do to provide them with healthy habitat. They provide guidance and feedback to the Environmental Committee, meeting Bee City USA standards, and help plan and guide Pollinator Day/Week and other bee awareness, education, and healthy habitat protection. There are 6 members, appointed for 1-year terms. Appointments may be renewed up to six (6) consecutive years. All members must reside within either the Apex Town Limits or the Apex ETJ.

### Attachments

- Interest Forms



# Bee City Committee

Advisory Board Interest Form

## Candidate Contact Information

---

**Legal Name**

Jennifer Arey

**Preferred First Name**

Jennifer

---

**Current Employer**

Tom Morris-Northwestern Mutual

**Current Job Title**

Marketing Director

**Tell us why you would like to serve?**

I want to help upend the "status quo" when it comes to how we manage our natural areas and community space. I believe there is a balance to be found between the need for lawns, and also supporting the native plants and critters who share the land with us. This starts with educating citizens and giving them opportunities to see what a "bee friendly" space looks like, and what sorts of plants provide high value for our environment. Since moving to Apex a year ago, I have made an effort to introduce native plants to my yard and also educate my own community/HOA about how to be better stewards of our environment.

**Please list any education, special skills, or experience you have that would be useful while considering this form.**

Pursuing Certificate in Native Plants from the NCBG

Lifelong gardening experience

Familiarity with local flora and fauna. In process of learning more about bugs and caterpillars.

Professional/past experiences includes marketing, project management and organization, managing volunteers and interns, developing curriculum  
desire to learn!

**If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.**

this will be my first committee and looking forward to how I can be a part.

# Bee City Committee

*Advisory Board Interest Form*

## Candidate Contact Information

---

**Legal Name**

Kimberly Brugh

**Preferred First Name**

---

**Current Employer**

none

**Current Job Title**

**Tell us why you would like to serve?**

To promote awareness about pollinators and how important they are.

**Please list any education, special skills, or experience you have that would be useful while considering this form.**

I am a home gardener from a family that used to farm.

**If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.**

none

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Angela Reincke, Parks Planning Project Manager

Department(s): Parks, Recreation, and Cultural Resources

### Requested Motion

Motion to approve and authorize the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions acceptable to the Town Attorney; and approve and authorize the Town Manager to execute a Maintenance Agreement between the Town of Apex and Wake County for the Apex West Greenway, subject to terms and conditions acceptable to the Town Attorney.

### Approval Recommended?

Yes

### Item Details

The Board of County Commissioners has appropriated County Bond funding for greenway projects and has awarded the Town funding for construction of Apex West Greenway. This action will formalize the funding assistance provided by the County to the Town of Apex. This project was submitted by Town staff during the County's Request for Proposals (RFP) in 2019 as continued efforts by the County to assist local municipalities with expanding the County-wide greenway system, which was funded by the County's 2018 Parks Greenways Recreation and Open Space bond. The Town of Apex was one of five municipalities that responded to the RFP, and one of 8 projects which was recommended for funding.

The project is located in an easement acquired from the County at the location of a future County Trailhead for the American Tobacco Trail off Olive Chapel Road, links to the Beaver Creek Greenway corridor and will be approximately 700 linear feet of ten-foot-wide asphalt and boardwalk. The total project cost is estimated at \$305,000, with the County's participation recommended at \$150,000 (49%) to construct the greenway.

### Attachments

- Apex West Greenway Funding Agreement
- Apex West Greenway Maintenance Agreement
- Apex West Greenway Exhibit



STATE OF NORTH CAROLINA  
COUNTY OF WAKE

**FUNDING AGREEMENT for  
APEX WEST GREENWAY - APEX**

THIS AGREEMENT entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF WAKE, a body politic and corporate of the State of North Carolina (“County”) and the TOWN OF APEX, a North Carolina municipal corporation (“Town”) (together referred to as the “Parties”).

**PRELIMINARY STATEMENT**

WHEREAS, the Town has planned and is currently developing the Apex West Greenway Project, specifically the section extending from the current terminus off Olive Chapel Road to the Wake County section of the American Tobacco Trail. (“Greenway Project” or “Project”); and

WHEREAS, the County and the Town recognize the mutual benefits to their citizens and the public at large in the development of the Project and the connecting of the communities within Wake County; and

WHEREAS, on January 3, 2022, the Wake County Board of Commissioners authorized a funding commitment to the Town in the amount of \$150,000 to be paid out of the funding approved as part of the Parks, Recreation, Greenways and Open Space element of the Capital Improvement Fund Project Ordinance for FY 2021 and used for the Project subject to the terms and conditions herein; and

WHEREAS, the Town will develop the Project and for this purpose has accepted the County’s funding commitment in the amount of \$150,000 subject to the terms and conditions herein.

NOW THEREFORE, in consideration of the mutual promises, goals and objectives contained herein, and the mutual benefits resulting therefrom, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I  
SCOPE AND DESCRIPTION OF THE GREENWAY PROJECT**

- A. The Greenway Project shall be located in Apex, Wake County, North Carolina. The purpose of the Project is to extend the Beaver Creek Greenway from its current terminus at Olive Chapel Road to the Wake County Section of the American Tobacco Trail. The Greenway Project shall cover approximately 0.1 miles of trail with a 12-foot-wide asphalt

path as noted in the Town’s submittal for funding attached to this Agreement as Exhibit “A” and incorporated by reference.

- B. The Greenway Project includes the construction of the Project estimated to be completed on or about August 31, 2024 (the “Completion Date”). A schedule for the design/construction of the Greenway Project is attached to this Agreement as Exhibit “B” and incorporated by reference, with construction to commence thereafter.

## ARTICLE II TOWN RESPONSIBILITIES AND COVENANTS

- A. The Town is solely responsible for all Greenway Project costs, decisions, the procurement process, preparations of all plans and specifications, design, permitting and construction related to the Greenway Project as shown in Exhibit A, including those elements funded by the County.
- B. The Town is responsible for funding the Greenway Project, including any overruns, new or additional costs arising during the Project. The anticipated sources of funding for the Greenway Project are set forth in Article V and Exhibit C.
- C. The Town is responsible for acquiring all rights of way and easements needed for the Greenway Project. Costs for these acquisitions could include but are not limited to: direct purchase price; appraisal expenses; Phase 1 Environmental Assessment expenses; title investigation and title insurance secured through the Town Attorney or outside counsel, as necessary and appropriate; recordation expenses.
- D. Acquisitions and easements acquired by the Town will be in the name of the Town of Apex and the Town shall retain full ownership and/or interest in the acquisition of any property and/or easements necessary to construct the Greenway Project. To the best of the Town’s knowledge, there are no disputes concerning the location and/or boundaries of the easement interests associated with the Greenway Project, and the Town shall be responsible for expenses associated with any disputes that may arise.
- E. The Town shall be responsible for all phases of design, construction and construction management of the Greenway Project. The Town shall provide to the County the 100% Final Construction Documents for the sole purpose of reviewing compliance with this Agreement prior to start of construction. The Town shall not commence construction of the Greenway Project until all required approvals, acquisitions, easements, and financing have been obtained.

- F. The Town agrees to abide by any review, reporting, or other legal requirements established by state or local law, County resolution, open space bond requirements, or other agreement relating to the use of these funds.
- G. The Town has determined that the renovations planned as part of the Greenway Project will not cause a negative impact on existing infrastructure such as roads or water and sewer facilities.
- H. The Town acknowledges that any comments or suggestions provided by the County, except as otherwise provided by the Agreement, shall be given solely for the purposes of monitoring compliance with the terms of the Agreement, and shall not in any event be construed as a representative or directive regarding the Greenway Project decision.
- I. The County and the Town agree that, following project completion and acceptance by the Town, the Greenway Project shall be included as a component of the Town's Greenway System. The Greenway Project will be owned and managed by, and shall be the responsibility of, the Town, including future operation, maintenance, and repair. Nothing in this Agreement shall be construed to make the County responsible for any costs or obligation beyond the funding commitment up to \$150,000.
- J. The Town shall install appropriate signage, upon completion of the Greenway Project, which shall include acknowledgement of the County's participation in the project. The Town shall provide copies of proposed signage to the County Parks, Recreation, and Open Space Director prior to installation and shall not install signage until approved by the County to ensure proper content and usage of County logo, if applicable.
- K. To the extent permitted by law, the Town agrees to defend, indemnify, and hold harmless the County, for all loss, liability, claims or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the Town, except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this section to require the Town to indemnify Wake County to the extent permitted under North Carolina law.

ARTICLE III  
COUNTY RESPONSIBILITIES AND COVENANTS

- A. The County is responsible for tendering a commitment of up to One Hundred Fifty Thousand and no/1.00s Dollars (\$150,000) to the Town (“County Funding Commitment”) to be paid out of the Parks, Recreation, Greenways and Open Space element of the Capital Improvement Fund Project Ordinance for FY 2021 and used exclusively for the Greenway Project subject to the terms and conditions herein and the approval of the Wake County Board of Commissioners.
  
- B. If requested by the Town, the County agrees to provide additional documentation to evidence the County’s Funding Commitment as outlined herein for the purpose of the Town financing the Greenway Project. This includes, but is not limited to, providing a written affirmation of the County’s contribution to the Greenway Project upon the terms and conditions of this Agreement. In no event shall the County be required to guarantee any commercial or private loan or provide any manner of commitment or financing beyond what is set forth in this Agreement.
  
- C. The County shall not fine or penalize Town in any way, unless specifically permitted in this Agreement.

ARTICLE IV  
REPRESENTATIONS OF COUNTY AND TOWN

The County and the Town each represent, covenant, and warrant for the other’s benefit as follows:

- A. Each party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been properly authorized by the party’s governing body. This Agreement is a valid and binding obligation of each party.
  
- B. The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Wake County Board of Commissioners (BOC) and the Apex Town Council. If either governing body fails to appropriate sufficient monies to provide for the continuation of the Agreement, then it shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

- C. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a default under any of the foregoing.
- D. To the knowledge of each party, there is no litigation or other court or administrative proceeding pending or threatened against such party (or against any other person) affecting such party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such party's execution nor delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.
- E. No party has dealt with any real estate broker or brokerage firm regarding the transactions contemplated by this Agreement, and no person or firm has a claim for real estate commissions arising out of the acquisition or sale of the property upon which the Greenway Project shall be constructed.
- F. The County and the Town agree that nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense or the Town's defense of sovereign or governmental immunity from any cause of action alleged or brought against either for any reason if otherwise available as a matter of law.
- G. The Town and the County agree to cooperate to meet their mutual goals and objectives as set forth in this Agreement. The County Manager and the Town Manager will allocate personnel to the purposes outlined in this Agreement to the extent required to complete the obligations of this Agreement.
- H. In consideration of the signing and with respect to the subject matter of this Agreement, the parties for themselves, their agents, officers, and employees, agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation, no matter how remote.

ARTICLE V  
CONDITIONS OF FUNDING

- A. The total estimated budget for the Greenway Project, including design, construction, contingency and inflation factors, is Three Hundred Five Thousand and no/1.00s Dollars as set forth in Exhibit C attached hereto. The anticipated sources of funding are as follows:

Wake County Funding Commitment	\$150,000
Town of Apex	\$155,000
TOTAL	\$305,000

- B. The County Funding Commitment shall be delivered to Town as follows:
1. Construction of the project is eligible for reimbursement up to one hundred percent (100%) of the County Funding Commitment.
  2. Following commencement of construction, the Town shall pay its general contractor each month, based upon Greenway Project work completed. The Town shall, at agreed upon substantial milestones, but no more frequently than monthly, prepare and submit to the County a reimbursement invoice less than or equal to the Town's payment of or construction costs for the Project up to the agreed upon funding amount . Invoices shall be paid to the Town within 30 days of receipt by the County. Cover letter for the invoice must show the calculation of the requested Wake County reimbursement amount. The calculation should include what was paid by the Town of Apex, as well as the NCDOT reimbursement amount.
  3. A copy of the contractor's request for payment(s) and all supporting documentation shall be provided to the County with the invoice, including work contractor notes, design schedule, and evidence of full payment by the Town of invoices submitted for reimbursement. The County in its discretion may withhold or delay funding in the event that all required approvals, acquisitions, easements, and financing have not been obtained by the Town, supporting payment documentation is not provided, the work has not been completed, or the Town deviates significantly from the construction documents in any manner that materially affects the Project without the written approval of the County. The County Funding Commitment shall be

tendered as a reimbursement for allowable expenses only, and not as an advance of funds.

- C. The County shall only provide the applicable funding when due and upon satisfaction of conditions as outlined in this Agreement. All requests for reimbursement by the Town must be submitted no later than August 31, 2024. Any unused portion of the Funding Commitment expires after August 31, 2024, unless this deadline is extended in writing by the County.
- D. Any funds not paid by the County to the Town under this Funding Agreement due to nonfulfillment of conditions or the expiration of the time to draw the County Funding Commitment shall remain in the Wake County Parks, Recreation, Greenways and Open Space element of the CIP until an alternate use for the funding is determined. The Town shall not have any claim to such funding for any project or use other than the Greenway Project.
- E. The Town represents that this Greenway Project shall not require the on-going support of the County's general operating funds. Nothing herein shall obligate the County to provide operating funds for the Greenway Project after completion.
- F. In consideration of the signing and with respect to the subject matter of this Agreement, the parties for themselves, their agents, officers, and employees, agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation, no matter how remote.

ARTICLE VI  
INDEPENDENT CONTRACTOR

The parties acknowledge that the Town is an independent contractor, and that nothing in this Agreement is intended, and nothing will be construed, to create any form of partnership or joint venture relationship between the Town and the County, or to allow either to exercise control or direction over the other; notwithstanding that each party is bound by the terms and conditions of this Agreement. Neither party is an officer, agent, or employee of the other party for any purpose.

ARTICLE VII  
TERMINATION OF GREENWAY PROJECT PRIOR TO COMPLETION

Should the Greenway Project or any Phase thereof become terminated prior to completion, the Town shall remain the sole owner of the Greenway Project property, including all land, structures, and equipment. The County shall have no further funding obligation and no ownership claim to any part of the Greenway Project unless expressly described in this Agreement.

The County's obligation to fund under this Agreement is specific to the parties and not transferrable to any subsequent owner or interest holder of the property upon which the Greenway Project or any phase of the Greenway Project is being constructed.

ARTICLE VIII  
NO THIRD-PARTY BENEFICIARIES

This Agreement is not intended to and shall not be interpreted to inure to the benefit of any third parties.

ARTICLE IX  
OFFICIAL CAPACITY

No officer, agent or employee of any party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section will not relieve any such officer, agent or employee from the performance of any official duty provided by law.

ARTICLE X  
MODIFICATION

This Agreement may only be modified in writing signed by both Parties; provided that any change in the scope of the Greenway Project resulting in a change in the amount of the payment obligation of the County hereunder shall require approval of the governing boards of each party.

ARTICLE XII  
ASSIGNMENT

The Town shall not assign this Agreement, either in whole or in part, without the prior written approval of the County. The County shall not assign any of its duties under this Agreement to any private or public agency, corporation, firm, or individual without the prior written approval of Town.

ARTICLE XIII  
MISCELLANEOUS

- A. Notices. All notices or other communications hereunder to the Town and the County shall be sufficiently given and shall be deemed to have been received five (5) Business Days after deposit in the United States mail in certified form, postage prepaid, to the County and the Town, as the case may be, at the following addresses:

If to the County: Mr. Chris Snow, Wake County Parks Recreation and Open Space Director

Deliver to: 337 S. Salisbury Street, 10th Floor  
Mail to: PO Box 550  
Raleigh, North Carolina 27602  
Tel: (919) 856-6677  
E-mail: csnow@wakegov.com

If to Town: Craig Setzer, Apex Parks, Recreation and Cultural Resources Director

Deliver to: John M. Brown Community Center  
Mail to: PO Box 250  
Apex, North Carolina 27502  
Tel: (919) 249-3511  
E-mail: Craig.Setzer@apexnc.org;

- B. Severability. In the event any provision in this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- C. Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

- D. Applicable Law. This Agreement shall be governed by and be construed in accordance with the laws of the State of North Carolina. Jurisdiction for the resolution of any conflict arising from this Funding Agreement shall lie with the General Court of Justice of the State of North Carolina with venue in Wake County, North Carolina.
  
- E. Headings. Paragraph or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of the Agreement.

IN WITNESS WHEREOF, the County has caused this Agreement to be executed in its name by its duly authorized officials and its corporate seal to be impressed hereon, and the Town has caused this Agreement to be executed in its name by its duly authorized officials and its corporate seal to be impressed hereon, as of the Effective Date.

COUNTY OF WAKE, NORTH CAROLINA

\_\_\_\_\_  
David Ellis, Wake County Manager

ATTEST:

\_\_\_\_\_  
Yvonne C Gilyard  
Deputy Clerk to the Board of Commissioners

Approved as to form:

\_\_\_\_\_  
Scott W. Warren  
County Attorney

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

\_\_\_\_\_

Finance Director

\_\_\_\_\_  
Frank Cope  
Community Services Director

TOWN OF APEX

ATTEST:

\_\_\_\_\_  
Catherine Crosby  
Town Manager

\_\_\_\_\_  
Town Clerk (Interim)

SEAL

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

\_\_\_\_\_  
Vance Holloman  
Finance Director

Approved as to form:

\_\_\_\_\_  
Laurie Hohe  
Town Attorney

Exhibit A – Project Location & Graphical Description

APEX WEST GREENWAY CONSTRUCTION DRAWINGS

SHEET 5 – PLAN and PROFILE SHEET

TOWN OF APEX

APEX WEST / Apex West GREENWAY/ Connection from

Olive Chapel Road to American Tobacco Trail

March 4, 2020

(Attached at End)

## Exhibit B – Project Schedule

April 5, 2022	Advertise for Construction
May 4, 2022	Open Bids
May 31, 2022	NCDOT Concurrence
June 1, 2022	Award Bid
June 30, 2022	Signed Contract
July 31, 2022	Notice to Proceed
August 2024	Construction Complete

## Exhibit C – Estimated Budget

Greenways Attachment 2 - Budget Worksheet						
Budget						
	<u>Town of Apex</u>	<u>Other Partner**</u>	<u>Other Partner**</u>	<u>Other Partner**</u>	<u>Requested from Wake County</u>	<u>Total</u>
Est. Construction Cost (Materials, Construction, Permits, and Fees)	\$127,375				\$122,625	\$250,000
Construction Engineering & Inspection Services (Construction Project Management, Materials Testing, and Inspections)	\$7,500				\$7,500	\$15,000
15% Contingency Costs	\$19,875				\$19,875	\$39,750
<b>Total Cost</b>	<b>\$154,750</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$150,000</b>	<b>\$304,750</b>
% of Project	51%	0%	0%	0%	49%	
Miles of Greenway	0.120					
Price per Mile	<b>\$ 1,289,583</b>					

**WAKE COUNTY  
NORTH CAROLINA**

**AGREEMENT FOR THE RIGHT TO CONSTRUCT, INDEMNITY &  
MAINTENANCE AGREEMENT**

**THIS AGREEMENT FOR THE RIGHT TO CONSTRUCT, INDEMNITY & MAINTENANCE AGREEMENT** (hereinafter referred to as “the Agreement”), regarding the management, operations and maintenance of a certain greenway improvement known as the Apex West Greenway Connection to the American Tobacco Trail (the “Project”) on Wake County licensed property (“Property”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2022, by and between WAKE COUNTY, a body politic and corporate (hereinafter referred to as “the County”) and THE TOWN OF APEX, Wake County, North Carolina, a body politic and corporate, (hereinafter referred to as “ the Town”) (County and Town are collectively referred to herein as the “the Parties”).

**WITNESSETH**

**WHEREAS**, the Parties recognize that cooperation and action between the County and Town shall ensure that the best facilities and services are provided to the citizens with the least expenditure of public funds; and

**WHEREAS**, the Parties are mutually interested in quality recreation facilities for their citizens; and

**WHEREAS**, the Secretary of the Army, on behalf of the United State of America did grant the North Carolina Department of Transportation (NCDOT) Easement DACW21-2-99-6617 (“Easement”) for the construction, installation, operation and maintenance of a multiuse transportation facility on certain real property in Wake, Durham and Chatham counties North Carolina; and

**WHEREAS**, the County entered into a License Agreement with NCDOT (“NCDOT License Agreement”) in 2002 for the use of the Easement within Wake County (“County Licensed Premises”) as a recreational trail now known as the American Tobacco Trail which automatically renews for 5 year terms; and

**WHEREAS**, the Town wishes to connect its greenway system, and more specifically connect the Town’s Apex West Greenway to the American Tobacco Trail at a point and matter more specifically identified in the CONSTRUCTION PLANS FOR THE APEX WEST GREENWAY – OLIVE CHAPEL ROAD TO AMERICAN TOBACCO TRAIL, and attached hereto as “Exhibit A” and incorporated herein by this reference (hereinafter referred to as "the Plan");

**WHEREAS**, the County has approved a one-time funding commitment to the Town in the amount of \$150,000 with the Town in association with the Project pursuant to a separate Funding Agreement, but the Town will be solely responsible for all aspects of the Project and the new greenway connection will become a segment of the Town’s greenway system; and

**WHEREAS**, the Town will be solely responsible for the management, operations and maintenance of the Project as of the date of this Agreement;

**NOW, THEREFORE**, in consideration of the above-stated desires of the Parties and such other mutual promises and covenants as are hereinafter set forth, County and Town do hereby agree as follows:

1. **Recitals Incorporated.** The recitals above are incorporated herein and made part of this Agreement.
2. **Limited Right to Construct & Right of Entry.** The County hereby grants unto the Town, its employees, agents, consultants and cooperating parties, the right and privilege to enter the County Licensed Premises in the area depicted in the attached *Exhibit A* for the purpose of constructing the Apex West Greenway connection to the American Tobacco Trail and making improvements associated therewith to include drainage ditch improvements, signage, landscaping and all other associated appurtenances (“Improvements”) as noted on the Plan & Profile Sheet 5 as referenced in *Exhibit A*.

In conducting the above activities, the Town agrees to exercise reasonable care in order to minimize physical damage to the County’s Licensed Premises and in a manner which shall not impede use of the American Tobacco Trail. The Town agrees that it will not store materials or construction equipment on the County’s Licensed Premises.

**3. Town’s Responsibilities for Maintenance.**

The Town shall be solely responsible for all ongoing and future maintenance required in association with the Project, without request of contribution from the County, including maintenance required for any Town Improvements as depicted on the PLAN & PROFILE SHEET 5 of Exhibit A, which incorporates all aspects of the Apex West Greenway connection to the American Tobacco Trail including the greenway trail, drainage ditch improvements, signage, landscaping and other all associated appurtenances.

Specifically, the Town’s maintenance area for the greenway trail is located between station -L- STA. 10+08.00 and -L- PT Sta.10+72.00 and includes the entire fourteen (14) foot width of the trail with shoulders. The drainage ditch improvements are specifically located between -D- STA. 10+00.00 and -D- STA. 12+00.00 and include the installation of rip-rap stone, rigid corrugated pipe, including the greenway trail, drainage ditch improvements, signage, landscaping and other all associated appurtenances.

4. **Term; Extension of Term.**

The term of this Agreement shall be conditioned upon the NCDOT License Agreement and shall coincide with the term of that agreement which automatically renews for five (5) year terms and is subject to renew in 2022. This Agreement will automatically extend upon extension of the County's renewal of the NCDOT License Agreement. In the event NCDOT terminates the NCDOT License Agreement or the County no longer retains a license over the American Tobacco Trail, this Agreement shall automatically terminate.

5. **Enhancements, Modifications, or Renovation.**

The Town may make any enhancements, modifications, or renovations on the County License Premises in the area described in Section 2 as further depicted in *Exhibit A* of this Agreement.

The County may make any enhancements, modifications, or renovations, to the American Tobacco Trail adjacent to the Project without permission from the Town.

Notwithstanding the above, the Parties agree to coordinate any enhancements, modifications, or renovations as to not impede the use of the American Tobacco Trail or the Apex West Greenway.

6. **Ownership of Improvements.**

All Improvements made as a part of the Project shall be the property of the Town. In the event of termination of this Agreement, the Town shall have a right to remove any Improvements located on the County's Licensed Premises at their own expense, subject to a right of entry and permission from the County and NCDOT.

7. **Administration & Use.**

The Parties agree that administration and use of the Project shall be in accordance with the following conditions and provisions:

A. *Administrative Control.*

The Town shall have administrative control of the Project at all times and the County shall have administrative control of the American Tobacco Trail at all times, with the goal of providing access from one to another.

B. *Maintenance Access.*

The Town shall use access points from the Town's Apex West Greenway and the Town's greenway system. The County may grant access from the American Tobacco Trail upon the Town's request, provided the request is made in writing and does not unreasonably interfere with use of the American Tobacco Trail.

C. *Programming.*

The Town shall have programming control associated with the Project. The Town hereby covenants that it shall not program the Project in such a way as to impact the structure or use of the American Tobacco Trail.

*D. Closing of Project.*

The Town at its sole discretion may choose to close the Project for any reason it deems necessary, including but not limited to, inclement weather and/or safety. In the event of closure by the Town, the Town shall be solely responsible for the erection of signage and notice of closure to the public and securing and necessary repairs in a timely manner to the Improvements.

**8. Routine/Preventive Maintenance, and Major Repair or Life-Cycle Replacement.**

The Town is responsible, at its sole expense, for routine/preventive maintenance, and major repair or life-cycle replacement of the Project. In the event the Town abandons the Project or fails to undertake any necessary maintenance, the County may terminate this Agreement and remove any Improvements at the expense of the Town located on the County's Licensed Premises in accordance with the termination and notice provisions set forth in Section 10 below.

**9. Insurance and Financial Responsibility.**

To the extent permitted by law, the Town agrees to defend, indemnify, and hold harmless the County, for all loss, liability, claims or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part, in association with the Project and related Improvements. It is the intent of this section to require the Town to indemnify Wake County for any loss, liability, claims or expense associated with Improvements made on or across the County's Licensed Premises, to the extent permitted under North Carolina law. Nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense of sovereign or governmental immunity from any cause of action alleged or brought against Wake County for any reason if otherwise available as a matter of law.

**10. Rights to Terminate.**

The Parties hereby agree to the following rights to terminate this Agreement either in part or in its entirety and the conditions that arise as a result of such termination:

**A. Project Needed for Sole Use**

The County reserves the right to terminate this Agreement as it pertains to the Project if directed to do so by NCDOT or the US Army Corps of Engineers for the United States of America. This termination would only be invoked if the American Tobacco Trail ceases to function as a recreation trail and/or the County's license over the American Tobacco Trail is terminated.

**B. Town Termination.** The Town shall have the right to terminate this Agreement with twelve (12) months prior written notice to the County. Should the Town exercise its right to terminate this Agreement as it pertains the Project, then Town must identify the agency assuming responsibility and facilitate the exchange in responsibility between this new agency and the County. If the Town cannot identify a suitable agency, the County may elect to assume maintenance responsibility for the Project. If the Town terminates this

Agreement and no other agency is identified to assume responsibility and/or the County declines to assume responsibility, the Town at its sole cost, shall remove the Project and return the area to its pre-Project condition.

**C. County Termination**

County shall have the right to terminate this Agreement with twelve (12) months prior written notice to the Town subject to Section 8 above.

**11. Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Wake County Parks Recreation & Open Space  
Attn: Parks, Recreation & Open Space Director  
P.O. Box 550  
Raleigh, NC 27602

Apex Parks Recreation & Cultural Resources  
Attn: Parks, Recreation & Cultural Resources Director  
53 Hunter Street  
Apex, NC 27502

or to such other address as either Party may specify in the manner hereinabove prescribed.

**12. Severability.**

In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**13. Non-Assignment.**

Town may not assign this Agreement except as contemplated in Section 10B. above.

**14. Entire Agreement.**

The Parties agree that this document and the Exhibits attached constitute the entire agreement between the parties and may only be modified by a written mutual agreement signed by both Parties, unless otherwise specified herein.

WAKE COUNTY:

By: \_\_\_\_\_  
David Ellis, County Manager

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Frank Cope, Community Services Director

TOWN OF APEX:

By: \_\_\_\_\_  
Catherine Crosby, Town Manager

Attest: \_\_\_\_\_

Exhibit A:

CONSTRUCTION PLANS FOR THE APEX WEST GREENWAY – OLIVE CHAPEL ROAD TO  
AMERICAN TOBACCO TRAIL, dated March 4, 2020

# PROJECT DATA

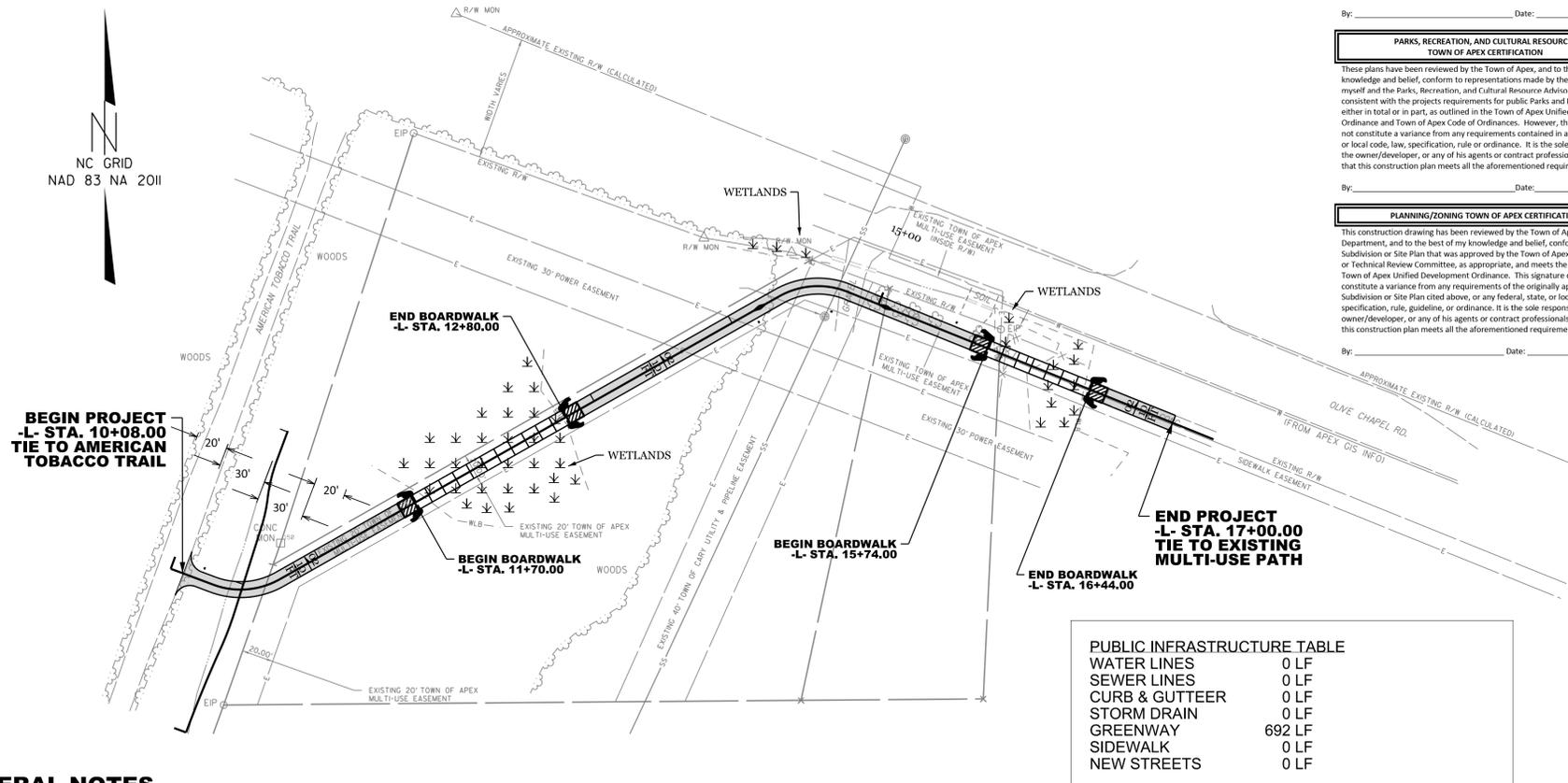
Name, Address, and Parcel IDs:	Name: Apex West Greenway Address: 2925 Olive Chapel Rd. Apex, NC 27502 Parcel IDs: 0711-98-6221 0721-09-5966 0721-09-7915 0721-09-4462
Project Coordinates:	Latitude: 35.728355° Longitude: -78.930904°
Preparer:	Company Name: Wetherill Engineering Contact Name: Jonathan Hefner Address: 1223 Jones Franklin Rd. Raleigh, NC 27606 Phone: 919-851-8077 Email: <a href="mailto:jhefner@wetherilleng.com">jhefner@wetherilleng.com</a>
Owner:	Town of Apex
Contract Purchaser:	Name: Town of Apex Parks & Recreation Contact Name: Andrew Havens Address: 73 Hunter St. Apex, NC 27502 Phone: 919-249-3400 Email: <a href="mailto:drew.havens@apexnc.org">drew.havens@apexnc.org</a>
Annexation Number:	N/A
Zoning:	N/A
Current 2045 Land Use:	Rural Density Residential
Area of Tracts:	2 acres
Required setbacks:	N/A
Watershed Protection Overlay District:	Primary
FEMA:	Outside 100-yr floodplain for Reedy Branch
Gross Area of Buildings:	N/A
Gross Floor Area:	N/A
Building Height:	N/A
Minimum Number of Parking Spaces Required:	N/A
Maximum Number of Parking Spaces Permitted:	N/A
Parking Spaces Provided:	N/A
Number of Handicapped Spaces:	N/A
Percentage of Parking on Side and Rear:	N/A
Amount and Percentage of Built Upon Area Allowed:	N/A
Amount and Percentage of Built Upon Area Proposed:	N/A
Gross Area and Percent of RCA Required:	N/A
Gross Area and Percent of RCA Provided:	N/A
Historic Structures:	No
Two Community Amenities:	N/A
Type of Grading:	N/A
Natural Drainage Patterns Preserved:	95%

# CONSTRUCTION PLANS FOR: TOWN OF APEX NORTH CAROLINA

# APEX WEST GREENWAY

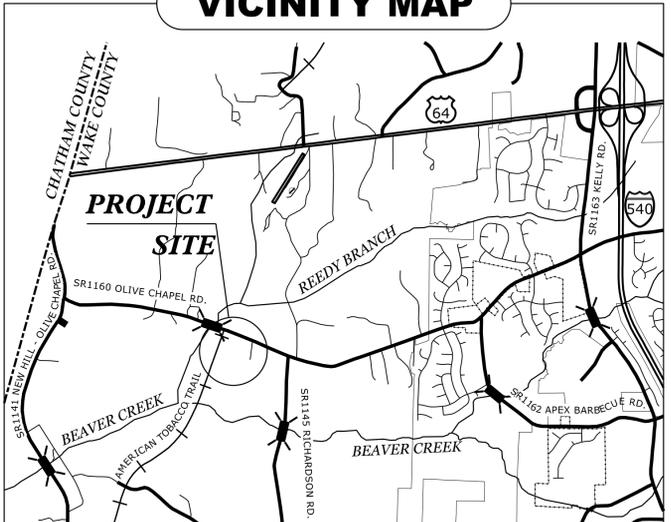
LOCATION:  
FROM OLIVE CHAPEL RD. TO AMERICAN TOBACCO TRAIL

TYPE OF WORK:  
GRADING, PAVING, STRUCTURE, DRAINAGE, & EROSION CONTROL



<p><b>BUILDING INSPECTIONS &amp; PERMITS TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Building Inspections &amp; Permits Department, and to the best of my knowledge and belief, conforms to the requirements established within the Town's Code of Ordinances and the North Carolina State Building Codes. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>	<p><b>PUBLIC WORKS &amp; TRANSPORTATION TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Public Works &amp; Transportation Department, and to the best of my knowledge and belief, provides an acceptable transportation system with consideration for the elements contained within the Transportation Plan conforming to the requirements established in the Standard Specifications &amp; Standard Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>
<p><b>ELECTRIC TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Electric Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Construction Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>	<p><b>WATER RESOURCES SOIL EROSION &amp; SEDIMENTATION CONTROL TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex, and to the best of my knowledge and belief, conforms to the requirements established in the Soil Erosion and Sedimentation Control Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p><b>This signature does not constitute plan approval, only plan requirements. A separate letter of plan approval will be mailed to the financially responsible person at a later date according to the construction sequence.</b></p> <p>By: _____ Date: _____</p>
<p><b>FIRE DEPARTMENT TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Fire Department, and to the best of my knowledge and belief, conforms to the requirements established within the Town's Standard Specifications, Fire Protection Ordinances, and the North Carolina International Fire Code. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>	<p><b>WATER RESOURCES STORMWATER ENGINEERING TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Water Resources Stormwater &amp; Utility Engineering Division and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Standard Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements. <b>This signature serves as the stormwater permit for this project.</b></p> <p>By: _____ Date: _____</p>
<p><b>PARKS, RECREATION AND CULTURAL RESOURCES TOWN OF APEX CERTIFICATION</b></p> <p>These plans have been reviewed by the Town of Apex, and to the best of my knowledge and belief, conform to representations made by the developer to myself and the Parks, Recreation, and Cultural Resource Advisory Commission consistent with the projects requirements for public Parks and Recreation, either in total or in part, as outlined in the Town of Apex Unified Development Ordinance and Town of Apex Code of Ordinances. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>	<p><b>WATER RESOURCES UTILITY ENGINEERING TOWN OF APEX CERTIFICATION</b></p> <p>This drawing has been reviewed by the Town of Apex Water Resources Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Standard Details of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>
<p><b>PLANNING/ZONING TOWN OF APEX CERTIFICATION</b></p> <p>This construction drawing has been reviewed by the Town of Apex Planning Department, and to the best of my knowledge and belief, conforms to the Subdivision or Site Plan that was approved by the Town of Apex Town Council or Technical Review Committee, as appropriate, and meets the standards of the Town of Apex Unified Development Ordinance. This signature does not constitute a variance from any requirements of the originally approved Subdivision or Site Plan cited above, or any federal, state, or local code, law, specification, rule, guideline, or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.</p> <p>By: _____ Date: _____</p>	<p><b>***CAUTION***</b></p> <p><b>N.C. ONE CALL: UTILITY LOCATOR SERVICE</b></p> <p>3 DAYS BEFORE DIGGING CALL TOLL FREE 1-800-632-4949</p> <p>A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY</p>

# VICINITY MAP



# GENERAL NOTES

- THE CONTRACTOR SHALL BE RESPONSIBLE FOR FIELD VERIFYING ALL ILLUSTRATED KNOWN UNDERGROUND ELEMENTS. ADDITIONALLY, THE CONTRACTOR SHALL BE RESPONSIBLE FOR EXERCISING REASONABLE EFFORTS TO PROTECT ANY UNKNOWN UNDERGROUND ELEMENTS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY IF UNKNOWN ELEMENTS ARE DISCOVERED THAT WOULD NECESSITATE MODIFICATION TO THE ILLUSTRATED DESIGN.
- PROTECT ALL ADJACENT PROPERTIES, THE GENERAL PUBLIC, AND ALL OF THE OWNER'S FACILITIES. SHOULD DAMAGES OCCUR, CONTRACTOR SHALL REPAIR IMMEDIATELY AS DIRECTED BY THE ENGINEER.
- CONTRACTOR SHALL HOLD HARMLESS THE OWNER AND THE ENGINEER FOR DAMAGES, INJURIES OR OTHER ACCIDENTS WHICH OCCUR DURING THESE CONSTRUCTION ACTIVITIES.
- TREES AND EXISTING LANDSCAPING NOT DESIGNATED FOR REMOVAL SHALL BE PROTECTED DURING CONSTRUCTION.
- ALL ELEVATIONS ARE IN REFERENCE TO DESIGNATED BENCHMARKS.
- CONTRACTOR SHALL BE RESPONSIBLE FOR SCHEDULING AND COORDINATION OF ALL ILLUSTRATED CONSTRUCTION ACTIVITIES AT THE JOB SITE.
- CONTRACTOR SHALL PROVIDE EXCAVATION AND TRAFFIC CONTROL AS REQUIRED BY LOCAL AUTHORITIES AND ALL APPLICABLE OSHA REGULATIONS.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DAMAGES DURING CONSTRUCTION AND SHALL MAKE REPAIRS AT HIS EXPENSE.
- CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATION ADJUSTMENTS OF ALL EXISTING VAULTS (REGARDLESS OF FUNCTION), METER BOXES, FIRE HYDRANTS, CLEAN OUTS, MANHOLES ETC. TO MATCH FINISHED GRADES AND SITE PLAN. ALL SUCH WORK SHALL BE COORDINATED WITH THE ENGINEER.
- UTILIZE SIGNS, BARRICADES, FLAG MEN, OR GUARDS, PER NCDOT STANDARDS, AS REQUIRED TO ENSURE THE SAFETY OF ALL VEHICULAR AND PEDESTRIAN TRAFFIC DURING ALL CONSTRUCTION ACTIVITIES.
- THE CONTRACTOR SHALL COORDINATE WITH THE OWNER AND ADJACENT PROPERTY OWNERS AS REQUIRED FOR WORK OUTSIDE OF PROPERTY LINES.
- UNDER ABSOLUTELY NO CIRCUMSTANCES SHALL ANY UNMANNED EXCAVATION BE LEFT OPEN OR UNPROTECTED DURING NON-WORKED HOURS. UTILIZE SIGNS, BARRICADES, ETC. TO ENSURE THE SAFETY OF THE GENERAL PUBLIC.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR LAYOUT OF ALL WORK AS ILLUSTRATED ON PLANS. IF EXISTING CONDITIONS DIFFER FROM THOSE ILLUSTRATED ON PLANS, NOTIFY ENGINEER PRIOR TO CONSTRUCTION ACTIVITIES.
- VERIFY ALL DIMENSIONS AND GRADES AT THE JOB SITE. IF DIFFERENCES ARE FOUND, NOTIFY ENGINEER SO THAT MODIFICATIONS TO THESE DRAWINGS CAN BE MADE.
- ALL WORK TO BE PERFORMED ACCORDING TO OSHA SAFETY REGULATIONS.
- THE CONTRACTOR SHALL PROVIDE 24 HOURS NOTICE TO THE TOWN OF APEX FOR ALL REQUIRED INSPECTIONS.
- ALL UTILITIES OR STRUCTURES NOT DESIGNATED FOR REMOVAL OR MODIFICATION ARE TO REMAIN AND BE PROTECTED FROM DAMAGE.
- ALL DEMOLITION WORK SHALL BE PERFORMED WITH "DUE CARE AND DILIGENCE" SO AS TO PREVENT THE ARBITRARY DESTRUCTION OR INTERRUPTION OF CONCEALED UTILITIES WHICH ARE INTENDED TO REMAIN IN USE. THE ROUTING OF WHICH COULD NOT BE PREDETERMINED UNTIL DEMOLITION WAS STARTED. ALL SUCH DISCOVERIES OF UTILITIES DURING THE DEMOLITION PROCESS WHICH ARE IN A LOCATION DIFFERENT FROM THAT INDICATED OR ARE UNIDENTIFIED, SHALL BE REPORTED TO THE ENGINEER AND OWNER BEFORE REMOVAL FOR FINAL DISPOSITION.
- ALL WASTE MATERIAL GENERATED FROM DEMOLITION WORK SHALL BE DISPOSED OF OFF SITE IN ACCORDANCE WITH TOWN OF APEX REGULATIONS.
- SALVAGEABLE FILL MATERIALS FROM SITE DEMOLITION DETERMINED TO BE ACCEPTABLE BY AN INDEPENDENT SOILS TESTING LABORATORY SHALL BE UTILIZED FOR FILL MATERIAL WHERE APPROPRIATE.
- ANY NOTE, OR REFERENCE TO ANY ELEMENT, WHICH DOES NOT SPECIFY ACTION BY THE CONTRACTOR SHALL BE CONSTRUED AS INFORMATION ONLY.
- ALL STRUCTURES/UTILITIES DESIGNATED FOR MODIFICATION SHALL BE PROTECTED BY THE CONTRACTOR DURING CONSTRUCTION.
- CONTRACTOR SHALL NOTIFY THE NCDOT DISTRICT ENGINEER, IN ACCORDANCE WITH ALL DRIVEWAY PERMITS & ENCROACHMENT AGREEMENTS, PRIOR TO BEGINNING ANY WORK WITHIN THE STATE MAINTAINED RIGHT OF WAY.

# INDEX OF SHEETS

1	COVER SHEET
2	SYMBOLOLOGY SHEET
3	NOTES
4	EXISTING CONDITIONS
5	PLAN, PROFILE, AND TYPICAL SECTIONS
6	CONSTRUCTION DETAILS
7	CONSTRUCTION DETAILS
EC-1	NCG01 GROUND STABILIZATION
EC-2	NCG01 SELF-INSPECTION
EC-3	EROSION CONTROL NOTES
EC-4	EROSION CONTROL DETAILS
EC-5	EROSION CONTROL CLEARING AND GRUBBING
EC-6	EROSION CONTROL FINAL
X-1	CROSS SECTIONS
X-2	CROSS SECTIONS
X-3	CROSS SECTIONS

NO.	DATE	DESCRIPTION

PLANS PREPARED FOR:

PROJECT CONTACT:  
ANGELA REINCKE  
PARKS AND GREENWAY PLANNER  
PO BOX 250  
APEX, NC 27502  
919.372.7468

TOWN OF APEX  
73 Hunter Street  
Apex, NC 27502

## APEX WEST GREENWAY

CONNECTION FROM  
OLIVE CHAPEL ROAD  
TO AMERICAN TOBACCO TRAIL

PLANS PREPARED BY:

1223 Jones Franklin Rd., Raleigh, N.C. 27606  
License No. F-0377  
Bus: 919 851 8077 Fax: 919 851 8107

ROADWAY ENGINEER

6/1/2020

HYDRAULICS ENGINEER

6/1/2020

**DOCUMENT NOT CONSIDERED FINAL UNLESS ALL SIGNATURES COMPLETED**

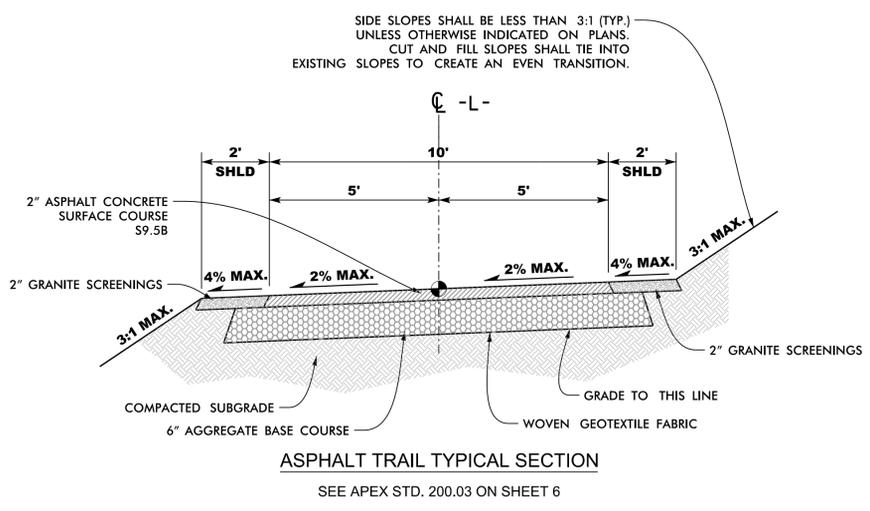
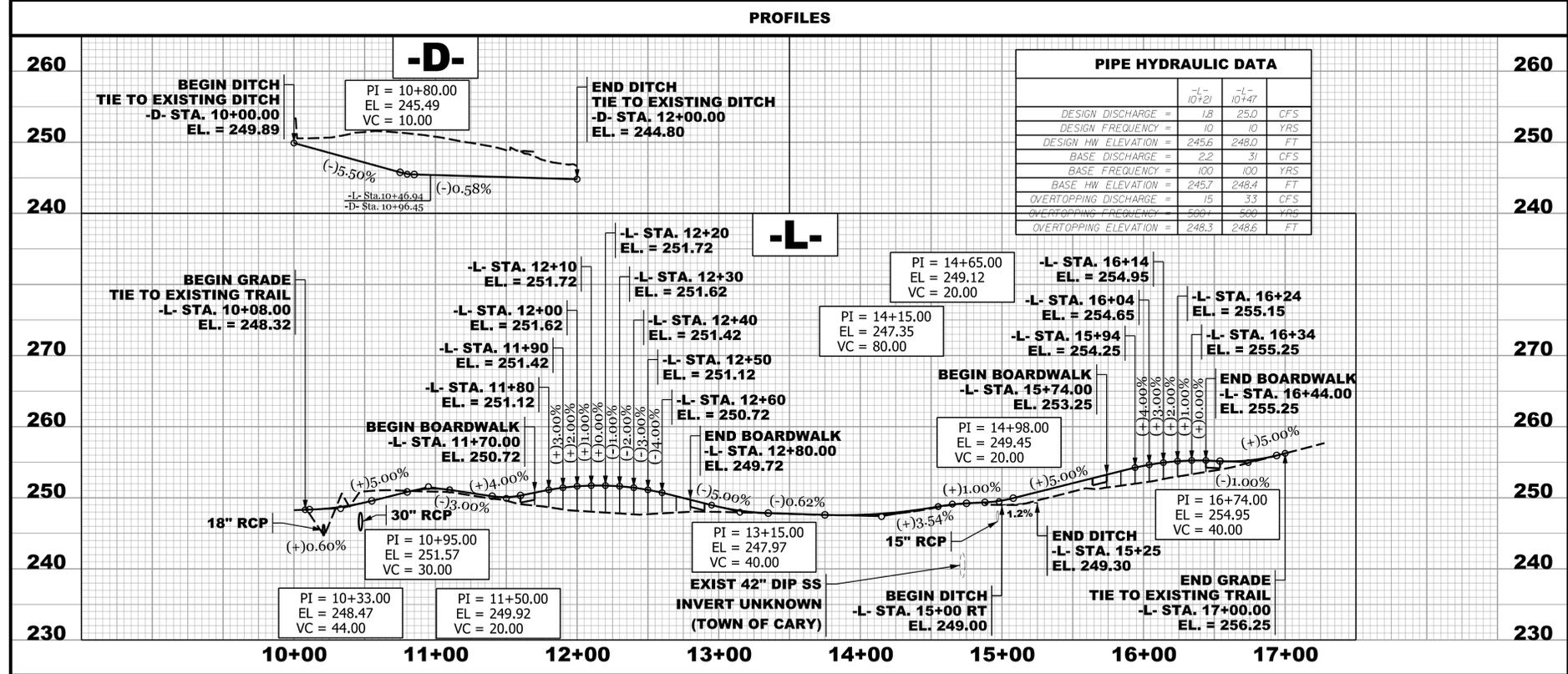
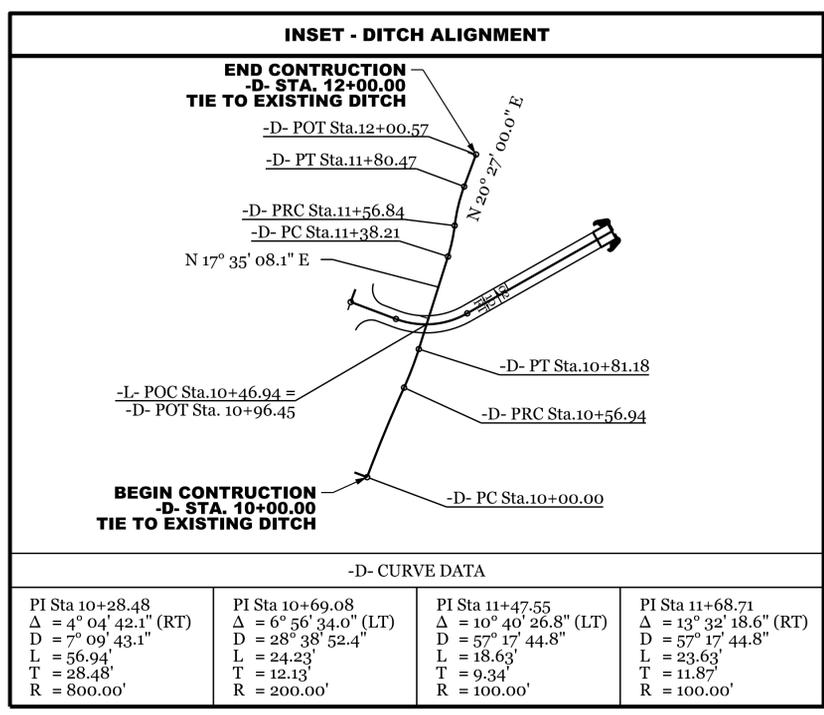
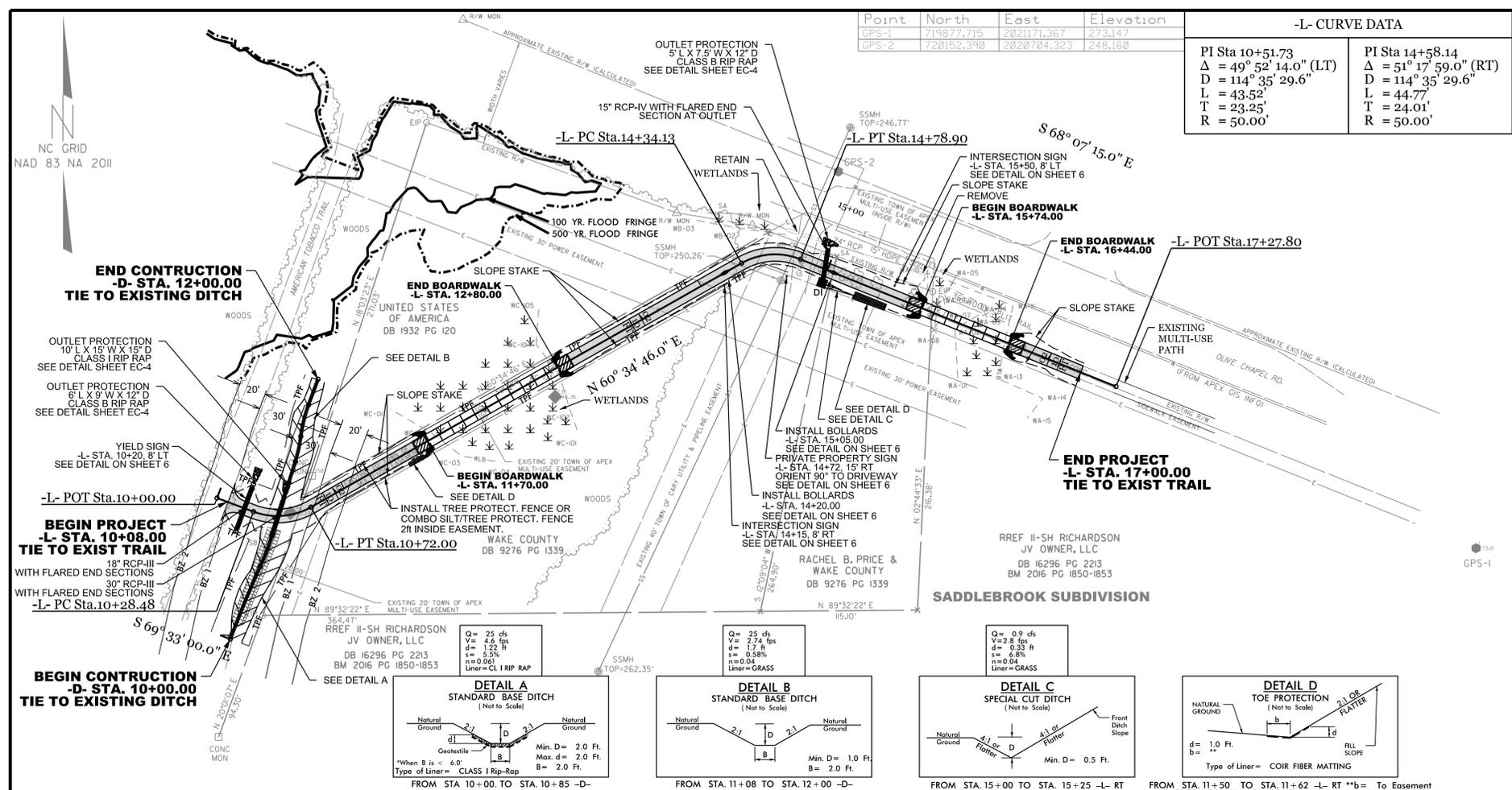
DATE: MARCH 4, 2020

COVER SHEET

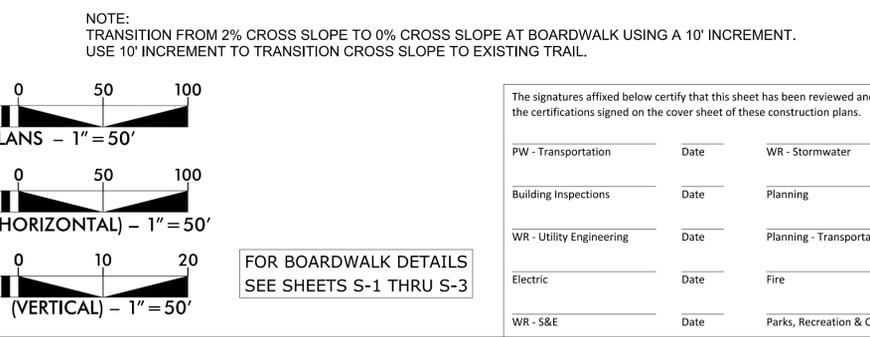
WEI PROJECT NO.:

# 20326.01

# 1



CHAIN	BEGIN STATION	END STATION
-L-	(TIE TO AMERICAN TOBACCO TRAIL) 10+08.00	11+70.00 (BEGIN BOARDWALK)
-L-	(END BOARDWALK) 12+80.00	15+74.00 (BEGIN BOARDWALK)
-L-	(END BOARDWALK) 16+44.00	17+00.00 (TIE TO EXISTING TRAIL)



NO.	DATE	DESCRIPTION

PLANS PREPARED FOR:  
**Apex**  
TOWN OF APEX  
73 Hunter Street  
Apex, NC 27502

**APEX WEST GREENWAY**  
CONNECTION FROM  
OLIVE CHAPEL ROAD  
TO AMERICAN TOBACCO TRAIL

PLANS PREPARED BY:  
**WETHERILL ENGINEERING**  
1223 Jones Franklin Rd., Raleigh, N.C. 27606  
License No. F-0377  
Bus: 919 851 8077 Fax: 919 851 8107

ROADWAY ENGINEER  
**WETHERILL ENGINEERING**  
SEAL 35016  
7/1/2020

HYDRAULICS ENGINEER  
**WETHERILL ENGINEERING**  
SEAL 019721  
7/1/2020

DATE: MARCH 4, 2020  
WEI PROJECT NO.:  
**20326.01**  
PLAN & PROFILE SHEET  
**5**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Angela Reincke, Parks Planning Project Manager

Department(s): Parks, Recreation, and Cultural Resources

### Requested Motion

Motion to approve and authorize the Town Manager to execute a Funding Agreement between the Town of Apex and Wake County for the Middle Creek Greenway (PHI and PHII), subject to terms and conditions acceptable to the Town Attorney.

### Approval Recommended?

Yes

### Item Details

The Board of County Commissioners has appropriated County Bond funding for greenway projects and has awarded the Town funding for construction of Middle Creek Greenway (PHI and PHII). This action will formalize the funding assistance provided by the County to the Town of Apex. This project was submitted by Town staff during the County's Request for Proposals (RFP) in 2019 as continued efforts by the County to assist local municipalities with expanding the County-wide greenway system, which was funded by the County's 2018 Parks Greenways Recreation and Open Space bond. The Town of Apex was one of five municipalities that responded to the RFP, and one of 8 projects which was recommended for funding.

The Middle Creek Corridor is a regional bike and pedestrian system that links residents from Apex, Holly Springs and unincorporated Wake County with PHI starting at Sunset Lake Road at a trailhead with parking, along with a median refuge crossing to connect south to existing trail within the Town of Holly Springs and running north to just past and under NC540 in the Reunion Pointe neighborhood. PHII starts in the Miramonte neighborhood and extends north of Colby Chase Road to the northern property boundary of the Pemberley neighborhood where it will connect with future greenway proposed in the Horton Park PUD. The two phases will provide an additional 1.02 miles of ten-foot-wide asphalt, boardwalk, and concrete trail. The total project is estimated at \$3,139,545, with the County's participation recommended at \$1,544,686 (49%) to construct the greenway.

Attachments

- Apex Middle Creek Greenway Funding Agreement
- Middle Creek Greenway PHI Exhibit
- Middle Creek Greenway PHII Exhibit



THIS AGREEMENT entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF WAKE, a body politic and corporate of the State of North Carolina (“County”) and the TOWN OF APEX, a North Carolina municipal corporation (“Town”) (together referred to as the “Parties”).

**PRELIMINARY STATEMENT**

WHEREAS, the Town has planned and is currently developing the Middle Creek Greenway Project, specifically Phases I and Phase II totaling 1.02 miles: Phase I is .35 miles and crosses Sunset Lake Road and NC 540; Phase II begins at the north end of Reunion Pointe and is .67 miles and contains two crossings of Middle Creek and is predominately boardwalk and provides connections to five existing and proposed. (“Greenway Project” or “Project”); and

WHEREAS, the County and the Town recognize the mutual benefits to their citizens and the public at large in the development of the Project and the connecting of the communities within Wake County; and

WHEREAS, on January 3, 2022, the Wake County Board of Commissioners authorized a funding commitment to the Town in the amount of \$1,544,686 to be paid out of the funding approved as part of the Parks, Recreation, Greenways and Open Space element of the Capital Improvement Fund Project Ordinance for FY 2021 and used for the Project subject to the terms and conditions herein; and

WHEREAS, the Town will develop the Project and for this purpose has accepted the County’s funding commitment in the amount of \$1,544,686 subject to the terms and conditions herein.

NOW THEREFORE, in consideration of the mutual promises, goals and objectives contained herein, and the mutual benefits resulting therefrom, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I  
SCOPE AND DESCRIPTION OF THE GREENWAY PROJECT**

- A. The Greenway Project shall be located in Apex, Wake County, North Carolina. The purpose of the Project is to extend the Middle Creek Greenway in two phases totaling approximately 1.02 miles of trail with a 12-foot-wide asphalt path as noted in the Town’s

submittal for funding attached to this Agreement as Exhibit “A” and incorporated by reference.

- B. The Greenway Project includes the construction of the Project estimated to be completed on or about August 31, 2024 (the “Completion Date”). A schedule for the design/construction of the Greenway Project is attached to this Agreement as Exhibit “B” and incorporated by reference, with construction to commence thereafter.

## ARTICLE II TOWN RESPONSIBILITIES AND COVENANTS

- A. The Town is solely responsible for all Greenway Project costs, decisions, the procurement process, preparations of all plans and specifications, design, permitting and construction related to the Greenway Project as shown in Exhibit A, including those elements funded by the County.
- B. The Town is responsible for funding the Greenway Project, including any overruns, new or additional costs arising during the Project. The anticipated sources of funding for the Greenway Project are set forth in Article V and Exhibit C.
- C. The Town is responsible for acquiring all rights of way and easements needed for the Greenway Project. Costs for these acquisitions could include but are not limited to: direct purchase price; appraisal expenses; Phase 1 Environmental Assessment expenses; title investigation and title insurance secured through the Town Attorney or outside counsel, as necessary and appropriate; recordation expenses.
- D. Acquisitions and easements acquired by the Town will be in the name of the Town of Apex and the Town shall retain full ownership and/or interest in the acquisition of any property and/or easements necessary to construct the Greenway Project. To the best of the Town’s knowledge, there are no disputes concerning the location and/or boundaries of the easement interests associated with the Greenway Project, and the Town shall be responsible for expenses associated with any disputes that may arise.
- E. The Town shall be responsible for all phases of design, construction and construction management of the Greenway Project. The Town shall provide to the County the 100% Final Construction Documents for the sole purpose of reviewing compliance with this Agreement prior to start of construction. The Town shall not commence construction of the Greenway Project until all required approvals, acquisitions, easements, and financing have been obtained.

- F. The Town agrees to abide by any review, reporting, or other legal requirements established by state or local law, County resolution, open space bond requirements, or other agreement relating to the use of these funds.
- G. The Town has determined that the renovations planned as part of the Greenway Project will not cause a negative impact on existing infrastructure such as roads or water and sewer facilities.
- H. The Town acknowledges that any comments or suggestions provided by the County, except as otherwise provided by the Agreement, shall be given solely for the purposes of monitoring compliance with the terms of the Agreement, and shall not in any event be construed as a representative or directive regarding the Greenway Project decision.
- I. The County and the Town agree that, following project completion and acceptance by the Town, the Greenway Project shall be included as a component of the Town's Greenway System. The Greenway Project will be owned and managed by, and shall be the responsibility of, the Town, including future operation, maintenance, and repair. Nothing in this Agreement shall be construed to make the County responsible for any costs or obligation beyond the funding commitment up to \$1,544,686.
- J. The Town shall install appropriate signage, upon completion of the Greenway Project, which shall include acknowledgement of the County's participation in the project. The Town shall provide copies of proposed signage to the County Parks, Recreation, and Open Space Director prior to installation and shall not install signage until approved by the County to ensure proper content and usage of County logo, if applicable.
- K. To the extent permitted by law, the Town agrees to defend, indemnify, and hold harmless the County, for all loss, liability, claims or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the Town, except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this section to require the Town to indemnify Wake County to the extent permitted under North Carolina law.

ARTICLE III  
COUNTY RESPONSIBILITIES AND COVENANTS

- A. The County is responsible for tendering a commitment of up to One Million Five Hundred Forty-four Thousand, Six Hundred Eighty-Six and no/1.00s Dollars (\$1,544,686) to the Town (“County Funding Commitment”) to be paid out of the Parks, Recreation, Greenways and Open Space element of the Capital Improvement Fund Project Ordinance for FY 2021 and used exclusively for the Greenway Project subject to the terms and conditions herein and the approval of the Wake County Board of Commissioners.
  
- B. If requested by the Town, the County agrees to provide additional documentation to evidence the County’s Funding Commitment as outlined herein for the purpose of the Town financing the Greenway Project. This includes, but is not limited to, providing a written affirmation of the County’s contribution to the Greenway Project upon the terms and conditions of this Agreement. In no event shall the County be required to guarantee any commercial or private loan or provide any manner of commitment or financing beyond what is set forth in this Agreement.
  
- C. The County shall not fine or penalize Town in any way, unless specifically permitted in this Agreement.

ARTICLE IV  
REPRESENTATIONS OF COUNTY AND TOWN

The County and the Town each represent, covenant, and warrant for the other’s benefit as follows:

- A. Each party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been properly authorized by the party’s governing body. This Agreement is a valid and binding obligation of each party.
  
- B. The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Wake County Board of Commissioners (BOC) and the Apex Town Council. If either governing body fails to appropriate sufficient monies to provide for the continuation of the Agreement, then it shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

- C. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a default under any of the foregoing.
- D. To the knowledge of each party, there is no litigation or other court or administrative proceeding pending or threatened against such party (or against any other person) affecting such party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such party's execution nor delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.
- E. No party has dealt with any real estate broker or brokerage firm regarding the transactions contemplated by this Agreement, and no person or firm has a claim for real estate commissions arising out of the acquisition or sale of the property upon which the Greenway Project shall be constructed.
- F. The County and the Town agree that nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense or the Town's defense of sovereign or governmental immunity from any cause of action alleged or brought against either for any reason if otherwise available as a matter of law.
- G. The Town and the County agree to cooperate to meet their mutual goals and objectives as set forth in this Agreement. The County Manager and the Town Manager will allocate personnel to the purposes outlined in this Agreement to the extent required to complete the obligations of this Agreement.
- H. In consideration of the signing and with respect to the subject matter of this Agreement, the parties for themselves, their agents, officers, and employees, agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation, no matter how remote.

ARTICLE V  
CONDITIONS OF FUNDING

- A. The total estimated budget for the Greenway Project, including design, construction, contingency and inflation factors, is THREE MILLION ONE HUNDRED THIRTY-NINE FIVE HUNDRED FORTY-FIVE and no/1.00s Dollars as set forth in Exhibit C attached hereto. The anticipated sources of funding are as follows:

Wake County Funding Commitment	\$1,544,686
Town of Apex	\$1,594,859
TOTAL	\$3,139,545

- B. The County Funding Commitment shall be delivered to Town as follows:
1. Construction of the project is eligible for reimbursement up to one hundred percent (100%) of the County Funding Commitment.
  2. Following commencement of construction, the Town shall pay its general contractor each month, based upon Greenway Project work completed. The Town shall, at agreed upon substantial milestones, but no more frequently than monthly, prepare and submit to the County a reimbursement invoice less than or equal to the Town's payment of or construction costs for the Project up to the agreed upon funding amount . Invoices shall be paid to the Town within 30 days of receipt by the County. Cover letter for the invoice must show the calculation of the requested Wake County reimbursement amount. The calculation should include what was paid by the Town of Apex, as well as the NCDOT reimbursement amount.
  3. A copy of the contractor's request for payment(s) and all supporting documentation shall be provided to the County with the invoice, including work contractor notes, design schedule, and evidence of full payment by the Town of invoices submitted for reimbursement. The County in its discretion may withhold or delay funding in the event that all required approvals, acquisitions, easements, and financing have not been obtained by the Town, supporting payment documentation is not provided, the work has not been completed, or the Town deviates significantly from the construction documents in any manner that materially affects the Project without the written approval of the County. The County Funding Commitment shall be

tendered as a reimbursement for allowable expenses only, and not as an advance of funds.

- C. The County shall only provide the applicable funding when due and upon satisfaction of conditions as outlined in this Agreement. All requests for reimbursement by the Town must be submitted no later than August 31, 2024. Any unused portion of the Funding Commitment expires after August 31, 2024 unless this deadline is extended in writing by the County.
- D. Any funds not paid by the County to the Town under this Funding Agreement due to nonfulfillment of conditions or the expiration of the time to draw the County Funding Commitment shall remain in the Wake County Parks Recreation Greenways and Open Space element of the CIP until an alternate use for the funding is determined. The Town shall not have any claim to such funding for any project or use other than the Greenway Project.
- E. The Town represents that this Greenway Project shall not require the on-going support of the County's general operating funds. Nothing herein shall obligate the County to provide operating funds for the Greenway Project after completion.
- F. In consideration of the signing and with respect to the subject matter of this Agreement, the parties for themselves, their agents, officers, and employees, agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation, no matter how remote.

#### ARTICLE VI INDEPENDENT CONTRACTOR

The parties acknowledge that the Town is an independent contractor, and that nothing in this Agreement is intended, and nothing will be construed, to create any form of partnership or joint venture relationship between the Town and the County, or to allow either to exercise control or direction over the other; notwithstanding that each party is bound by the terms and conditions of this Agreement. Neither party is an officer, agent, or employee of the other party for any purpose.

ARTICLE VII  
TERMINATION OF GREENWAY PROJECT PRIOR TO COMPLETION

Should the Greenway Project or any Phase thereof become terminated prior to completion, the Town shall remain the sole owner of the Greenway Project property, including all land, structures, and equipment. The County shall have no further funding obligation and no ownership claim to any part of the Greenway Project unless expressly described in this Agreement.

The County's obligation to fund under this Agreement is specific to the parties and not transferrable to any subsequent owner or interest holder of the property upon which the Greenway Project or any phase of the Greenway Project is being constructed.

ARTICLE VIII  
NO THIRD-PARTY BENEFICIARIES

This Agreement is not intended to and shall not be interpreted to inure to the benefit of any third parties.

ARTICLE IX  
OFFICIAL CAPACITY

No officer, agent or employee of any party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section will not relieve any such officer, agent or employee from the performance of any official duty provided by law.

ARTICLE X  
MODIFICATION

This Agreement may only be modified in writing signed by both Parties; provided that any change in the scope of the Greenway Project resulting in a change in the amount of the payment obligation of the County hereunder shall require approval of the governing boards of each party.

ARTICLE XII  
ASSIGNMENT

The Town shall not assign this Agreement, either in whole or in part, without the prior written approval of the County. The County shall not assign any of its duties under this Agreement to any private or public agency, corporation, firm, or individual without the prior written approval of Town.

ARTICLE XIII  
MISCELLANEOUS

- A. Notices. All notices or other communications hereunder to the Town and the County shall be sufficiently given and shall be deemed to have been received five (5) Business Days after deposit in the United States mail in certified form, postage prepaid, to the County and the Town, as the case may be, at the following addresses:

If to the County: Mr. Chris Snow, Wake County Parks Recreation and Open Space  
Director

Deliver to: 337 S. Salisbury Street, 10th Floor  
Mail to: PO Box 550  
Raleigh, North Carolina 27602  
Tel: (919) 856-6677  
E-mail: csnow@wakegov.com

If to Town: Craig Setzer, Apex Parks, Recreation and Cultural Resources Director

Deliver to: John M. Brown Community Center  
Mail to: PO Box 250  
Apex, North Carolina 27502  
Tel: (919) 249-3511  
E-mail: Craig.Setzer@apexnc.org;

- B. Severability. In the event any provision in this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- C. Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

- D. Applicable Law. This Agreement shall be governed by and be construed in accordance with the laws of the State of North Carolina. Jurisdiction for the resolution of any conflict arising from this Funding Agreement shall lie with the General Court of Justice of the State of North Carolina with venue in Wake County, North Carolina.
- E. Headings. Paragraph or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of the Agreement.

IN WITNESS WHEREOF, the County has caused this Agreement to be executed in its name by its duly authorized officials and its corporate seal to be impressed hereon, and the Town has caused this Agreement to be executed in its name by its duly authorized officials and its corporate seal to be impressed hereon, as of the Effective Date.

COUNTY OF WAKE, NORTH CAROLINA

---

David Ellis, Wake County Manager

ATTEST:

---

Yvonne C Gilyard  
Deputy Clerk to the Board of Commissioners

Approved as to form:

---

Scott W. Warren  
County Attorney

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

---

Finance Director

---

Frank Cope  
Community Services Director

TOWN OF APEX

ATTEST:

---

Catherine Crosby  
Town Manager

---

Town Clerk (Interim)

SEAL

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

---

Vance Holloman  
Finance Director

Approved as to form:

---

Laurie Hohe  
Town Attorney

Exhibit A – Project Location & Graphical Description

GREENWAY CONSTRUCTION GRANT PROPOSAL

#20-001

TOWN OF APEX

MIDDLE CREEK GREENWAY

(PHI & PHII)

January 16, 2020

(Attached at End)

## Exhibit B – Project Schedule

April 5, 2022	Advertise for Construction
May 4, 2022	Open Bids
May 31, 2022	NCDOT Concurrence
June 1, 2022	Award Bid
June 30, 2022	Signed Contract
July 31, 2022	Notice to Proceed
August 2024	Construction Complete

## Exhibit C – Estimated Budget

### Middle Creek Greenway (PHI and PHII) Town of Apex

Greenways Attachment 2 - Budget Worksheet						
Budget						
	<u>Town of Apex*</u>	<u>Other Partner**</u>	<u>Other Partner**</u>	<u>Other Partner**</u>	<u>Requested from Wake County</u>	<u>Total</u>
Est. Construction Cost (Materials, Construction, Permits, and Fees)	\$1,166,686				\$1,166,686	<b>\$2,333,372</b>
Construction Engineering & Inspection Services (Construction Project Management, Materials Testing, and Inspections)	\$228,173				\$228,000	<b>\$456,173</b>
Contingency Costs	\$200,000				\$150,000	<b>\$350,000</b>
<b>Total Cost</b>	<b>\$1,594,859</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,544,686</b>	<b>\$3,139,545</b>
10% of Project	<b>51%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>49%</b>	
Miles of Greenway	<b>1.020</b>					
Price per Mile	<b>\$ 1,563,587</b>					



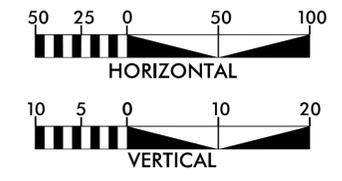


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UNLESS ALL SIGNATURES COMPLETED



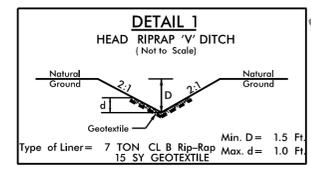
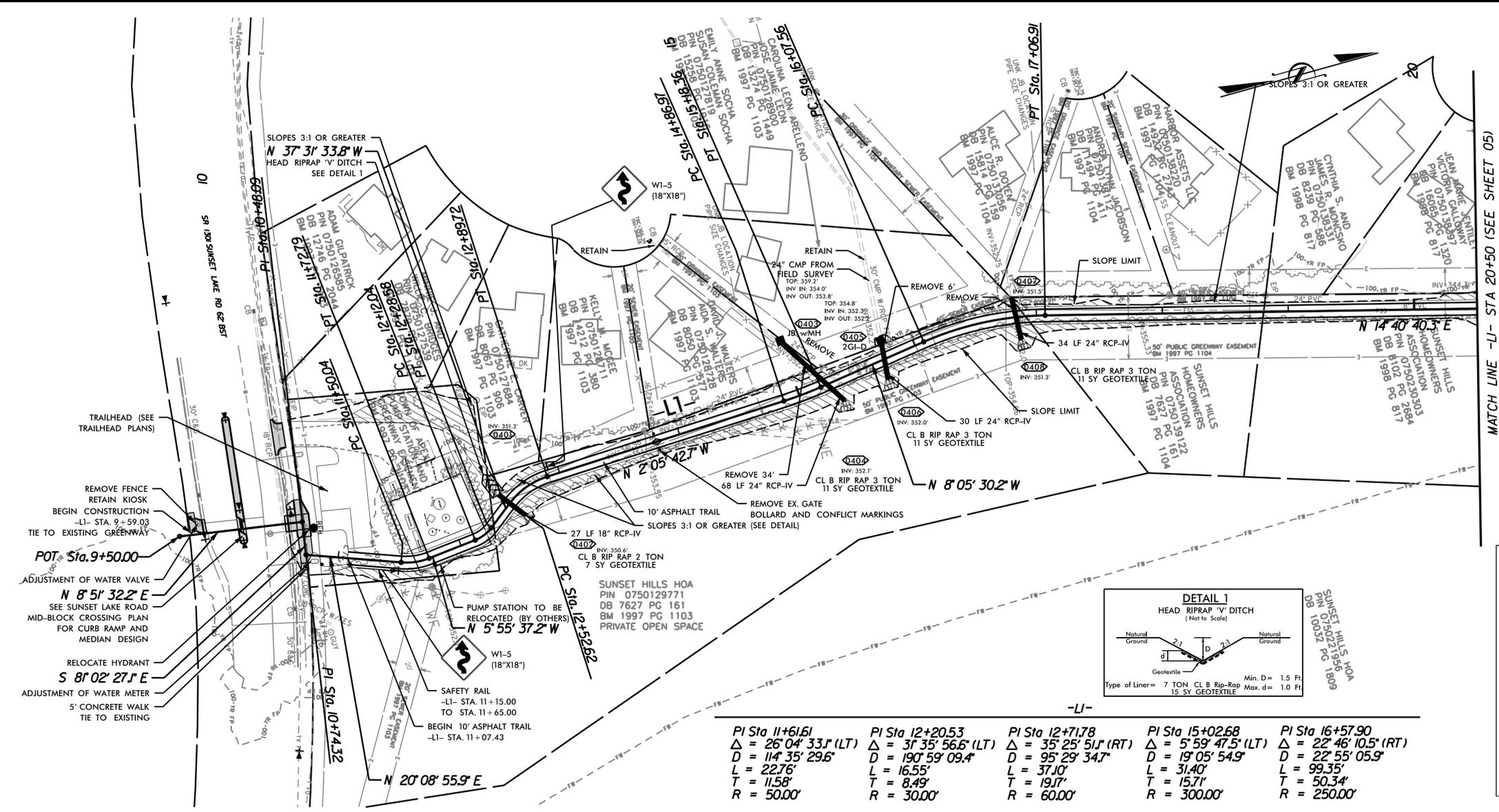
NOTES:

1) SEE SHEET C-1 FOR GENERAL NOTES.

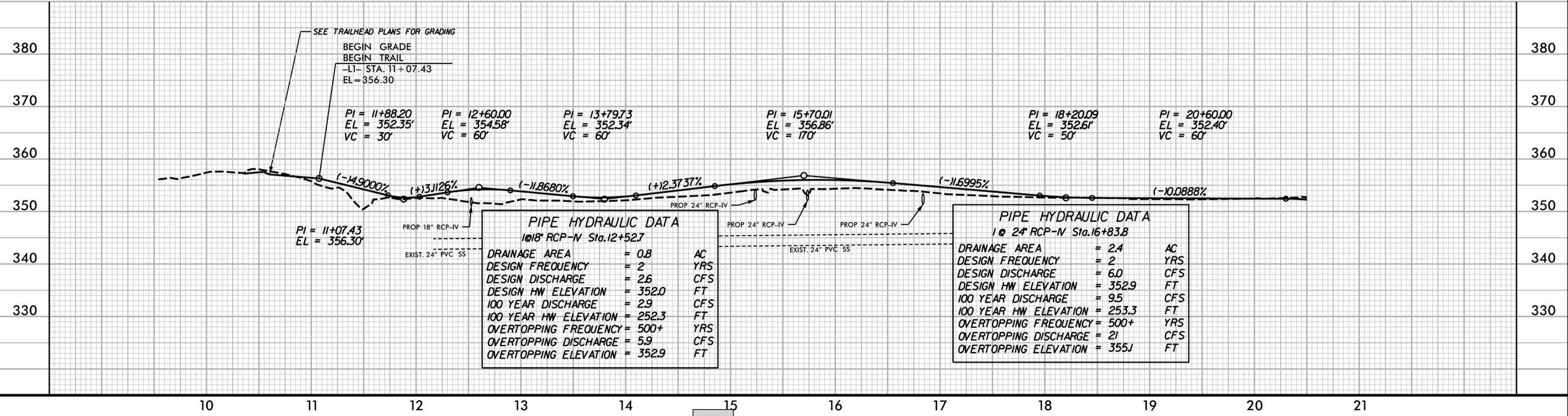


The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

Public Works – Transportation	Water Resources – Stormwater
Building Inspections	Planning
Water Resources – Utility Engineering	Planning – Transportation
Electric	Fire
Water Resources – Soil & Erosion Control	Parks, Recreation & Cultural Resources



PI Sta 11+61.61 Δ = 26' 04" 33.1" (LT) D = 114' 35" 29.6" L = 22.76' T = 11.58" R = 50.00'	PI Sta 12+20.53 Δ = 3' 35" 56.6" (LT) D = 190' 59" 09.4" L = 16.55' T = 8.49" R = 30.00'	PI Sta 12+71.78 Δ = 35' 25" 51.1" (RT) D = 95' 29" 34.7" L = 37.10' T = 19.17" R = 60.00'	PI Sta 15+02.68 Δ = 5' 59" 47.5" (LT) D = 19' 05" 54.9" L = 31.40' T = 15.71" R = 300.00'	PI Sta 16+57.90 Δ = 22' 46" 10.5" (RT) D = 22' 55" 05.9" L = 99.35' T = 50.34" R = 250.00'
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**PIPE HYDRAULIC DATA**  
1 @ 18" RCP-IV Sta. 12+52.7

DRAINAGE AREA	= 0.8	AC
DESIGN FREQUENCY	= 2	YRS
DESIGN DISCHARGE	= 2.6	CFS
DESIGN HW ELEVATION	= 352.0	FT
100 YEAR DISCHARGE	= 2.9	CFS
100 YEAR HW ELEVATION	= 252.3	FT
OVERTOPPING FREQUENCY	= 500+	YRS
OVERTOPPING DISCHARGE	= 5.9	CFS
OVERTOPPING ELEVATION	= 352.9	FT

**PIPE HYDRAULIC DATA**  
1 @ 24" RCP-IV Sta. 16+83.8

DRAINAGE AREA	= 2.4	AC
DESIGN FREQUENCY	= 2	YRS
DESIGN DISCHARGE	= 6.0	CFS
DESIGN HW ELEVATION	= 352.9	FT
100 YEAR DISCHARGE	= 9.5	CFS
100 YEAR HW ELEVATION	= 253.3	FT
OVERTOPPING FREQUENCY	= 500+	YRS
OVERTOPPING DISCHARGE	= 21	CFS
OVERTOPPING ELEVATION	= 355.1	FT

REVISIONS

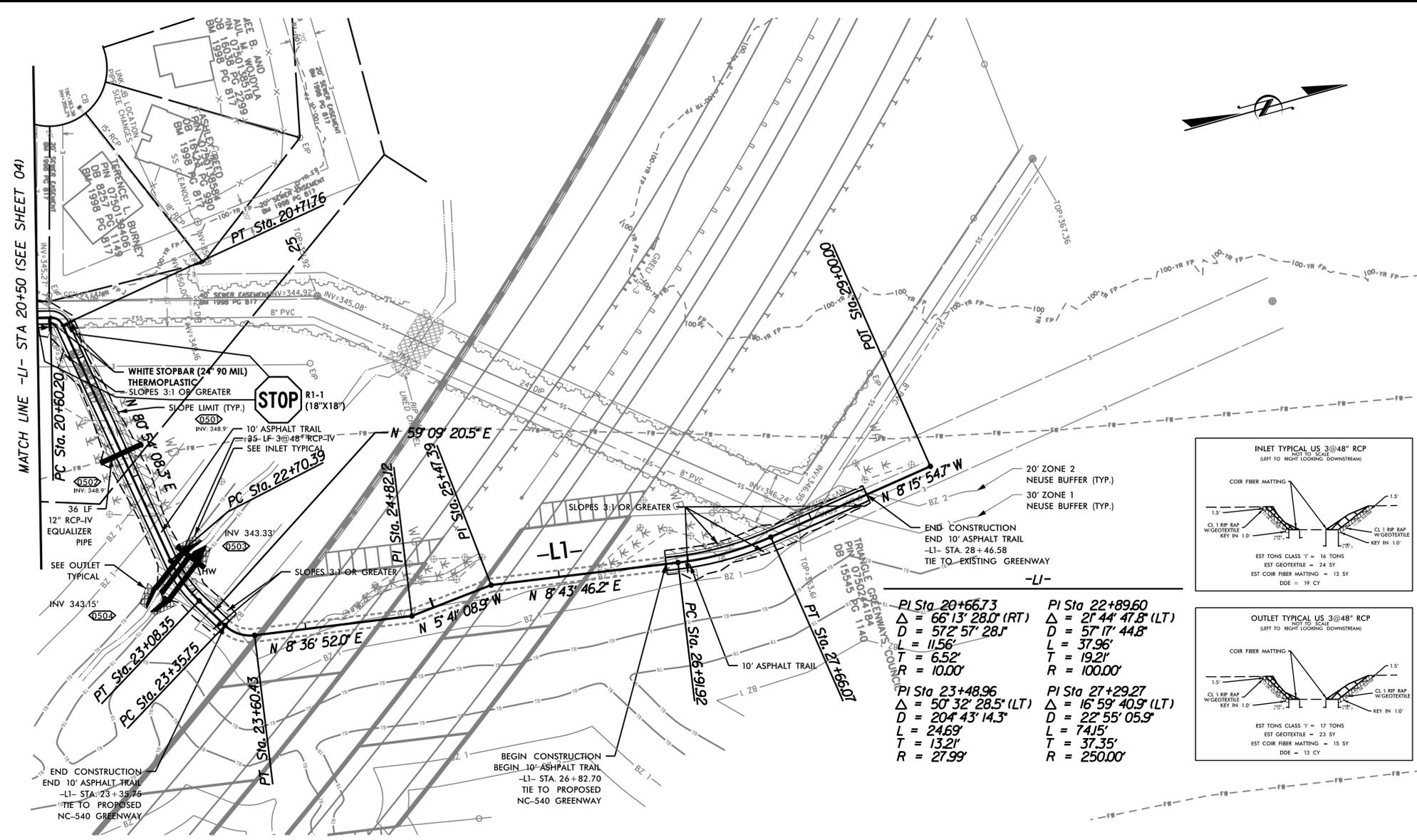
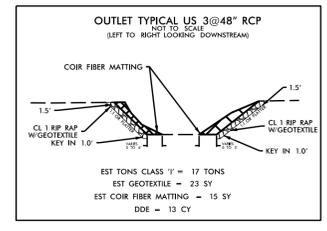
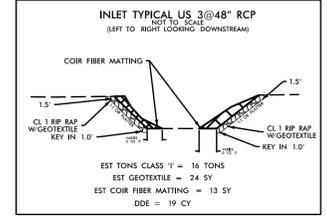
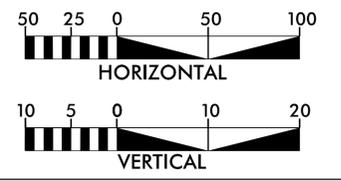
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UNLESS ALL SIGNATURES COMPLETED

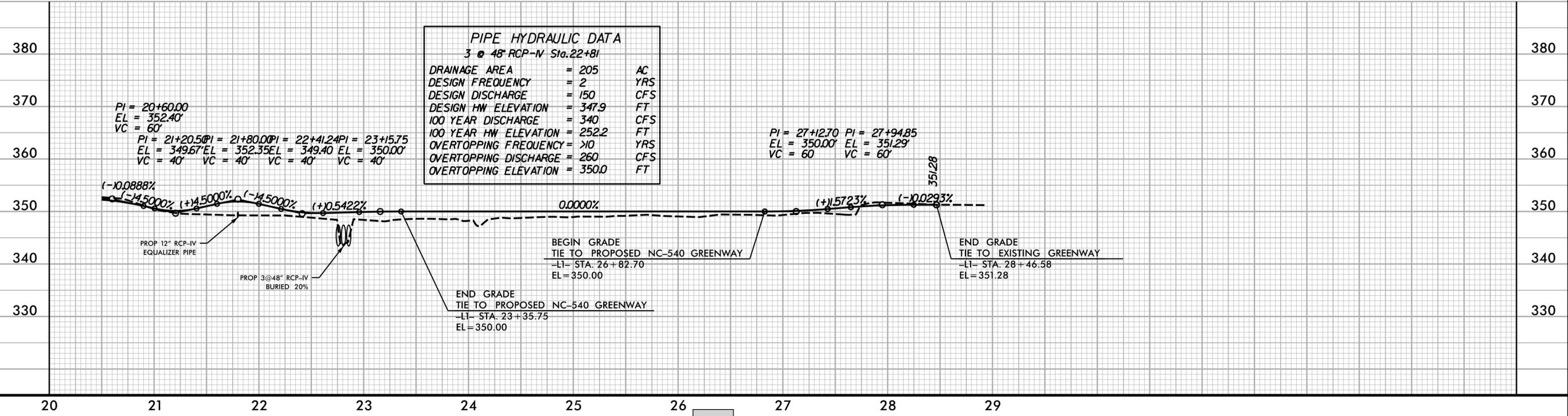


NOTES:  
1) SEE SHEET C-1 FOR GENERAL NOTES.



REVISIONS

PIPE HYDRAULIC DATA	
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DESIGN FREQUENCY	= 2 YRS
DESIGN DISCHARGE	= 150 CFS
DESIGN HW ELEVATION	= 347.9 FT
100 YEAR DISCHARGE	= 340 CFS
100 YEAR HW ELEVATION	= 252.2 FT
OVERTOPPING FREQUENCY	= >10 YRS
OVERTOPPING DISCHARGE	= 260 CFS
OVERTOPPING ELEVATION	= 350.0 FT



# CONSTRUCTION PLANS FOR MIDDLE CREEK GREENWAY

CONSTRUCTION PLANS FOR:  
MIDDLE CREEK GREENWAY PHASE 2  
W&R PROJECT NO.: 02170753.00

## SITE DATA

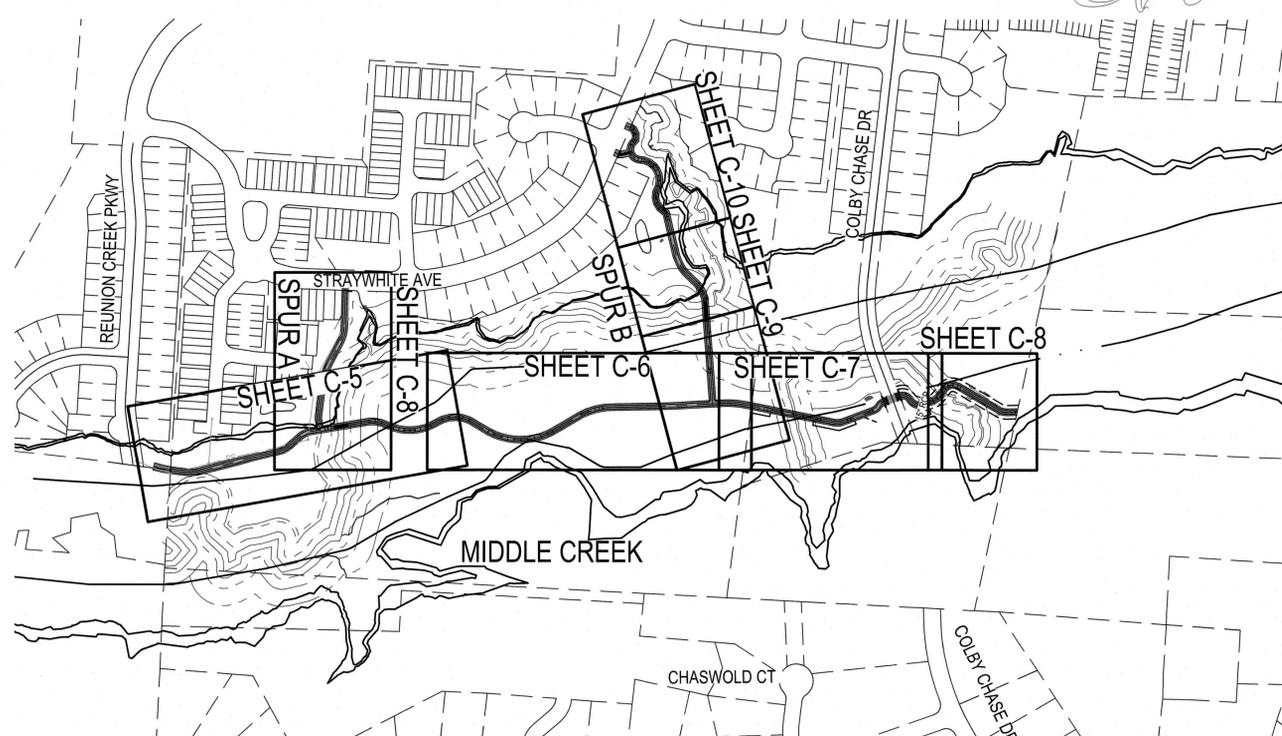
PARCEL ADDRESS(S):	0 E WILLIAMS ST, 0 COLBY CHASE DR
PROJECT COORDINATES	LAT: 35.689047°, LON: -78.824620°
PREPARED BY:	WITHERS RAVENEL, INC. 115 MACKENAN DRIVE CARY, NC 27511
OWNER:	TOWN OF APEX
DEVELOPER:	TOWN OF APEX PARKS AND RECREATION
ZONING	PUD-CU
WAKE COUNTY REID:	0033564, 0428643, 0428642
WAKE COUNTY PIN:	0750168061, 0750168881, 0750176279
AREA OF TRACTS	PORTION OF 3 TRACTS
TOTAL DISTURBED AREA	4.00 AC
CURRENT 2030 LAND USE	N/A
PROPOSED 2030 LAND USE	N/A
ANNEXATION NUMBER(S):	N/A
BUILT UPON AREA ALLOWED:	N/A
BUILT UPON AREA PROPOSED:	N/A
SETBACKS:	N/A
FRONT:	N/A
SIDE:	N/A
REAR:	N/A
WATERSHED PROTECTION OVERLAY:	SECONDARY
FEMA	SITE IS WITHIN FEMA FLOODPLAIN PER FIRM PANEL 3720075000J WITH AN EFFECTIVE DAY OF MAY 2, 2006.
GRADING TYPE	N/A
RCA REQUIRED	N/A
2% MASS GRADING	N/A
TOTAL REQUIRED	N/A
RCA/BUFFERS PROVIDED (FULL CREDIT)	N/A
PROVIDED RECREATION AREA (50% CREDIT)	N/A
PROVIDED PLAY LAWNS (50% CREDIT)	N/A
TOTAL PROVIDED	N/A
HISTORIC STRUCTURE	NONE

## PHASE 2

**APEX, NORTH CAROLINA**  
FIRST SUBMITTAL: SEPTEMBER 4, 2018  
RESUBMITTAL: NOVEMBER 9, 2018  
CONSTRUCTION PLAN SUBMITTAL: JANUARY 2, 2019  
LAND QUALITY FIRST SUBMITTAL: MARCH 6, 2019  
LAND QUALITY FINAL SUBMITTAL: JUNE 5, 2019  
FINAL CONSTRUCTION PLAN SUBMITTAL: JUNE 17, 2019

## INDEX OF SHEETS

C-1	COVER SHEET
C-2	GENERAL NOTES
C-3	EXISTING CONDITIONS
C-4	OVERALL SITE PLAN
C-5	GREENWAY 10+00 - 16+00 PLAN PROFILE
C-6	GREENWAY 16+00 - 25+00 PLAN PROFILE
C-7	GREENWAY 25+00 - 34+00 PLAN PROFILE
C-8	GREENWAY 34+00 - 36+41 & SPUR A PLAN PROFILE
C-9	SPUR B 10+00 - 15+00 & SPUR B STAIRS PLAN PROFILE
C-10	SPUR B 15+00 - 19+25.13 PLAN PROFILE
C-11	TRAIL MARKING AND SIGNAGE PLAN
C-12	DETAILS
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C-14	DETAILS
EC-1	EROSION CONTROL NOTES
EC-2	GREENWAY 9+00 - 28+00 EROSION CONTROL
EC-3	GREENWAY 28+00 - 36+41 & SPUR A EROSION CONTROL
EC-4	SPUR B EROSION CONTROL
EC-5	EROSION CONTROL DETAILS
EC-6	EROSION CONTROL DETAILS
EC-7	EROSION CONTROL DETAILS
X1	CROSS SECTIONS
X2	CROSS SECTIONS
X3	CROSS SECTIONS
X4	CROSS SECTIONS
X5	CROSS SECTIONS
X6	CROSS SECTIONS
X7	CROSS SECTIONS
S1.0	NOTES
S1.1	BOARDWALK NO. 1 PLAN & PROFILE
S1.2	BOARDWALK NO. 1 PLAN & PROFILE (CONTINUED)
S1.3	BOARDWALK NO. 1 PLAN & PROFILE (CONTINUED)
S1.4	BOARDWALK NO. 1 PLAN & PROFILE (CONTINUED)
S1.5	BOARDWALK NO. 2 PLAN & PROFILE
S1.6	BOARDWALK NO. 3 & 4 PLAN & PROFILE
S1.7	BOARDWALK NO. 5 & 6 PLAN & PROFILE
S1.8	BOARDWALK NO. 7 PLAN & PROFILE
S2.0	RETAINING WALL NO. 1 PLAN & PROFILE
S2.1	RETAINING WALL NO. 2 PLAN & PROFILE
S3.0	CONCRETE SEGMENTAL BLOCK RETAINING WALL DETAILS
S4.0	BOARDWALK TYPICAL SECTION AND FRAMING PLAN
S4.1	BRIDGE TYPICAL SECTION AND FRAMING PLAN
S4.2	TIMBER ABUTMENT DETAILS
S4.3	TIMBER ABUTMENT DETAILS
S4.4	TIMBER ABUTMENT DETAILS
S4.5	TIMBER ABUTMENT DETAILS
S4.6	TIMBER ABUTMENT DETAILS
S5.0	BOARDWALK OVERLOOK FRAMING BENTS 11 & 39
S5.1	BOARDWALK OVERLOOK FRAMING PLAN BENT 63
S5.2	BOARDWALK OVERLOOK FRAMING PLAN BENT 8
S5.3	BOARDWALK OVERLOOK FRAMING PLAN BENT 6 & 17
S6.0	MISCELLANEOUS DETAILS
S6.1	MISCELLANEOUS DETAILS



**BUILDING INSPECTIONS TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex Building Inspections Department, and to the best of my knowledge and belief, conforms to the requirements established within the Town's Code of Ordinances and the North Carolina State Building Codes. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 7/11/19

**PUBLIC WORKS TRANSPORTATION TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex, and to the best of my knowledge and belief, provides an acceptable transportation system with consideration for the elements contained within the Transportation Plan conforming to the requirements established in the Standard Specifications of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 6/26/19

**ELECTRIC TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex Electric Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Construction Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 7/2/19

**WATER RESOURCES SOIL EROSION & SEDIMENTATION CONTROL TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex, and to the best of my knowledge and belief, conforms to the requirements established in the Soil Erosion and Sedimentation Control Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 6/27/19

**FIRE DEPARTMENT TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex Fire Department, and to the best of my knowledge and belief, conforms to the requirements established within the Town's Standard Specifications, Fire Protection Ordinances, and the North Carolina International Fire Code. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 6/27/19

**WATER RESOURCES STORMWATER ENGINEERING TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex Water Resources Stormwater & Utility Engineering Division and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Construction Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements. This signature serves as the stormwater permit for this project.  
By: *[Signature]* Date: 6/27/19

**PARKS, RECREATION, AND CULTURAL RESOURCES TOWN OF APEX CERTIFICATION**  
These plans have been reviewed by the Town of Apex, and to the best of my knowledge and belief, conform to representations made by the developer to myself and the Parks, Recreation, and Cultural Resource Advisory Commission consistent with the projects requirements for public Parks and Recreation, either in total or in part, as outlined in Section 7.3 of the Town's Unified Development Ordinance and Article IV, Section 19 of the Town Code. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 6/27/19

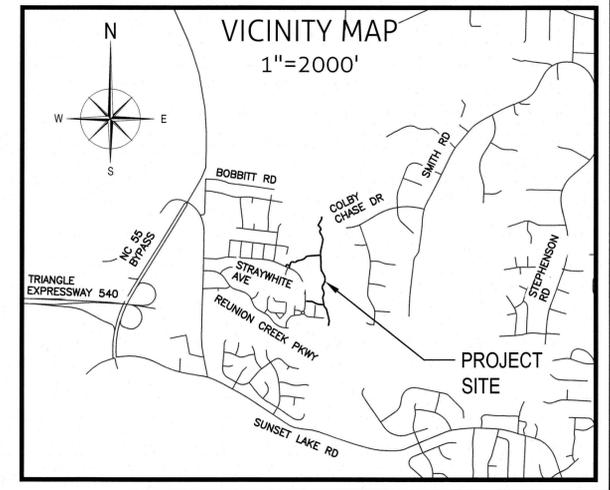
**WATER RESOURCES UTILITY ENGINEERING TOWN OF APEX CERTIFICATION**  
This drawing has been reviewed by the Town of Apex Water Resources Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications and Construction Details of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. The developer/engineer/contractor is solely responsible for meeting all applicable requirements.  
By: *[Signature]* Date: 6/26/19

**PLANNING/ZONING TOWN OF APEX CERTIFICATION**  
This construction drawing has been reviewed by the Town of Apex Planning Department, and to the best of my knowledge and belief, conforms to the Subdivision or Site Plan that was approved by the Town of Apex Board of Commissioners, and meets the Town of Apex Zoning, Subdivision, or Unified Development Ordinance. This signature does not constitute a variance from any requirements of the originally approved Subdivision or Site Plan cited above, or any federal, state, or local code, law, specification, rule, guideline, or ordinance. It is the sole responsibility of the owner/developer, or any of his agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.  
By: *[Signature]* Date: 7/10/19

**PUBLIC INFRASTRUCTURE TABLE**

WATER LINES	0 LF		
SEWER LINES	0 LF		
CURB & GUTTER	0 LF		
STORM DRAIN	0 LF		
GREENWAY	3,969 LF	@ \$1.35/LF	\$5,358.15
SIDEWALK	75 LF	@ \$1.35/LF	\$101.25
NEW STREETS	0 LF		

**LINEAR PROJECT STORMWATER MANAGEMENT NOTE**  
THIS PROJECT MEETS THE SPIRIT AND INTENT OF SECTION E-5 OF THE NORTH CAROLINA DIVISION OF ENVIRONMENTAL QUALITY (DEQ) BMP MANUAL FOR LINEAR TRANSPORTATION PROJECTS. THE TOWN OF APEX IS THE OWNER AND DEVELOPER OF THIS GREENWAY SYSTEM THAT IS NOT PART OF A LARGER COMMON PLAN OF DEVELOPMENT. THE GREENWAY IS BEING CONSTRUCTED WITHIN AN EXISTING GREENWAY EASEMENT CORRIDOR FOR THE PURPOSES OF PROVIDING A LINEAR PEDESTRIAN CORRIDOR FOR PUBLIC BENEFIT AS PART OF THE WAKE COUNTY GREENWAY PLAN.



PREPARED BY:

**WithersRavenel**  
Engineers | Planners | Surveyors

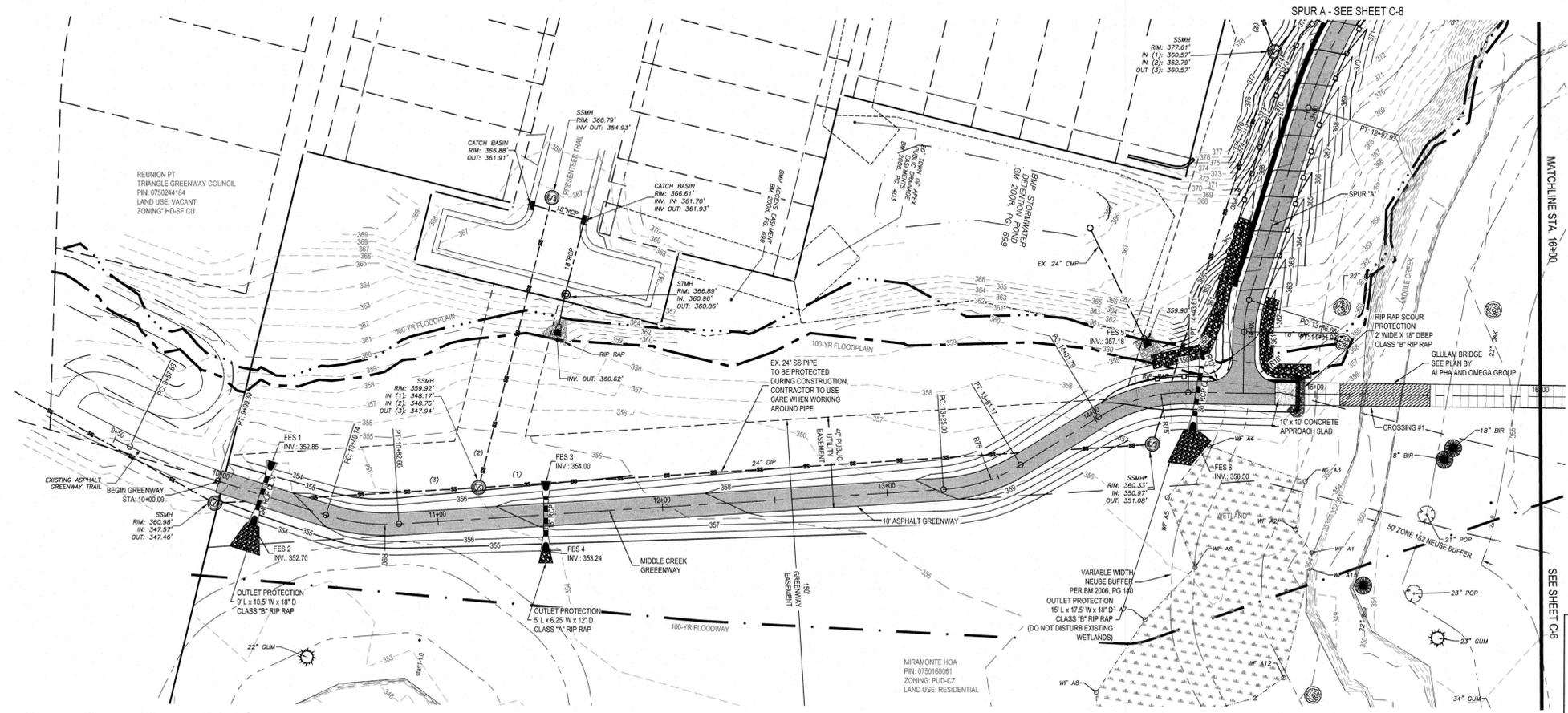
115 MacKenan Drive | Cary, NC 27511 | t: 919.469.3340 | license #: C-0832 | www.withersravenel.com

DEVELOPER/OWNER

**TOWN OF APEX**  
73 HUNTER STREET  
APEX, NC 27502  
919-249-3400

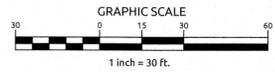
ATTN: ANGELA REINCKE



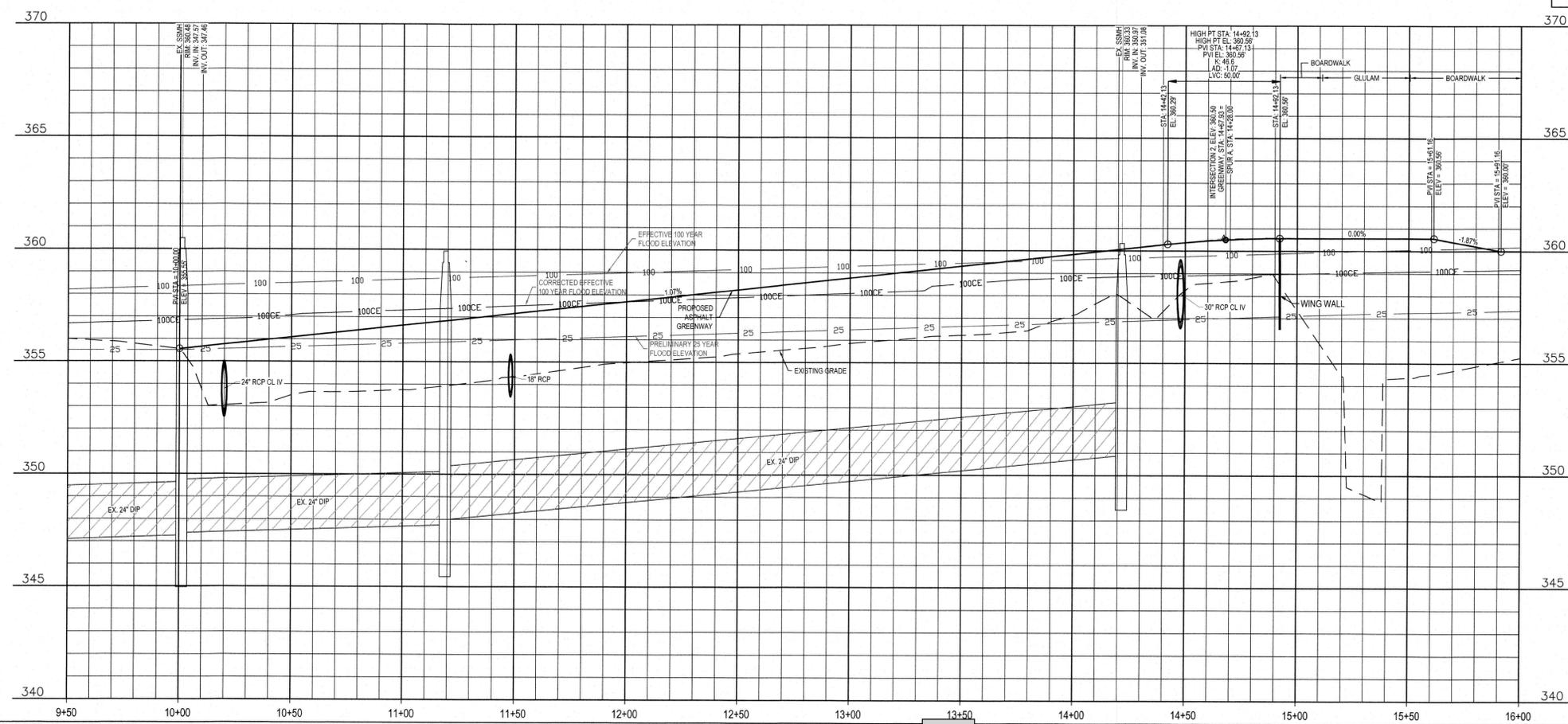


The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

<i>[Signature]</i> PW - Transportation	Date: 6/21/19	<i>[Signature]</i> WR - Stormwater	Date: N/A
<i>[Signature]</i> Building Inspections	Date: N/A	<i>[Signature]</i> Planning	Date: 7/10/19
<i>[Signature]</i> WR - Utility Engineering	Date: 6/21/19	<i>[Signature]</i> Planning - Transportation	Date: N/A
<i>[Signature]</i> Electric	Date: N/A	<i>[Signature]</i> Fire	Date: N/A
<i>[Signature]</i> WR - S&E	Date: N/A	<i>[Signature]</i> Parks, Recreation & Cultural Res.	Date: 6/21/19



GREENWAY



SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.

Job No. 02170753.00 Drawn By W&R  
Date 9/4/2018 Designer W&R

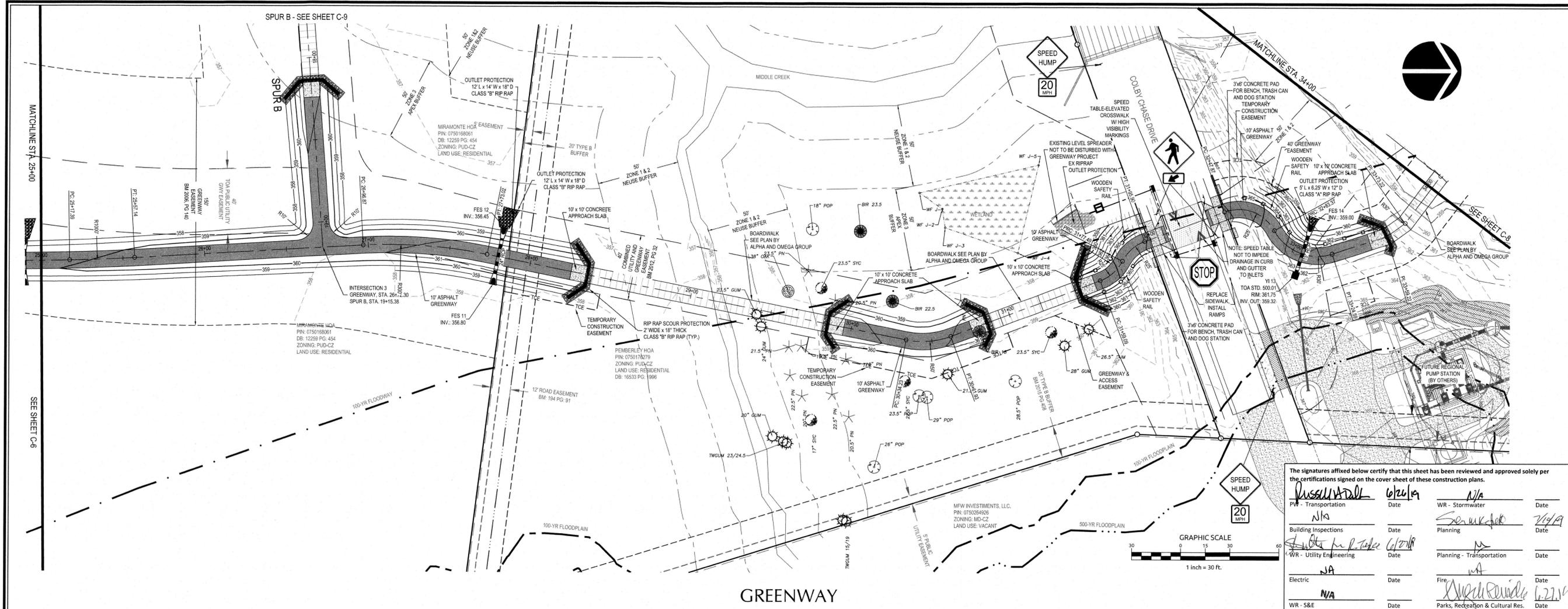


Revisions

1	REVISED PER TOWN OF APEX COMMENTS #1	10/11/18
2	REVISED PER TOWN OF APEX COMMENTS #2	10/26/18
3	CONSTRUCTION PLAN SUBMITTAL	1/2/2019
4	FINAL CONSTRUCTION PLANS	3/7/2019
5	REVISED PER DEMLR REVIEW	6/4/19

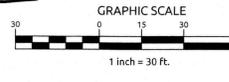
K:\17\10750\170753.dwg - middle crk greenway p2\cadd\issued drawings\C-5 GREENWAY 10+00 - 16+00 PLAN PROFILE.dwg WithersRavenel June 8, 2019 11:20:58 AM FERN, EBENA



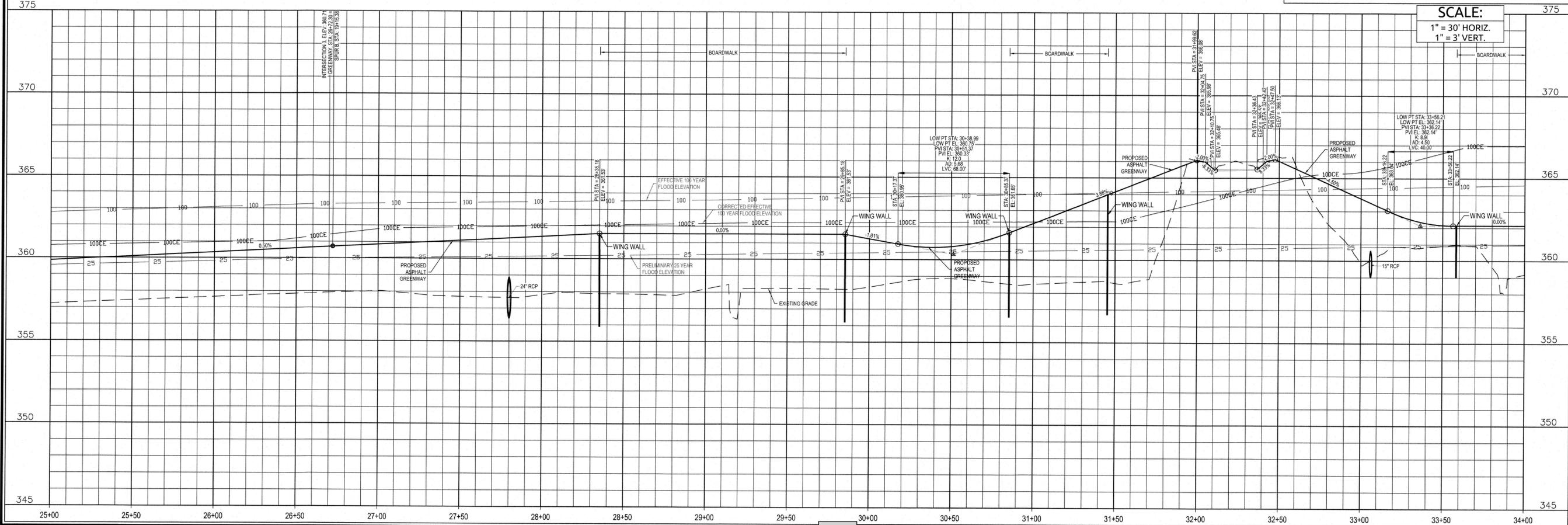


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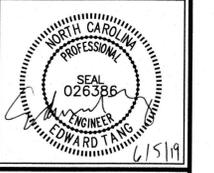
<i>Russell Wade</i> PW - Transportation Date: 6/26/19	<i>[Signature]</i> WR - Stormwater Date: 7/19/19
<i>[Signature]</i> Building Inspections Date: 6/27/19	<i>[Signature]</i> Planning - Transportation Date: 7/19/19
<i>[Signature]</i> WR - Utility Engineering Date: 6/27/19	<i>[Signature]</i> Fire Date: 6/27/19
<i>[Signature]</i> Electric Date: 6/27/19	<i>[Signature]</i> WR - S&E Date: 6/27/19
<i>[Signature]</i> WR - S&E Date: 6/27/19	<i>[Signature]</i> Parks, Recreation & Cultural Res. Date: 6/27/19



SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.



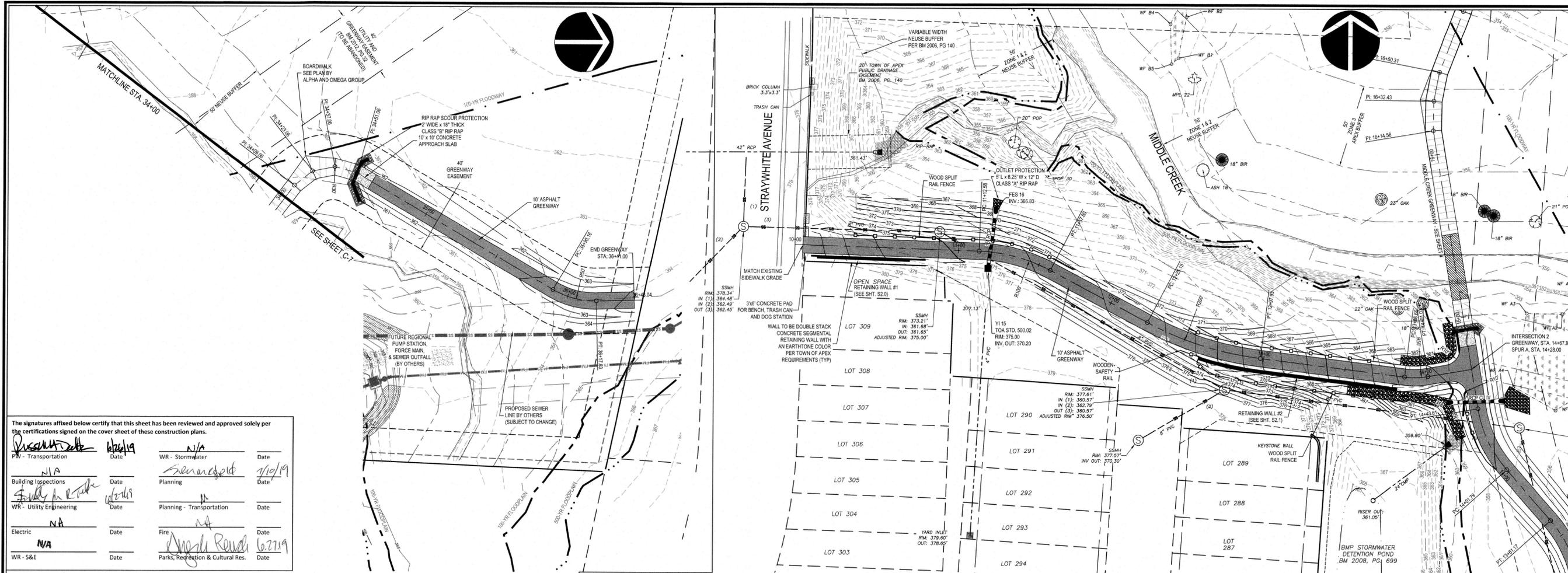
Job No. 0217075300 Drawn By W&R  
Date 9/4/2018 Designer W&R



Revisions

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4	FINAL CONSTRUCTION PLANS	3/7/2019
5	REVISED PER DEMLR REVIEW	6/4/19

M:\17-07561\17075300 - middle creek greenway\17-07561\17075300 - 34+00 PLAN PROFILE.dwg, Wednesday, June 6, 2019 11:27:49 AM - FERNA DEBORA

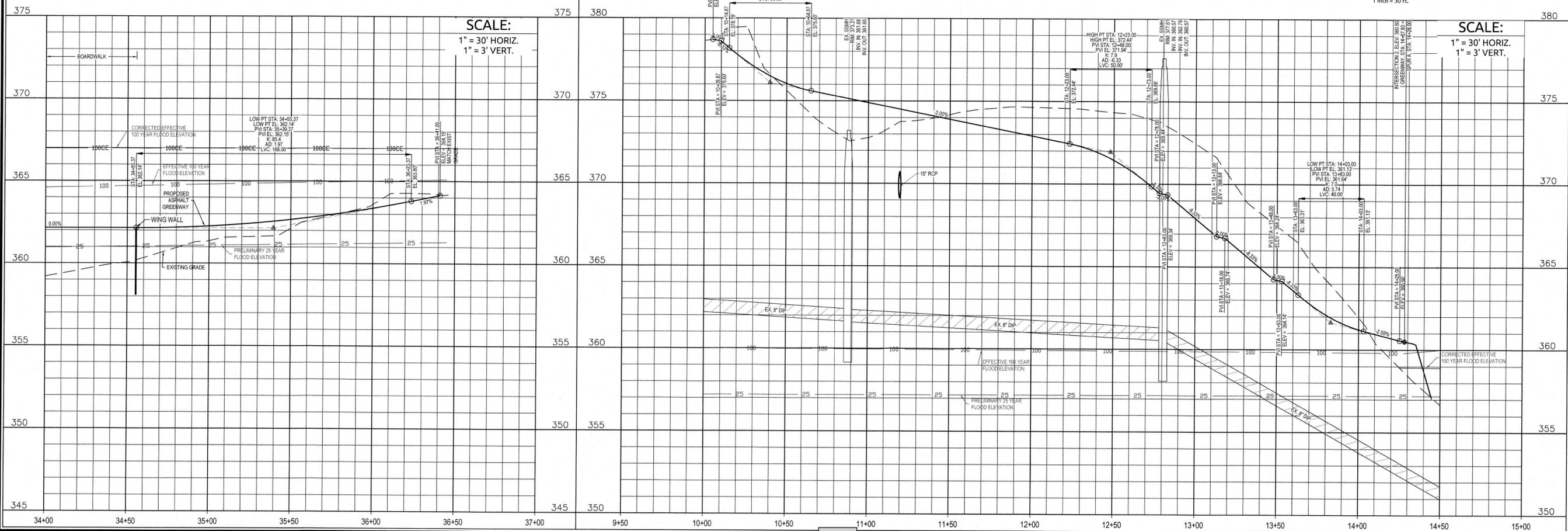


The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

P.V. - Transportation <i>[Signature]</i> Date: 6/26/19	WR - Stormwater Date: N/A
Building Inspections Date: N/A	Planning <i>[Signature]</i> Date: 7/10/19
WR - Utility Engineering Date: 6/27/19	Planning - Transportation Date: N/A
Electric Date: N/A	Fire Date: N/A
WR - S&E Date: N/A	Parks, Recreation & Cultural Res. <i>[Signature]</i> Date: 6/27/19

GREENWAY

SPUR A



SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.

SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.

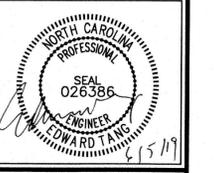
**WithersRavenel**  
Engineers | Planners | Surveyors

115 MacKinnon Drive | Cary, NC 27511 | T: 919.469.3340 | license #: C-08321 | www.withersravenel.com

MIDDLE CREEK GREENWAY  
PHASE 2  
APEX, NC

GREENWAY  
34+00 - 36+41  
& SPUR A  
PLAN PROFILE

Job No. 02170753.00 Drawn By W&R  
Date 9/4/2018 Designer W&R

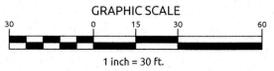
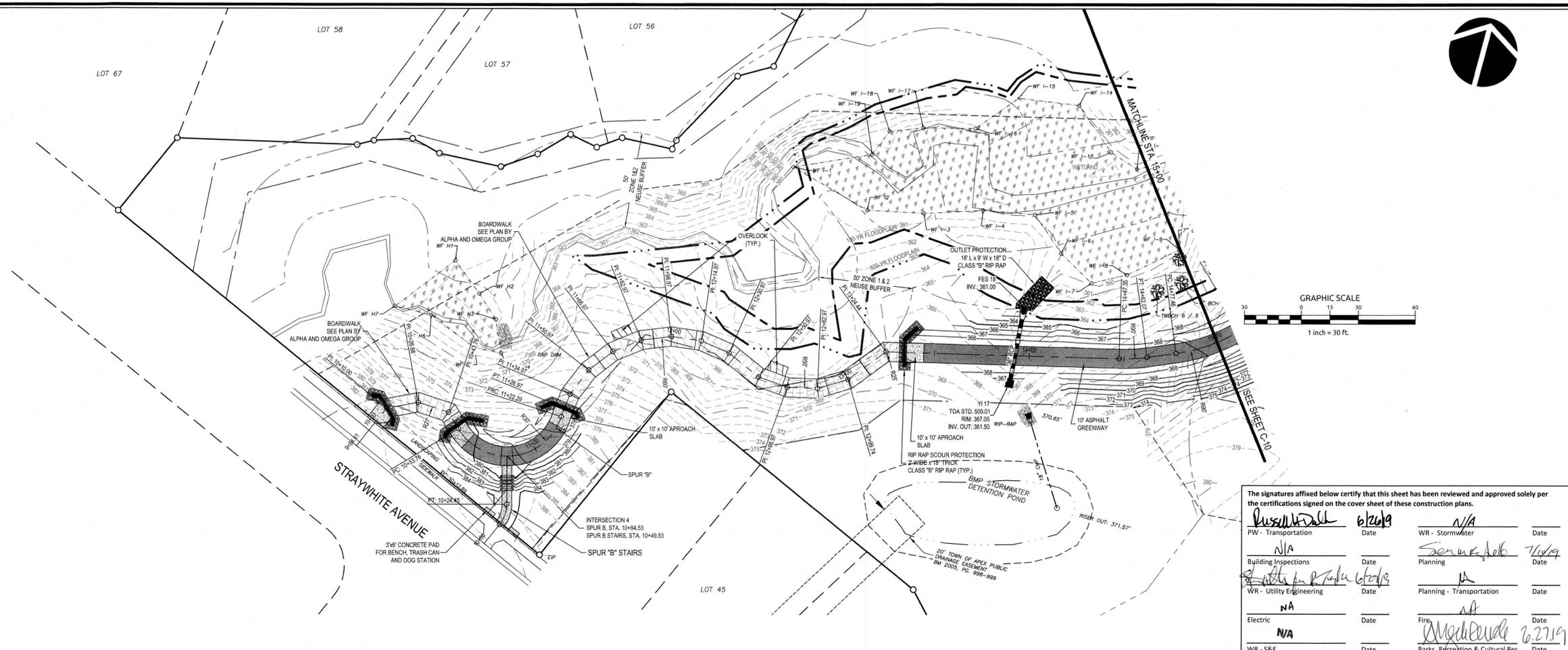


Revisions

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2	REVISED PER TOWN OF APEX COMMENTS #2	10/26/18
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Sheet No.  
**C-8**

N:\1717-0753\170753-rev1-middle-creek-greenway\17170753.dwg - middle-creek-greenway\17170753.dwg - Wednesday, June 5, 2019 11:26:36 AM - E:\ENR - DEBRA

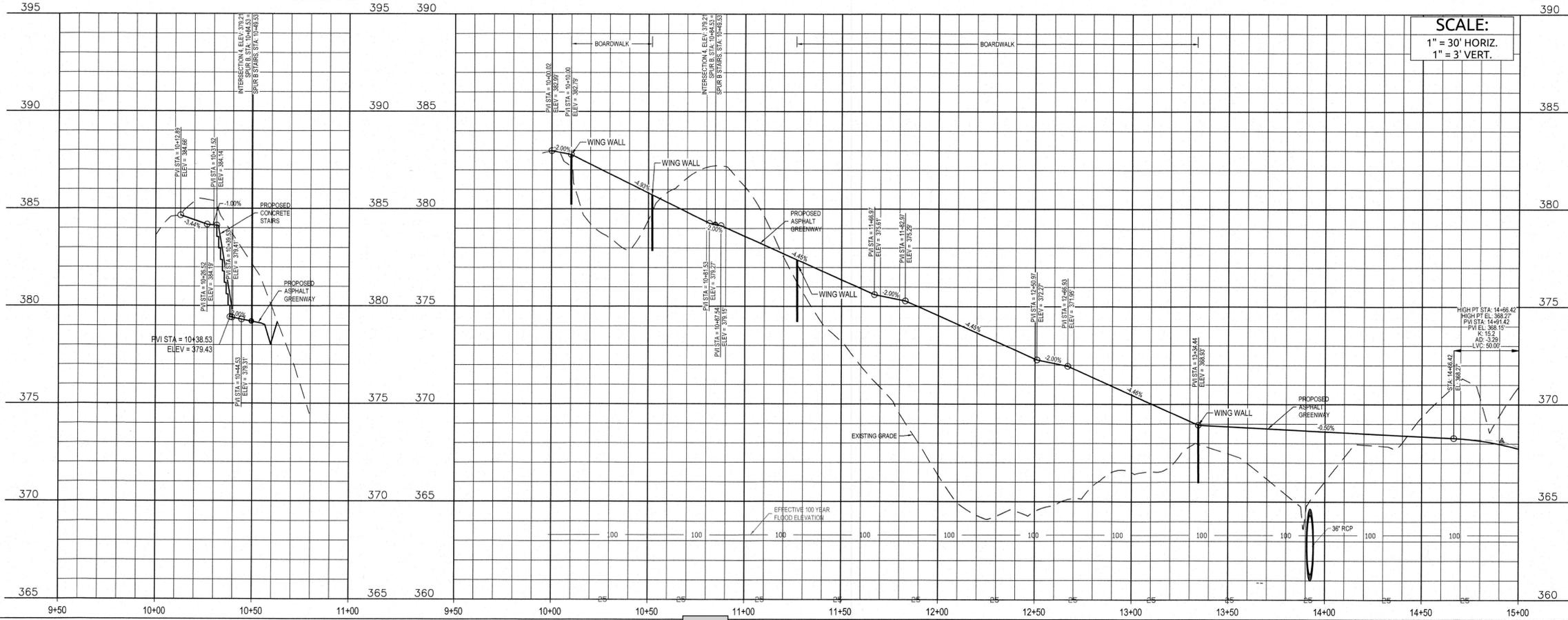


The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

<i>[Signature]</i>	6/20/19	WR - Stormwater	N/A	Date
N/A		WR - Stormwater	N/A	Date
<i>[Signature]</i>	7/10/19	Planning	<i>[Signature]</i>	Date
<i>[Signature]</i>	6/20/19	WR - Utility Engineering	N/A	Date
N/A		WR - Utility Engineering	N/A	Date
N/A		Electric	N/A	Date
N/A		WR - S&E	N/A	Date
<i>[Signature]</i>	6/27/19	Fire	<i>[Signature]</i>	Date
<i>[Signature]</i>	6/27/19	Parks, Recreation & Cultural Res.	<i>[Signature]</i>	Date

SPUR B STAIRS  
SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.

SPUR B  
SCALE:  
1" = 30' HORIZ.  
1" = 3' VERT.



**WithersRavenel**  
Engineers | Planners | Surveyors

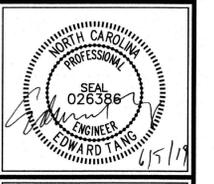
115 MacKinnon Drive | Cary, NC 27511 | 919.469.3340 | License # C-0882 | www.withersravenel.com

**MIDDLE CREEK GREENWAY  
PHASE 2**

APEX, NC

**SPUR B 10+00 - 15+00  
& SPUR B STAIRS  
PLAN PROFILE**

Job No.	02170753.00	Drawn By	W&R
Date	9/4/2018	Designer	W&R



Revisions		
1	REVISED PER TOWN OF APEX COMMENTS #1	10/11/18
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5	REVISED PER DEMLR REVIEW	6/4/19

Sheet No.  
**C-9**

K:\17\0250120753\apex-middle-creek-greenway\02170753\plan-profile\02170753.dwg, Wednesday, June 5, 2019 11:29:38 AM - EBNL - 02586



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Sarah Van Every, Senior Planner

Department(s): Planning and Community Development

### Requested Motion

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Case #21CZ14 Holland Road Mixed Use Assembly PUD, Geno Ray, LG Investments Inc., petitioner, for the properties located at 7528 Humie Olive Rd; 2236 Old US 1 Hwy, 1001, 1004, 1005 Red Cardinal Lane 3104; & 3116 Holland Rd (PINs 0720992587, 0720998487, 0730095707, 0731001087, 0731003359, 0731004075, 0730091779).

### Approval Recommended?

The Planning and Community Development Department recommends approval.

### Item Details

Rezoning Case #21CZ14 was approved at the March 8, 2022 Town Council meeting.

### Attachments

- Statement of the Town Council
- Ordinance to Amend the Official Zoning District Map



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 28.68 ACRES LOCATED AT 7528 HUMIE OLIVE ROAD, 2236 OLD US 1 HWY, 1001, 1004, 1005 RED CARDINAL LANE 3104 & 3116 HOLLAND ROAD FROM RURAL RESIDENTIAL (RR) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)**

**#21CZ14**

**WHEREAS**, Geno Ray, LG Investments, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3<sup>rd</sup> day of May 2021 (the “Application”). The proposed conditional zoning is designated #21CZ14;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #21CZ14 before the Planning Board on the 14<sup>th</sup> day of February 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 14<sup>th</sup> day of February 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ14. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 5 to 2 for the application for #21CZ14;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #21CZ14 before the Apex Town Council on the 8<sup>th</sup> day of March 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 8<sup>th</sup> day of March 2022. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #21CZ14 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Medium Density Residential/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning will provides a transition between housing types and lower and higher residential densities, provides for a mix of neighborhood-level non-residential uses to develop along the three thoroughfares that will serve existing development, provides two units of median-income affordable housing, and provides pedestrian accommodations.

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #21CZ14 rezoning the subject tract located at 7528 Humie Olive Road, 2236 Old US 1 Hwy, 1001, 1004, 1005 Red Cardinal Lane, 3104 & 3116 Holland Road from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX**

**Section 1:** The lands that are the subject of the Ordinance are those certain lands described in Attachment “A” – Legal Description which is incorporated herein by reference, and said lands are hereafter referred to as the “Rezoned Lands.”

**Ordinance Amending the Official Zoning District Map #21CZ14**

**Section 2:** The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the "Rezoned Lands" from Rural Residential to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

**Section 3:** The Director of Planning and Community Development is hereby authorized and directed to cause the said Official Zoning District Map for the Town of Apex, North Carolina, to be physically revised and amended to reflect the zoning changes ordained by this Ordinance.

**Section 4:** The "Rezoned Lands" are subject to the conditions in Attachment "B" Holland Road Mixed Use Assembly Tract PUD which are imposed as part of this rezoning.

**Section 5:** The "Rezoned Lands" shall be perpetually bound to the conditions imposed including the uses authorized, unless subsequently changed or amended as provided for in the Unified Development Ordinance. Site plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for site plan approval as provided for in the Unified Development Ordinance.

**Section 6:** This Ordinance shall be in full force and effect from and after its adoption.

Motion by Council Member \_\_\_\_\_

Seconded by Council Member \_\_\_\_\_

With \_\_\_\_ Council Member(s) voting "aye."

With \_\_\_\_ Council Member(s) voting "no."

This the \_\_\_\_ day of \_\_\_\_\_ 2022.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney

ATTACHMENT A

HOLLAND RD ASSEMBLY OUTER BOUNDARY LEGAL DESCRIPTION

BEING THE OUTER BOUNDARY OF THE LANDS DESCRIBED IN DEED BOOK 16078 AT PAGE 788 (PIN: 0720992587), DEED BOOK 5746 AT PAGE 146 (PIN: 0720998487), DEED BOOK 8718 AT PAGE 1292 (PIN: 0730091779), DEED BOOK 8718 AT PAGE 1304 (PIN: 0730095707), DEED BOOK 16-E AT PAGE 835 (PIN: 0731001087), DEED BOOK 18763 AT PAGE 1063 (PIN: 0731004075) AND DEED BOOK 8718 AT PAGE 1301 (PIN: 0731003359) OF THE WAKE COUNTY REGISTER OF DEEDS. SAID PROPERTIES BEING LOCATED IN THE TOWN OF APEX, TOWNSHIP OF BUCKHORN, STATE OF NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" IRON PIPE FOUND, SAID IRON BEING THE NORTHWESTERN CORNER OF THE PARCEL DESCRIBED IN DEED BOOK 8718 AT PAGE 1301 (PIN: 0731003359) AND HAVING NORTH CAROLINA STATE PLAIN COORDINATES OF N= 710,635.87' AND E= 2,029,767.50'; THENCE, FORM THE POINT OF BEGINNING, S88°41'36"E A DISTANCE OF 630.83 FEET TO A 1/2" IRON PIPE FOUND; THENCE, S88°22'38"E A DISTANCE OF 318.67 FEET TO A 1/2" BENT IRON PIPE FOUND ON THE WESTERN RIGHT OF WAY OF HOLLAND ROAD; THENCE, LEAVING SAID RIGHT OF WAY, S88°22'38"E A DISTANCE OF 31.05 FEET TO A PK NAIL SET IN THE CENTERLINE OF HOLLAND ROAD; THENCE, WITH SAID CENTERLINE, S16°36'31"W A DISTANCE OF 37.39 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S14°47'09"W A DISTANCE OF 56.31 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S13°34'48"W A DISTANCE OF 57.80 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S12°15'11"W A DISTANCE OF 58.93 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S10°51'46"W A DISTANCE OF 57.13 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S10°06'24"W A DISTANCE OF 56.07 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S09°41'43"W A DISTANCE OF 68.29 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S09°41'43"W A DISTANCE OF 228.76 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S09°46'21"W A DISTANCE OF 98.06 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S09°44'05"W A DISTANCE OF 30.07 FEET TO A PK NAIL SET; THENCE, CONTINUING WITH SAID CENTERLINE, S09°56'33"W A DISTANCE OF 62.67 FEET TO A PK NAIL SET; THENCE, LEAVING SAID CENTERLINE, N88°20'16"W A DISTANCE OF 30.31 FEET TO A 3/4" IRON PIPE SET ON THE WESTERN RIGHT OF WAY OF HOLLAND ROAD; THENCE, WITH SAID RIGHT OF WAY, S10°28'10"W A DISTANCE OF 136.11 FEET TO A 3/4" IRON PIPE SET; THENCE, CONTINUING WITH SAID RIGHT OF WAY, S84°27'46"E A DISTANCE OF 7.97 FEET TO A 3/4" IRON PIPE SET; THENCE, CONTINUING WITH SAID RIGHT OF WAY, S13°06'20"W A DISTANCE OF 167.32 FEET TO A 3/4" IRON PIPE SET ON THE INTERSECTION OF THE WESTERN RIGHT OF WAY OF HOLLAND ROAD AND THE NORTHERN RIGHT OF WAY OF OLD US HIGHWAY 1; THENCE, WITH THE NORTHERN RIGHT OF WAY OF OLD US HIGHWAY 1, S71°00'58"W A DISTANCE OF 193.15 FEET TO A 2" CRIMPED TOP IRON PIPE FOUND; THENCE, CONTINUING WITH SAID RIGHT OF WAY, S71°12'44"W A DISTANCE OF 610.28 FEET TO A RAILROAD SPIKE FOUND ON THE INTERSECTION OF THE NORTHERN RIGHT OF WAY OF OLD US HIGHWAY 1 AND THE NORTHERN RIGHT OF WAY OF HUMIE OLIVE ROAD; THENCE, WITH THE NORTHERN RIGHT OF WAY OF HUMIE OLIVE ROAD, N65°06'16"W A DISTANCE OF 365.03 FEET TO A 1/2" IRON PIPE FOUND IN A TREE; THENCE, CONTINUING WITH SAID RIGHT OF WAY, N65°04'49"W A DISTANCE OF 28.91 FEET TO A 3/4" IRON PIPE SET; THENCE, CONTINUING WITH SAID RIGHT OF WAY, N65°33'00"W A DISTANCE OF 160.67 FEET TO A 3/4" IRON PIPE SET; THENCE, CONTINUING WITH SAID RIGHT OF WAY, N66°24'58"W A DISTANCE OF 453.23 FEET TO A 3/4" IRON PIPE FOUND; THENCE,

LEAVING SAID RIGHT OF WAY, S88°19'24"E A DISTANCE OF 724.03 FEET TO A 1/2" BENT IRON PIPE FOUND; THENCE, S88°18'19"E A DISTANCE OF 125.81 FEET TO A 2" IRON PIPE FOUND; THENCE N05°08'57"E A DISTANCE OF 991.75 FEET TO THE POINT OF BEGINNING.

SAID OUTER BOUNDARY CONTAINING 1,275,078 SQUARE FEET OR 29.27 ACRES, MORE OR LESS.

# ATTACHMENT B

## Holland Road Mixed Use PUD

PD PLAN

APEX, NORTH CAROLINA

Submitted:

May 3, 2021

Resubmitted: June 10, 2021

Resubmitted: July 9, 2021

Resubmitted: January 14, 2022

PREPARED BY:



**Section 1: Table of Contents – PUD Text**

Section 1: Table of Contents

Section 2: Vicinity Map

Section 3: Project Data

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Section 5: Permitted Uses

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Section 9: Signage

Section 10: Natural Resource and Environmental Data

Section 11: Stormwater Management

Section 12: Parks and Recreation

Section 13: Public Facilities

Section 14: Phasing Plan

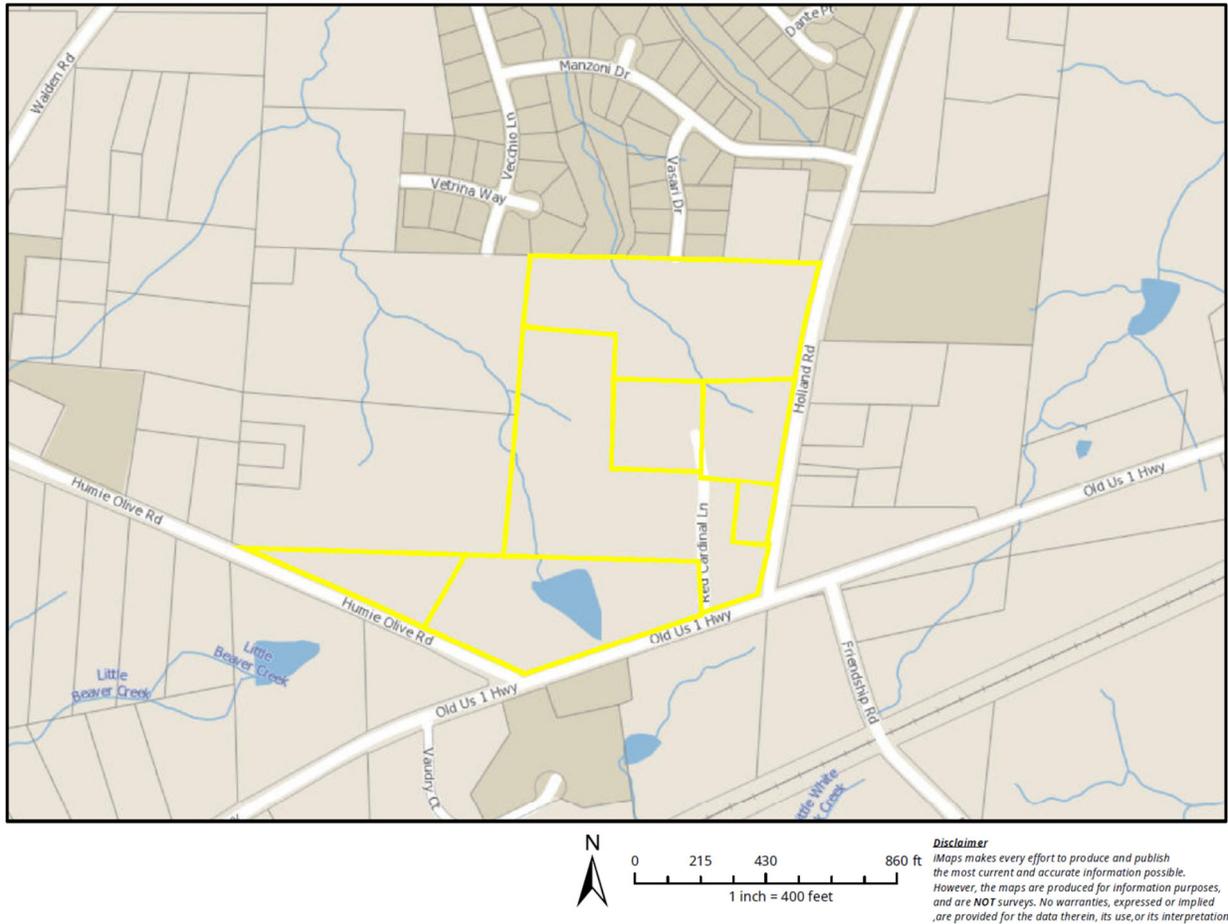
Section 15: Consistency with 2045 Land Use Plan

Section 16: Compliance with UDO

Section 17: Compliance with Apex Transportation and Bicycle Plan

Section 18: Public Art

**Section 2: Vicinity Map**



The Holland Road Mixed Use PUD is located in the Town of Apex, along the west side of Holland Road north of Old US 1 and Humie Olive Road. The subject properties are south of the Bella Casa residential community, and has underdeveloped parcels to the west, east and south. Advance Apex: The 2045 Land Use Map Update calls for nonresidential uses on the southern portion of the property along Old US 1 Highway and medium density development along the northern portion of the property as it transitions to the existing residential community. In that regard, the Holland Road Mixed Use PUD - with up to 76,500 square feet of commercial/retail uses, inclusive of four (4) non-residential outparcels and convenience store with up to ten (10) fueling stations, and a maximum of 110 residential dwelling units developed as medium density - fulfills the long-term planning vision that has existed for these properties for the better part of fifteen years, albeit with a modification to the line between the residential and non-residential uses.

Holland Road Assembly PUD

**Section 3: Project Data**

**A. Name of Project:**

Holland Road Mixed Use PUD

**B. Property Owners:**

David Ray Powell (0720-99-8487)  
Johnny and Carolyn M. Pendergraft (0730-09-1779)  
Pamela Purefoy, Frances T. Bullock, Ernestine Smith (0730-09-5707)  
Joanne Pendergraft Hearn Heirs (0731-00-1087)  
RGNC-10, LLC (0731-00-4075)  
Billy and Annie P. Stroup (0731-00-3359)  
Shelba W Clem, P Diane Williams and Lisa W. Krummel (0720-99-2587)

**C. Prepared By:**

Jason Barron, Partner  
Morningstar Law Group  
421 Fayetteville St | Ste 530  
Raleigh, NC 27601

**D. Current Zoning Designation:**

Rural Residential (RR)

**E. Proposed Zoning Designation:**

Planned Unit Development – Conditional Zoning (PUD-CZ)

**F. Current 2045 Land Use Map Designation:**

Commercial Services; Medium Density Residential; Medium-High Density Residential

**G. Proposed 2045 Land Use Map Designation:**

Commercial Services and Medium Density Residential (with revised boundaries)

**H. Proposed Use**

Up to 76,500 square feet of commercial/retail uses, inclusive of four (4) non-residential outparcels and convenience store with up to ten (10) fueling stations, and a maximum of 110 residential dwelling units

**I. Size of Project**

A total of +/- 28.68 acres

## Holland Road Assembly PUD

**Section 4: Purpose Statement**

The Holland Road Mixed Use PUD will be a mix of non-residential and medium density residential uses in keeping with the Town's long-range plans for a mix of such uses, with a modification to the boundaries for the same. The southern portion of the Property as identified on the PUD Plans will permit the development of up to 76,500 square feet of commercial/retail uses, four (4) non-residential outparcels, a convenience store with up to ten (10) fueling stations. The northern portion of the property is permitted for up to 110 residential dwelling units, with a minimum of 10 single-family detached dwellings and the remainder comprised of townhouses.

This concept is consistent with the Town's stated PUD goals to provide site-specific, high-quality neighborhoods that preserve natural features and exhibit compatibility with, and connectivity to, surrounding land uses. More specifically, this plan shall:

- Allow uses that are compatible with Section 4.2.2, *Use Table* of the UDO;
- Provide for the preservation of existing environmentally sensitive areas;
- Provide appropriate buffering and screening from the proposed use to the existing residential areas;
- Offer a mix of medium density residential and commercial uses in an area planned for the same;
- Deliver goods and services within walking and biking distance of planned residences along with existing residences, thereby reducing traffic congestion;
- Demonstrate dimensional standards that are consistent with the UDO, and where variations occur, said variations will be included herein and subject to Council approval;
- Provide a high-quality community that is linked by a network of connected streets and pedestrian sidewalks that promotes connectivity, walkability and healthy lifestyles;
- Exhibit character and quality that is compatible with surrounding communities, which is expected to enhance the value of surrounding land uses; and
- Provide open space and walkable trails to promote pedestrian activity, while appropriately buffering adjacent residential areas.

All site-specific standards and conditions of this PUD Plan shall be consistent with all Conditional Zoning (CZ) District standards set forth in the UDO Section 2.3.3, *Conditional Zoning Districts* and UDO Section 2.3.4.F.1, *Planned Unit Development (PUD-CZ) District*, except where noted. The proposed PUD shall provide a development density and intensity that is consistent with principles found throughout *Advance Apex 2045*.

## Holland Road Assembly PUD

## ENVIRONMENTAL ADVISORY BOARD (EAB) RECOMMENDATIONS:

A meeting was held with the EAB on April 15, 2021 in which the project was discussed. The following notes are provided directly from the EAB. The final zoning conditions have been included in PD Text Section 6 for enforceability:

- Increase design storm for retention basins in flood-prone areas.
  - Option 2: Increase design storm pre- and post-attenuation requirement to the 25-year storm.
- Install signage near environmental sensitive areas in order to:
  - Reduce pet waste near SCM drainage areas.
  - Eliminate fertilizer near SCM drainage areas.
- Increase biodiversity.
  - Option 1: Plant pollinator-friendly flora.
  - Option 2: Plant native flora (Refer to the Apex Design & Development Manual for approved native species).
- Include landscaping that requires less irrigation and chemical use.
  - Option 1: Plant warm season grasses for drought-resistance.
- Improve soil quality to be amenable for a variety of native and non-invasive plantings.
- Install pet waste stations in neighborhoods.
- Include solar conduit in building design.
- Include energy efficient exterior lighting in building design.
- Install timers or light sensors or smart lighting technology for exterior lighting.
- Include International Dark Sky Association compliance standards.
  - Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
- Lighting that minimizes the emission of blue light to reduce glare shall be used. Incorporate natural lighting techniques into building design whether residential or non-residential.
- Maintain connections between RCAs to preserve habitat if possible.
- Move play area to residential side (north side) for better accessibility of open green space.

## Holland Road Assembly PUD

**Section 5: Permitted Uses and Zoning Conditions**

The development shall include office, retail, and 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. Specifically, the permitted uses include:

**Residential Tract:**

- Accessory apartment
- Townhouse (as shown on the PUD Map)
- Single-family (as shown on the PUD Map)
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor

**Commercial Tract:**

- Drop-in or short-term day care
- Botanical garden
- Entertainment, indoor
- Youth or day camps
- Restaurant, drive-through
- Restaurant, general
- Medical or dental office or clinic
- Office, business or professional
- Publishing office
- Artisan Studio
- Barber and beauty shop
- Book store
- Convenience store
- Convenience store with gas sales
- Dry cleaners and laundry service
- Financial institution
- Floral shop
- Greenhouse or nursery, retail
- Grocery, general
- Grocery, specialty
- Health/fitness center or spa
- Laundromat
- Newsstand or gift shop
- Personal service
- Pharmacy
- Printing and copying service
- Real estate sales
- Retail sales, general
- Studio for art
- Tailor shop
- Upholstery shop
- Pet services
- Microbrewery
- Greenway
- Park, active
- Park, passive
- Utility, minor

## Holland Road Assembly PUD

The following Zoning conditions shall apply to the project:

- A. A maximum of 100 townhouse dwellings shall be permitted.
- B. A minimum of 10 single-family detached dwellings shall be permitted.
- C. Of the 100 permitted townhouse dwellings, at least two (2) residential restricted median-income affordable housing townhome ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership initial sales price (includes unit price and lot price) that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh, NC MSA AMI, adjusted for family size as published by HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of ten (10) years shall be recorded against each residential restricted median-income affordable housing townhome ownership unit concurrently at the close of escrow upon the sale of the Affordable Housing Units to memorialize the affordable housing terms and conditions. The two (2) Affordable Housing Unit lots shall be identified on the Master Subdivision Final Plat, which may be amended from time to time. A restrictive covenant (i.e. affordable housing agreement) between the Town and Applicant shall be recorded against the two (2) Affordable Housing Unit lots prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. Developer shall provide written notice to the Town, Attn: Housing Program Manager, giving the Town ninety (90) days to identify qualified applicants to enter into a lot or purchase agreement with the Seller of the Affordable Housing Units.
- D. Single-family detached dwellings adjacent to and abutting Wake County PINs 0731-00-1666 and 0731-00-3635 shall be located on lots that are a minimum of 12,000 square feet and oriented to face Vasari Drive.
- E. A signal warrant analysis for the intersection of Holland Road and Old US 1 HWY shall be performed by the developer prior to the platting of the 100<sup>th</sup> lot within the development and developer shall install a traffic signal if permitted by NCDOT at that time. If a traffic signal is not permitted by NCDOT at that time then the developer shall pay a fee in lieu for the anticipated signal design and construction costs based upon an engineer's estimate for the same, excluding any potential right-of-way acquisition costs.
- F. A maximum of 76,500 square feet of commercial/retail uses, inclusive of up to four (4) non-residential outparcels and a convenience store with up to ten (10) fueling stations.
- G. All single-family detached and non-residential buildings shall provide solar conduit for the installation of rooftop solar panels.
- H. No covenant shall be placed on the property which prohibits accessory apartment as a use.
- I. The uses Restaurant, drive-through and Convenience store with gas sales shall not be permitted within 100' of residential properties within the development.

Holland Road Assembly PUD

- J. A 20' landscape easement shall be provided between the commercial/retail area and the residential area. This area shall be landscaped to a Type 'A' buffer standard with a berm as permitted by UDO 8.2.6.B.5.
- K. A Type 'A' buffer shall be provided along the northern boundary with the Bella Casa subdivision. The Type 'A' buffer will remove and replace the existing vegetation while permitting the buffer to count towards overall RCA requirements. A berm shall be installed along with additional buffer improvements per UDO Section 8.2.6.B.5.
- L. The project shall install at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
- M. The project shall install one (1) sign near each SCM about cleaning up pet waste.
- N. The project shall increase biodiversity within the development by:
  - a. Selecting and installing tree, shrub and perennial species with special attention to providing diverse and abundant pollinator and bird food sources, including plants that bloom in succession from spring to fall.; or
  - b. Planting only native plant species as listed in the Apex Design and Development Manual.
- O. The project shall include landscaping that requires less irrigation and chemical use by planting warm season grasses for drought-resistance.
- P. A minimum of three (3) pet waste stations shall be installed within the development located around the SCMs, play lawns, and gathering areas.
- Q. The exterior lighting for all non-residential buildings and parking lots will consist entirely of LED fixtures. The project shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lots.
  - a. The project shall use full cutoff LED fixtures that have a maximum color temperature of 3,500 for all exterior lighting, including, but not limited to, parking lot and building mounted fixtures.
- R. The developer shall construct and install a sidewalk from the westernmost edge of the property's Humie Olive Road frontage to Friendship Village. In the event there is not sufficient right-of-way for the sidewalk, then the developer shall pay a fee-in-lieu for such construction.
- S. To demonstrate the project's commitment to preserving and re-establishing tree canopy in our region, the developer seeks to replant and restore existing tree canopy that is removed from those portions of the property that are anticipated to contain single family and townhome lots. Prior to recording the first subdivision plat for the property, the developer will provide a donation of \$5,500 to a local non-profit organization with a mission towards tree preservation and replacement.
- T. All residential homes within the development shall be constructed with a two (2) car garage.

## Section 6: Proposed Design Controls

### A. Non-Residential Design Controls

**Parcel Size** – +/- 11 acres (approximate size)

**Density** – The overall maximum non-residential uses permitted upon the property shall be 76,500 square feet inclusive of four (4) outparcels and a convenience store with gas sales with no more than ten (10) fueling stations

**Design Controls** – At a minimum, all non-residential uses shall comply with the following dimensional standards:

Maximum Built-Upon Area:	70%
Maximum Building Height:	50'
Minimum Building Setbacks:	
Street	20 feet
Rear	20 feet
Side	20 feet
From Buffer/RCA:	10 feet for Buildings 5 feet for Parking Areas

### B. Residential Design Controls

**Parcel Size** – +/-17 acres (approximate size)

**Density** - The overall gross residential density shall not exceed 110 units

**Design Controls** – At a minimum, all residential uses shall comply with the following dimensional standards:

Maximum Density:	6.0 Dwelling Units/Acre (Includes RCA and rights-of-way)
Maximum Number of Units:	110
Maximum Built-Upon Area:	60%
Minimum Lot Size:	6,000 square feet for single-family detached
Minimum Lot Width:	50' for single-family detached 22' for townhouse
Maximum Building Height:	Single-family detached: 36' Townhouse: 40'

*Note: Porches, patios, decks and other accessory structures may encroach into building setbacks as allowed by the Town of Apex UDO.*

Single-Family Detached:

Minimum Building Setbacks:

- Front:	10 feet
- Front (garage):	20 feet
- Side:	5 feet
- Corner side:	10 feet
- Rear:	10 feet
- From Buffer/RCA:	10 feet for Buildings 5 feet for Parking Areas

ATTACHMENT B

Holland Road Assembly PUD

Single-family Attached (townhouse): Front Loaded

Minimum Building Setbacks:

- Front: 10 feet
- Front (garage): 20 feet
- Side: 3 feet (0 feet between townhouse units)
- Corner side: 10 feet
- Rear: 10 feet
- From Building to Building: 10 feet
- From Buffer/RCA: 10 feet for Buildings  
5 feet for Parking Areas

Single-family Attached (townhouse): Rear/Alley Loaded

Minimum Building Setbacks:

- Front: 10 feet
- Side: 3 feet (0 feet between townhouse units)
- Corner side: 10 feet
- Rear: 5 feet from alley R/W
- From Building to Building: 10 feet
- From Buffer/RCA: 10 feet for Buildings  
5 feet for Parking Areas

**C. Buffers**

	Residential	Non-residential
Northern boundary	Adjacent to Bella Casa: 20' Type A buffer; 20' Type B buffer; OR 30' Type A buffer	
Holland Road	20' Type B	20' Type E
Old US 1	N/A	20' Type E
Humie Olive Road	N/A	30' Type E
Western boundary	10' Type B	Adjacent to PIN 0720-99-3901: 10' Type B buffer is proposed although no buffer is required if a public street or private driveway straddles or is located along the property line between the parcels

*Note: Where perimeter buffers coincide with stream buffers or 100-year floodplain, existing vegetation shall be used to meet the buffer width and opacity.*

**Section 7: Proposed Architectural Controls**

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:

**A. Residential Development**

Single-family Detached:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements, and trim are permitted.
2. Primary building materials shall be brick, stone, and fiber cement siding.
3. Windows that are not recessed shall be trimmed. Windows shall vary in size and/or type.
4. At least four of the following decorative features shall be used on each building: decorative shake, board and batten siding, decorative porch rails and posts, shutters, decorative functional foundation and roof vents, recessed windows, decorative windows, decorative brick or stone, decorative gables, decorative cornices, or metal roofing.
5. A varied color palette shall be utilized throughout the development to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
6. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
7. Front facing garage doors must have windows, decorative details, or carriage-style adornments.
8. Entrances for units with front-facing garages shall have a prominent covered porch/stoop area leading to the front door.
9. Porches constructed with a dwelling unit shall be a minimum of six feet (6') deep.
10. The front façade of any front-loaded garage shall not protrude farther than one foot forward of (i) the front façade of the dwelling unit, or (ii) the front porch of the dwelling unit, whichever is closer to the right-of-way from which the dwelling unit is addressed.

Single-Family Attached (Townhouse):

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
3. Garage doors must have windows, decorative details or carriage-style adornments on them.
4. House entrances for units with front-facing single-car garages shall have a prominent 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.
6. Building facades shall have horizontal relief achieved by the use of recesses and projections.
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 that can be seen from the right-of-way shall have trim around windows.

9. At least four of the following decorative features shall be used on each building: decorative shake, board and batten siding, decorative porch rails and posts, shutters, decorative functional foundation and roof vents, recessed windows, decorative windows, decorative brick or stone, decorative gables, decorative cornices, or metal roofing.
10. The visible side of a townhouse on a corner lot facing the public street shall contain at least 3 decorative elements, such as, but not limited to, the follow 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

**B. Commercial Development**

1. Predominant exterior building materials shall be high quality materials, including brick, wood, stacked stone, other native stone, and tinted/textured concrete masonry units. Materials shall comply with UDO Section 9.3.5.
2. Additional exterior materials may include stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, and precast concrete.
3. The building shall have more than one (1) parapet height.
4. The building exterior shall have more than one (1) material color.
5. No more than 20% of any building façade may consist of EIFS material.
6. EIFS or synthetic stucco shall not be used in the first 4 feet above grade.
7. Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.

**Section 8: Parking and Loading**

Parking for the development shall meet the requirements of UDO Section 8.3.

**Section 9: Signage**

All signage for this PUD shall comply with Section 8.7, *Signs*, of the Town of Apex UDO.

**Section 10: Natural Resource and Environmental Data**

**A. River Basins and Watershed Protection Overlay Districts**

The properties are all located within the Cape Fear River/Jordan Lake Watershed. The Town's Watershed Protection Overlay District Map shows the property are part of the Primary Watershed within the Beaver Creek Basin.

**B. Resource Conservation Areas (RCA) – Required and Provided**

This PUD shall be subject to, and meet the requirements of Section 8.1.2 of the UDO, *Resource Conservation Area* and Section 2.3.4, *Planned Development Districts*.

The site shall provide 25% RCA for the non-residential portion of the development based upon the standards set forth within UDO Section 8.1. The development provides a non-residential component to the development and per UDO Section 2.3.4.F.1.c.i is requesting a RCA reduction to 25% minimum from the 30% minimum required for single-family and townhouse developments. Development shall not be subject to additional RCA requirement for mass grading of single-family detached lots per UDO 7.2.5.B.8.

Off-site RCA per 8.1.2.a.1 may be used to comply with the approved RCA standards outlined by the Unified Development Ordinance.

In response to a request from adjacent Bella Casa property owners. the buffer along the northern boundary may be cleared and replanted per previous PD Text conditions and shall count as Resource Conservation Area (RCA) for the development.

The overhead Duke Energy electric line and easements along Humie Olive Road, Old US 1 Highway, and Holland Road shall be counted towards the required RCA and buffer standards as identified within various UDO sections.

**C. Historic Structures**

As confirmed by the North Carolina State Historic Preservation Office, there are no historic structures present within the project boundary.

**Section 11: Stormwater Management**

This PUD shall meet all stormwater management requirements for quality and quantity treatment in accordance with Section 6.1.7 of the UDO, such that:

- Post development peak runoff shall not exceed pre-development peak runoff conditions for the 1-year, 10-year, and 25-year 24-hour storm events.

**Section 12: Parks and Recreation**

The Parks, Recreation and Cultural Resources Advisory Commission reviewed the project on June 30, 2021 and unanimously recommended fee-in-lieu of dedication with a credit for construction of greenway trail if an opportunity is identified at the time of Master Subdivision Plan review and approval. The recommendation is based on the 2022 rates and proposed maximum lot count provided:

Single-family detached Units:	\$3,753.89 x 10 = \$37,538.90
Single-family attached Units:	\$2,528.25 x 100 = \$252,825.00
Total residential fee in lieu per current unit count:	\$290,363.90

(Final PRCR amount shall be coordinated with staff during Master Subdivision Plan and Construction Document reviews)

ATTACHMENT B  
Holland Road Assembly PUD

Per Article 14 of the UDO, credit for greenway against fees requires the approval of construction plans, contingent upon approval of an engineer's estimate of probable cost for greenway construction. The greenway shall be completed prior to 25% of the total units for the project receiving building permits.

**Section 13: 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 according to sound engineering standards and shall comply with Town of Apex Sewer and Water Master Plan and the Town of Apex Standards and Specifications. Specifically, road and utility infrastructure shall be as follows:

**A. General Roadway Infrastructure**

Developer shall provide minimum dedication of public right-of-way along each of Holland Road, Old US 1, and Humie Olive Road. 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. Sidewalks shall be provided on both sides of streets internal to the site per UDO standards. Refer to the concept plan of the PUD plan for proposed access points, stub streets, and planned vehicular connectivity. All access and circulation is conceptual and shall be finalized at the time of Master Subdivision Plan or Minor Site Plan review and approval.

A 10' side path shall be constructed and installed along Humie Olive Road.

**B. Transportation Improvements**

Roadway improvements are subject to modification and final approval by the Town of Apex and NCDOT as part of the Minor Site Plan, Master Subdivision Plan, and construction plan approval process. A Traffic Impact Analysis (TIA) has been performed as part of this PUD rezoning consistent with the Town's standards for the same. Based upon the recommendations of the TIA and approval by Town staff and NCDOT, the final transportation improvement zoning conditions shall be provided.

1. Developer shall widen Holland Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 5-foot sidewalk and dedication based on a minimum 80-foot right-of-way.
2. Developer shall propose a maximum of two (2) access points to Holland Road. A full-movement access shall be located approximately 950 feet north of Old US 1. A right-in/right-out access shall be located approximately 350 feet north of Old US 1 with right-turn channelization designed according to Apex and NCDOT standards.
3. Developer shall provide additional frontage widening along Holland Road to extend the exclusive southbound right turn lane at Old US 1 to the right-in/right-out access when that right-in/right-out access is constructed for an approximate total length of 350 feet.

ATTACHMENT B  
Holland Road Assembly PUD

4. Developer shall propose a maximum of one (1) access point to Old US 1. The right-in/right-out access point shall be proposed approximately 275 feet west of Holland Road and restricted by installation of a concrete median along the center of Old US 1, based on NCDOT standards.
5. Developer shall widen Old US 1 at the time the access point is constructed by adding a second westbound through-lane starting at Holland Road and terminating at the westbound right-turn lane at Humie Olive Road, and a 6-foot paved shoulder for a future bike lane, with a 5-foot sidewalk, and dedication based on a minimum 110-foot right-of-way.
6. Developer shall widen Humie Olive Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 10-foot side path and dedication based on a minimum 80-foot right-of-way.
7. Developer shall propose a maximum of one (1) access point to Humie Olive Road. The full-movement access point shall be proposed approximately 600 feet west of Old US 1 Highway and Developer shall provide additional widening to construct a westbound right turn lane with 75 feet of storage and an eastbound left-turn lane with 175 feet of storage, plus applicable full-width deceleration and taper length. Developer shall provide separate left- and right-turn lanes exiting the access point with 150 feet of internal protected storage, measured from the edge of Humie Olive Road to the first crossing internal access.
8. Developer shall extend the eastbound left-turn lane on Old US 1 at Humie Olive Road to provide a minimum of 225 feet of storage plus applicable full-width deceleration and taper length prior to the Site Plan Final first certificate of occupancy in the commercial phase.
9. Developer shall extend the northbound left-turn lane on Friendship Road at Old US 1 to provide a minimum of 150 feet of storage plus applicable full-width deceleration and taper length prior to the first certificate of occupancy in the commercial phase.

**C. Water and Sanitary Sewer**

All development within the project shall be served by the Town of Apex for water and sanitary sewer. The utility design will be finalized at the time of development plan review and approval based upon available facilities adjacent to the site at that time. A conceptual utility plan is included in the PUD plan for reference. All utility infrastructure shall meet current Town water and sewer master plans.

**D. Other Utilities**

Electricity will be provided by Apex Electric. Phone, cable, and gas shall be provided by the developer and shall meet the Town of Apex standards as outlined in the UDO.

**Section 14: Phasing Plan**

This PUD may be completed in multiple phases, with construction anticipated to begin in 2022-23. Project phasing shall ensure the points of access are provided in accordance with the UDO and emergency services are always available for the property.

**Section 15: Consistency with the 2045 Land Use Map**

The proposed land use is consistent with the 2045 Land Use Map as amended by this rezoning.

**Section 16: Compliance with the UDO**

The development standards adopted for this PUD are in compliance with those set forth in the current version of the Town's Unified Development Ordinance (UDO). Any deviations from UDO requirements have been specifically defined within this document.

**Section 17: Compliance with Comprehensive Transportation Plan and Bicycle Plan**

Development plan review for any development to be made pursuant to this amendment to the Official Zoning District Map shall comply with the adopted Comprehensive Transportation Plan in effect at the time of the development plan approval as provided for in the Unified Development Ordinance. Further, development of the Property shall be consistent with the Town's adopted Bicycle and Pedestrian System Plan.

# HOLLAND ROAD MIXED USE ASSEMBLY

## PLANNED UNIT DEVELOPMENT CONDITIONAL ZONING

### HOLLAND ROAD @ OLD US 1 HIGHWAY

### APEX, NORTH CAROLINA

### PROJECT NUMBER: 200304

MAY 3, 2021

# ATTACHMENT B

#### SITE INFORMATION:

Property Owner/Site Address	PIN	REID	Deeded Acreage	DB/Plot Book & Page
David Ray Powell 2236 Old US 1 HWY Apex, NC 27502	0720-99-8487	197638	5.71	DB 5746, PG 146
Johnny & Carolyn M. Pendergraft 1001 Red Cardinal Lane Apex, NC 27502	0730-09-1779	160074	8.96	DB 8718, PG 1292
Pamela Purefoy, Frances T. Bullock & Ernestine Smith 3116 Holland Road Apex, NC 27502	0730-09-5707	70103	0.55	DB 8718, PG 1304
Joann Pendergraft Hearn Heirs 1005 Red Cardinal Lane Apex, NC 27502	0731-00-1087	160076	2.00	DB 16-E, PG 835
RGNC-10 LLC attn: Rich Leonardi 1004 Red Cardinal Lane Apex, NC 27502	0731-00-4075	334537	2.10	DB 18763, PG 1063 BM 2005 Pg 1522
Annie P. & Billy E. Stroup 3104 Holland Road Apex, NC 27502	0731-00-3359	87601	7.36	DB 8718, PG 1301
Shelba W. Clem, P. Diane Williams, Lisa W. Krummel 7528 Humie Olive Road Apex, NC 27502	0720-99-2587	0193211	2.00	DB 16078, PG 0788
<b>Total acreage:</b>			<b>28.68 acres</b>	

Existing Zoning: RR (Rural Residential)  
Proposed Zoning: PUD-CZ (Planned Unit Density - Conditional Zoning)  
Current 2045 Land Use Map: Medium and Medium/High Density Residential; Commercial Services  
Proposed 2045 Land Use Map: Medium Density Residential, Commercial Services  
Existing Use: Vacant and Single Family Residential

Township: Buckhorn

Flood Zone Information: Firm Panel 3720072000J, 3720072100J, 3720073000J and 3720073100J do not show the presence of flood zones on the properties.  
Watershed Information: Primary Watershed Protection Overlay District, Beaver Creek Basin, Cape Fear River Basin

Historical: No historical structures on site

**Residential:**  
Proposed Uses: Single Family Detached and Attached (Townhomes)

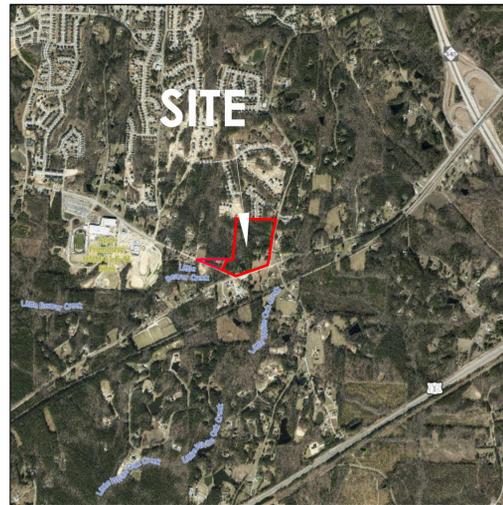
Buildings: 110 total residential lots  
Minimum of 10 Single Family Detached  
Maximum of 100 Single Family Attached  
60%

Maximum BUA:  
**Single Family Detached:**  
Maximum Building Height: 36'  
Minimum Lot Size: 6,000 SF  
Minimum lot width: 50'  
Building Setbacks  
Front: 10'  
Front - Garage: 20'  
Rear: 10'  
Side: 5'  
Side (Corner Lot): 10'

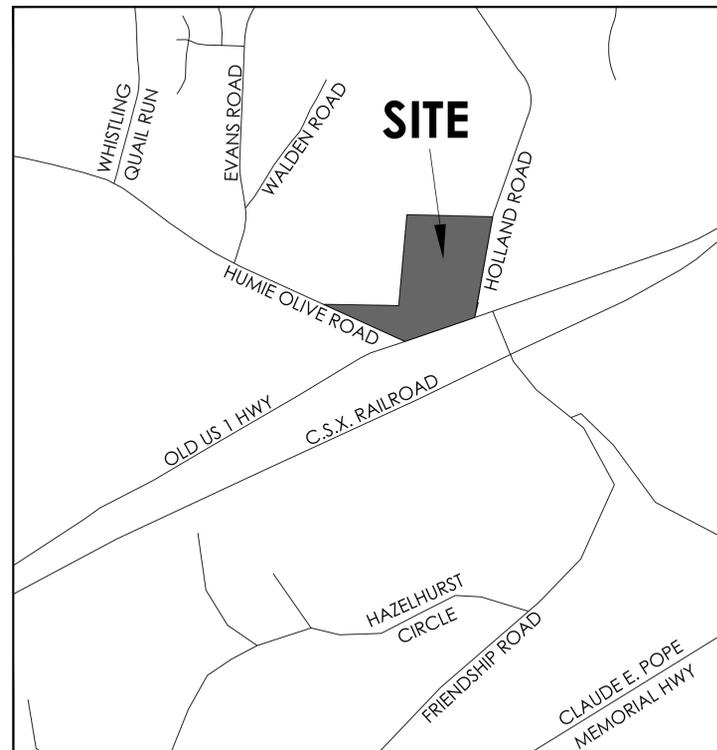
**Single Family Attached (Townhouses):**  
Maximum Building Height: 40' / 3 stories  
Minimum lot width: 22'  
Front loaded: 10'  
Rear/alley loaded: 10'  
Front - Garage: 20'  
Rear: 10'  
Side: 5' (from alley easement or R/W)  
Side - unit or corner lot: 3'

**Parking Summary:**  
**Single Family Detached**  
Required Spaces: 2 spaces per dwelling unit  
10 dwelling units x 2 spaces/unit = 20 spaces  
20 spaces (spaces will be provided within garages and driveways)  
**Proposed Spaces:**  
**Single Family Attached**  
Required Spaces: 2 spaces per dwelling unit plus .25 per unit for guest parking  
2 spaces/unit x 100 units = 200 spaces  
.25 spaces/unit x 100 units = 25 spaces  
225 spaces required

**Commercial / Retail:**  
Proposed Uses: See PD Text for list of non-residential uses  
Non Residential Square Footage: 76,500 SF plus convenience store with no more than ten (10) fueling stations  
Maximum Building Height: 50'  
Building Setbacks:  
Front: 20'  
Rear: 20'  
Side: 20'  
From Buffer/RCA: 10' for Buildings/5' for Parking Areas  
Parking: Per UDO Section 8.3



AERIAL MAP  
NOT TO SCALE



VICINITY MAP  
NOT TO SCALE



#### DRAWING INDEX:

C000	COVER SHEET
C001	EXISTING CONDITIONS
C100	CONCEPTUAL SITE PLAN
C200	CONCEPTUAL UTILITY PLAN

#### OWNER/DEVELOPER

**LG INVESTMENTS, INC.**  
GENO RAY  
5944 CORAL RIDGE DRIVE SUITE 312  
CORAL SPRINGS, FL 33076  
(754) 875-2975

#### CIVIL ENGINEER

**PEAK ENGINEERING & DESIGN, PLLC**  
JEFF ROACH, P.E.  
1125 APEX PEAKWAY  
APEX, NC 27502  
PHONE: (919) 439-0100

#### SURVEYOR

**BATEMENT CIVIL SURVEYING COMPANY**  
STEVEN CARSON, PLS  
2424 RELIANCE AVENUE  
APEX, 27539  
PHONE: (919) 577-1080  
FAX: (919) 577-1081  
WEBSITE: www.BatemanCivilSurvey.com

#### TRANSPORTATION ENGINEER

**RAMEY KEMP & ASSOCIATES**  
RYNAL STEPHENSON, P.E.  
5808 FARRINGDON PLACE SUITE 100  
RALEIGH, NC 27609  
FAX: (919) 872-5115  
FAX: (919) 878-5416  
WEBSITE: www.RameyKemp.com

NO.	DATE	REVISION	BY
1	JANUARY 14, 2022	TOWN OF APEX ZONING COMMENT REVISIONS	JR

title:  
**COVER SHEET**

proj #:  
**200304**

date:  
**May 3, 2021**

dwg by: chkd by:  
**JE JR**

scale:  
**As Noted**

sheet:

**C000**



NO.	DATE	REVISION	BY
1	JANUARY 14, 2022	TOWN OF APEX ZONING COMMENT REVISIONS	JR

title:  
**CONCEPTUAL  
SITE PLAN**

proj #:  
**200304**  
date:  
**May 3, 2021**  
dwg by: chkd by:  
**JE JR**  
scale:  
**As Noted**  
sheet:

**C100**  
ZONING DOCUMENT

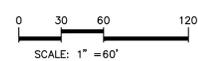
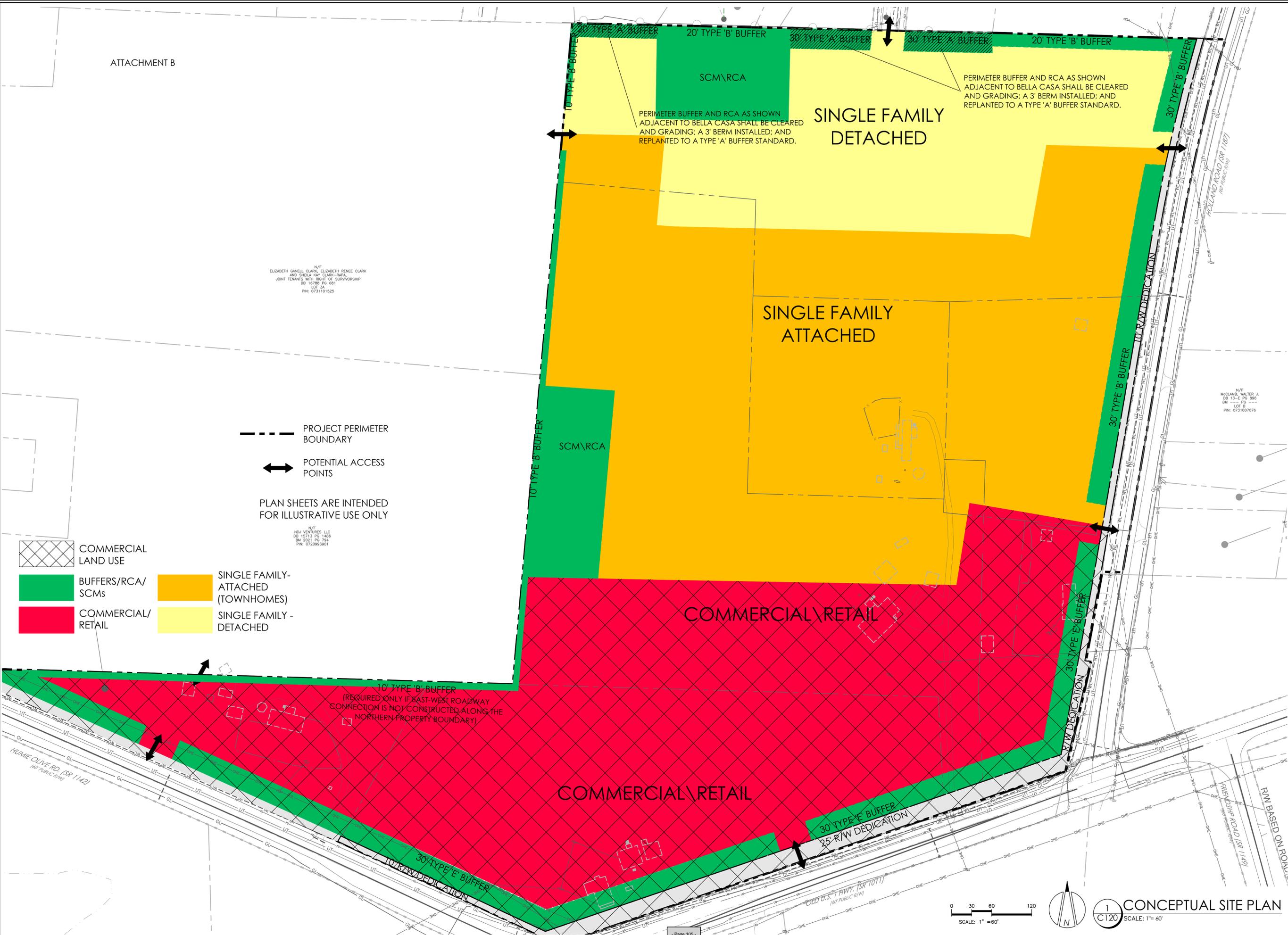
ATTACHMENT B

N/F  
ELIZABETH GANELL CLARK, ELIZABETH RENEE CLARK  
AND SHEILA MAY CLARK-SARA,  
JOINT TENANTS WITH RIGHT OF SURVIVORSHIP  
DB 18788 PG 681  
LOT 3A  
PIN: 0731101525

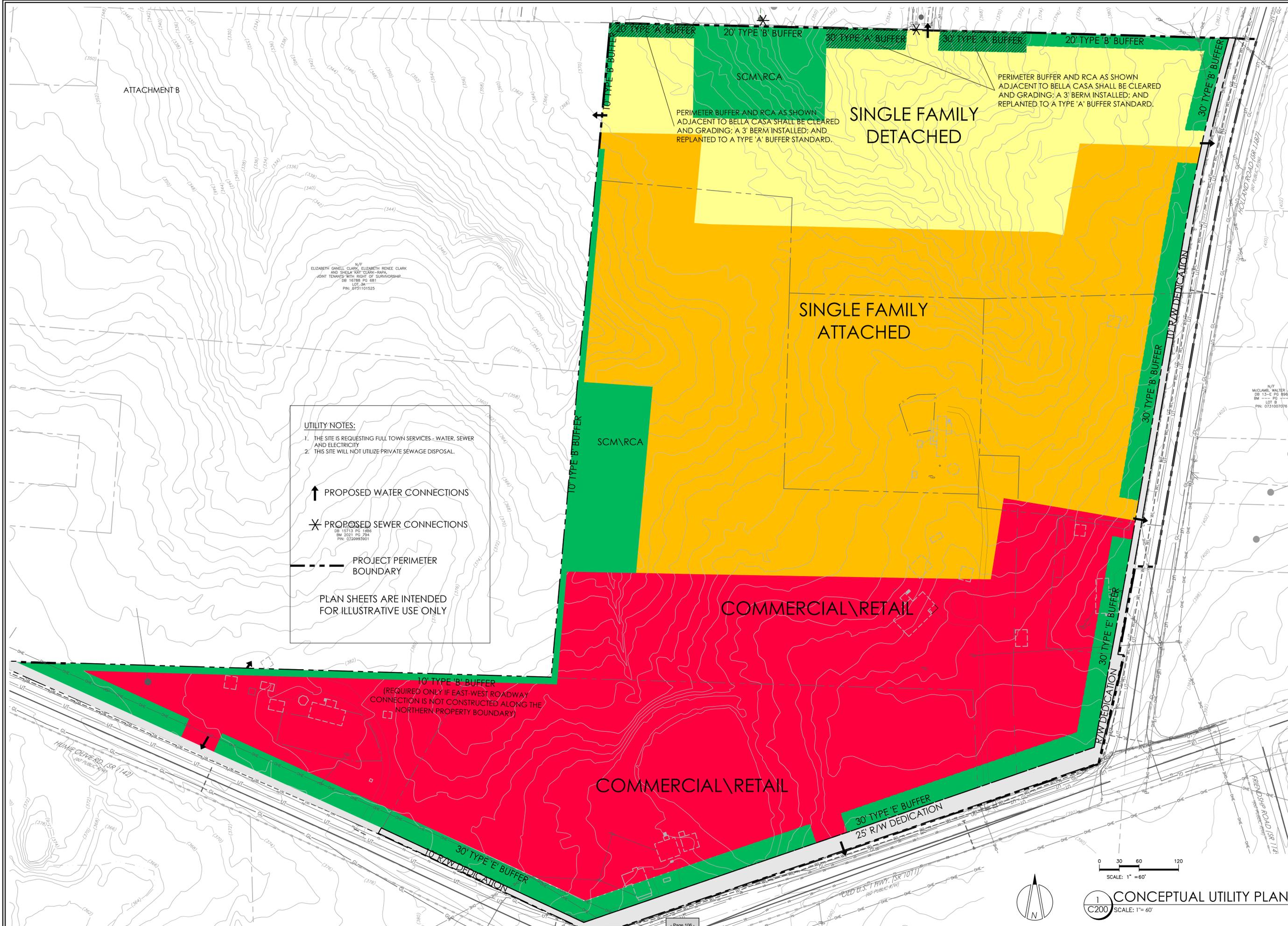
--- PROJECT PERIMETER BOUNDARY  
↔ POTENTIAL ACCESS POINTS  
PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY

N/F  
ND4 VENTURES LLC  
DB 15713 PG 1486  
BM 2021 PG 794  
PIN: 0720993901

-  COMMERCIAL LAND USE
-  BUFFERS/RCA/SCMs
-  SINGLE FAMILY-ATTACHED (TOWNHOMES)
-  COMMERCIAL/RETAIL
-  SINGLE FAMILY-DETACHED



**1**  
C120  
**CONCEPTUAL SITE PLAN**  
SCALE: 1" = 60'



ATTACHMENT B

**UTILITY NOTES:**

1. THE SITE IS REQUESTING FULL TOWN SERVICES - WATER, SEWER AND ELECTRICITY
2. THIS SITE WILL NOT UTILIZE PRIVATE SEWAGE DISPOSAL.

↑ PROPOSED WATER CONNECTIONS

✕ PROPOSED SEWER CONNECTIONS

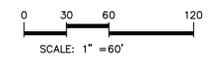
--- PROJECT PERIMETER BOUNDARY

PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY

PERIMETER BUFFER AND RCA AS SHOWN ADJACENT TO BELLA CASA SHALL BE CLEARED AND GRADING; A 3' BERM INSTALLED; AND REPLANTED TO A TYPE 'A' BUFFER STANDARD.

PERIMETER BUFFER AND RCA AS SHOWN ADJACENT TO BELLA CASA SHALL BE CLEARED AND GRADING; A 3' BERM INSTALLED; AND REPLANTED TO A TYPE 'A' BUFFER STANDARD.

10' TYPE 'B' BUFFER (REQUIRED ONLY IF EAST-WEST ROADWAY CONNECTION IS NOT CONSTRUCTED ALONG THE NORTHERN PROPERTY BOUNDARY)



**CONCEPTUAL UTILITY PLAN**  
SCALE: 1" = 60'

NC License #P-0673

project:  
**HOLLAND ROAD MIXED USE ASSEMBLY**  
HOLLAND ROAD @ OLD US 1 HIGHWAY  
APEX, NORTH CAROLINA 27502

seal:

NO.	DATE	REVISION	BY
1	JANUARY 14, 2022	TOWN OF APEX ZONING COMMENT REVISIONS	JR

title:  
**CONCEPTUAL UTILITY PLAN**

proj #: 200304  
date: May 3, 2021  
dwg by: chkd by: JR  
scale: As Noted  
sheet:

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22,2022

## Item Details

Presenter(s): Matt Echols, Utilities Engineer

Department(s): Water Resources

### Requested Motion

Motion to award a sewer rehabilitation contract to Tri-State Utilities, LLC, and to authorize the Town Manager to execute the contract on behalf of the Town.

### Approval Recommended?

Yes

### Item Details

The Town received six bids for the Priority Sewer Rehabilitation Project - 2021 on the bid date of February 1, 2022. Tri-State Utilities, LLC from Chesapeake, Virginia, was the low bidder with a total bid price of \$405,579.60. This project is funded in the FY20/21 departmental budget. The budgeted amount for the project was \$500,000.

The Town's engineering consultant for the project, Hydrostructures, PA, recommends awarding the contract to Tri-State Utilities, and staff agrees with this recommendation.

### Attachments

- 02 Recommendation of Award
- 03 Certified Bid Tab
- 04 Notice of Award
- 05 Tri-State Bid Package & Good Faith Efforts
- 06 Agreement (For Reference Only - Do Not Sign Yet)



February 15, 2022

Matt Echols, P.E.  
Town of Apex Water Resources Department  
105-B Upchurch Street  
Apex, NC 27502

**Re: Recommendation of Award**  
Priority Sewer Rehabilitation Project - 2021  
Town of Apex, North Carolina

Dear Mr. Echols:

Sealed bids for the Priority Sewer Rehabilitation Project – 2021 were opened at 3 p.m. on February 1, 2022. Six bids were received and are tabulated on the attached Certified Bid Tabulation. A summary of the bids follows:

BIDDER	TOTAL BID PRICE
Insituform Technologies, LLC	\$ 696,613.34
Cajenn Construction & Rehabilitation Services, Inc.	\$ 780,315.00
Step Construction	\$ 496,890.03
Bio-Nomic Services	\$ 557,999.90
Vortex Services, LLC	\$ 566,010.50
Tri-State Utilities, LLC	\$ 405,579.60

Tri-State Utilities, LLC (NCGC# 32168) is currently licensed in North Carolina. They hold an Unlimited License with a classification of PU(Waster Lines & Sewer Lines). This classification allows them to complete all of the work included in this project. The required submittals outlined in the bid proposal appear to be in order and contain no deviations. Therefore, Hydrostructures recommends award of this project to Tri-State Utilities, LLC in the amount of \$405,579.60.

If you have any questions, please feel free to contact me.

Sincerely,  
**Hydrostructures, PA**



Becky Smith, P.E.  
Project Engineer

Attachments: Certified Bid Tabulation



**HYDROSTRUCTURES®**

Priority Sewer Rehabilitation Project - 2021															
ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	Tri-State Utilities		Cajenn Construction		Insituform Technologies		Vortex		Step Construction		Bio-Nomic Services	
				UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT
1	Mobilization (Max. +3% of Total Bid)	LS	1	\$10,800.00	\$10,800.00	\$20,500.00	\$20,500.00	\$13,909.20	\$13,909.20	\$17,000.00	\$17,000.00	\$14,472.53	\$14,472.53	\$15,000.00	\$15,000.00
2	CIPP Rehabilitation of 8" Sewer	LF	6,380.0	\$34.40	\$219,472.00	\$68.00	\$433,840.00	\$67.60	\$431,288.00	\$56.00	\$357,280.00	\$41.00	\$261,560.00	\$49.00	\$312,620.00
3	CIPP Rehabilitation of 18" Sewer	LF	1,150.0	\$96.20	\$110,630.00	\$186.00	\$225,400.00	\$154.90	\$178,135.00	\$120.00	\$138,000.00	\$110.00	\$128,500.00	\$115.00	\$132,250.00
4	Reinstate Service Using Robotic Cutter and Brush Smooth	EA	43.0	\$100.00	\$4,300.00	\$300.00	\$12,900.00	\$149.90	\$6,445.70	\$100.00	\$4,300.00	\$300.00	\$12,900.00	\$200.00	\$8,600.00
5	Cut Intruding Services Using Robotic Cutter	EA	1.0	\$800.00	\$800.00	\$750.00	\$750.00	\$317.70	\$317.70	\$375.00	\$375.00	\$1,000.00	\$1,000.00	\$400.00	\$400.00
6	Lining of Existing Manhole with Cementitious (1-inch thickness) and Epoxy Topcoat (125 mils)	VF	64.7	\$448.00	\$28,985.60	\$750.00	\$48,525.00	\$524.20	\$34,000.74	\$315.00	\$20,480.50	\$625.00	\$40,437.50	\$717.00	\$46,499.90
7	Infect Section Joint with Chemical Grout	EA	3.0	\$424.00	\$1,272.00	\$500.00	\$1,500.00	\$529.50	\$1,588.50	\$425.00	\$1,275.00	\$2,000.00	\$6,000.00	\$2,200.00	\$6,600.00
8	Reset Frame	EA	1.0	\$360.00	\$360.00	\$1,900.00	\$1,900.00	\$529.50	\$529.50	\$1,100.00	\$1,100.00	\$1,500.00	\$1,500.00	\$1,800.00	\$1,800.00
9	Allowance for Miscellaneous Utility Adjustments	N/A	1.0	N/A	\$20,000.00	N/A	\$20,000.00	N/A	\$20,000.00	\$14.00	\$20,000.00	N/A	\$20,000.00	N/A	\$20,000.00
Total of All Unit Price Bid Items					\$405,579.60		\$780,315.00		\$696,613.34		\$566,010.50		\$486,660.03		\$557,999.90

Bids Certified By: *Rebecca L. Smith* Date: *Feb 2, 2022*

Rebecca L. Smith, PE





# NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS

Name: Tri-State Utilities LLC  
Number: 32168  
Status: Valid  
Last Renewal Date: 2022-01-01  
Address: 2111 Smith Ave  
City: Chesapeake  
State: VA  
Zip: 23320-2515  
Telephone: (757) 366-9505  
limitation: Unlimited  
Classifications : PU(Water Lines & Sewer Lines)  
Qualifiers : Steven Andrew McSweeney

Priority Sewer Rehabilitation Project - 2021				Tri-State Utilities		CaJenn Construction		Insituform Technologies		Vortex		Step Construction		Bio-Nomic Services	
ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT
1	Mobilization (Max. +3% of Total Bid)	LS	1	\$10,800.00	\$10,800.00	\$20,500.00	\$20,500.00	\$13,909.20	\$13,909.20	\$17,000.00	\$17,000.00	\$14,472.53	\$14,472.53	\$15,000.00	\$15,000.00
2	CIPP Rehabilitation of 8" Sewer	LF	6,380.0	\$34.40	\$219,472.00	\$68.00	\$433,840.00	\$67.60	\$431,288.00	\$56.00	\$357,280.00	\$41.00	\$261,580.00	\$49.00	\$312,620.00
3	CIPP Rehabilitation of 18" Sewer	LF	1,150.0	\$96.20	\$110,630.00	\$196.00	\$225,400.00	\$154.90	\$178,135.00	\$120.00	\$138,000.00	\$110.00	\$126,500.00	\$115.00	\$132,250.00
4	Reinstate Service Using Robotic Cutter and Brush Smooth	EA	43.0	\$100.00	\$4,300.00	\$300.00	\$12,900.00	\$149.90	\$6,445.70	\$100.00	\$4,300.00	\$300.00	\$12,900.00	\$200.00	\$8,600.00
5	Cut Intruding Services Using Robotic Cutter	EA	1.0	\$800.00	\$800.00	\$750.00	\$750.00	\$317.70	\$317.70	\$375.00	\$375.00	\$1,000.00	\$1,000.00	\$400.00	\$400.00
6	Lining of Existing Manhole with Cementitious (1-inch thickness) and Epoxy Topcoat (125 mils)	VF	84.7	\$448.00	\$37,945.60	\$750.00	\$63,525.00	\$524.20	\$44,399.74	\$315.00	\$26,680.50	\$625.00	\$52,937.50	\$717.00	\$60,729.90
7	Inject Section Joint with Chemical Grout	EA	3.0	\$424.00	\$1,272.00	\$500.00	\$1,500.00	\$529.50	\$1,588.50	\$425.00	\$1,275.00	\$2,000.00	\$6,000.00	\$2,200.00	\$6,600.00
8	Reset Frame	EA	1.0	\$360.00	\$360.00	\$1,900.00	\$1,900.00	\$529.50	\$529.50	\$1,100.00	\$1,100.00	\$1,500.00	\$1,500.00	\$1,800.00	\$1,800.00
9	Allowance for Miscellaneous Utility Adjustments	N/A	1.0	N/A	\$20,000.00	N/A	\$20,000.00	N/A	\$20,000.00	\$14.00	\$20,000.00	N/A	\$20,000.00	N/A	\$20,000.00
<b>Total of All Unit Price Bid Items</b>					\$405,579.60		\$780,315.00		\$696,613.34		\$566,010.50		\$496,890.03		\$557,999.90

Bids Certified By: Rebecca Smith Date: Feb. 2, 2022  
 Rebecca L. Smith, PE



## NOTICE OF AWARD

Date of Issuance: February 28, 2022

Owner: Town of Apex

Owner's Contract No.:

Engineer: Hydrostructures

Engineer's Project No.: NCAP.21.01

Project: Priority Sewer Rehabilitation Project - 2021

Contract Name:

Bidder: Tri-State Utilities, LLC

Bidder's Address: 2111 Smith Avenue, Chesapeake, VA 23320

### TO BIDDER:

You are notified that Owner has accepted your Bid dated February 1, 2022 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for: installation of approximately 6,380 LF of 8-inch cured-in-place pipe liner, approx. 1,150 LF of 18-inch cured-in-place pipe liner, and manhole rehabilitation consisting of approx. 85 VF of cementitious and epoxy coating.

The Contract Price of the awarded Contract is: \$ 405,579.60.

[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.

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: None.

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 ten 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: Catherine Crosby, Apex Town Manager

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: Priority Sewer Rehabilitation Project - 2021

Bid From: Tri-State Utilities LLC

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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**

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 60 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>
1	1-7-22
2	1-26-22

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**

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1	Mobilization (Max. + 3% of Total Bid)	LS	1	\$10,800.00	\$10,800.00
2	CIPP Rehabilitation of 8" Sewer	LF	6,380	\$34.40	\$219,472.00
3	CIPP Rehabilitation of 18" Sewer	LF	1,150	\$96.20	\$110,630.00
4	Reinstate Service Using Robotic Cutter and Brush Smooth	EA	43	\$100.00	\$4,300.00
5	Cut Intruding Services Using Robotic Cutter	EA	1	\$800.00	\$800.00
6	Lining of Existing Manhole with Cementitious (1-inch thickness) and Epoxy Topcoat (125 mils)	VF	84.7	\$448.00	\$37,945.60
7	Inject Section Joint with Chemical Grout	EA	3	\$424.00	\$1,272.00
8	Reset Frame	EA	1	\$360.00	\$360.00
9	Allowance for Miscellaneous Utility Adjustments	N/A	1	N/A	\$20,000.00
<b>Total of All Unit Price Bid Items</b>					<b>\$ 405,579.60</b>

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**     \$ 405,579.60.

\$ Four Hundred Five Thousand, Five Hundred Seventy Nine and Sixty Cents.

**Time of Completion**

5.02 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.

5.03 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.: 32168 [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;

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: 32168
- B. Classification: PU (Water and Sewer Lines)
- C. Limitation: Unlimited

Employer's Tax ID No.: 54-1560563

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

Tri-State Utilities LLC

Telephone Number: 757-366-9505

Fax Number: 757-366-5150

Contact Name and e-mail address: Jonathan Thomas, Vice President

JonathanT@tristateutilities.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: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

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

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

Name: \_\_\_\_\_  
(Type or print)

Title: \_\_\_\_\_  
(Type or print)

Attest: \_\_\_\_\_ Corporate Seal  
(Signature of Corporate Secretary)

Date of Qualification to do business in North Carolina is \_\_\_\_\_.

Limited Liability Company – LLC

Name of LLC: Tri-State Utilities LLC

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

By: \_\_\_\_\_  
(Signature of Manager)

Name: Jonathan Thomas  
(Type or print)

Title: Vice President  
(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):**

Tri-State Utilities, LLC  
 2111 Smith Avenue, Chesapeake, VA 23320

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

Lexon Insurance Company  
 10002 Shelbyville Road, Suite 100, Louisville, KY 40223

**OWNER (Name and Address):**

Town of Apex  
 105-B Upchurch Street, Apex, NC 27502

**BID**

**Bid Due Date:** February 1, 2021  
**Description (Project Name— Include Location):** Priority Sewer Rehabilitation Project - 2021

**BOND**

**Bond Number:** Bid Bond  
**Date:** February 1, 2022

**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**

Tri-State Utilities, LLC (Seal)  
 Bidder's Name and Corporate Seal

By: [Signature]  
 Signature

Jonathan Thomas  
 Print Name

vice President  
 Title

Attest: [Signature]  
 Signature

James Farris  
 Title Project Manager

**SURETY**

Lexon Insurance Company  
 Surety's Name and Corporate Seal

By: [Signature]  
 Signature (Attach Power of Attorney)

William Reidinger  
 Print Name

Attorney-in-Fact  
 Title

Attest: [Signature]  
 Signature Karen E. Bogard

Title Surety Witness



**Note: Addresses are to be used for giving any required notice.  
 Provide execution by any additional parties, such as joint venturers, if necessary.**

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum 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 the 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.



# SOMPO INTERNATIONAL

INSURANCE

# POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation, **Endurance American Insurance Company**, a Delaware corporation, **Lexon Insurance Company**, a Texas corporation, and/or **Bond Safeguard Insurance Company**, a South Dakota corporation, each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **William Reidinger**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of Twenty Million Dollars (\$20,000,000.00).

Surety Bond No.: Bid Bond  
Principal: Tri-State Utilities, LLC  
Obligee: Town of Apex

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or 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 WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15<sup>th</sup> day of June, 2019.

Endurance Assurance Corporation  
By: *Richard M. Appel*  
Richard Appel; SVP & Senior Counsel



Endurance American Insurance Company  
By: *Richard M. Appel*  
Richard Appel; SVP & Senior Counsel



Lexon Insurance Company  
By: *Richard M. Appel*  
Richard Appel; SVP & Senior Counsel



Bond Safeguard Insurance Company  
By: *Richard M. Appel*  
Richard Appel; SVP & Senior Counsel



### ACKNOWLEDGEMENT

On this 15<sup>th</sup> day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/<sup>she</sup> is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: *Amy Taylor*  
Amy Taylor, Notary Public - My Commission Expires 5/9/23



### CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

"RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT ; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 1st day of February, 2022.

By: *Daniel S. Lurie*  
Daniel S. Lurie, Secretary

### NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <https://www.treasury.gov/resource-center/sanctions/SDN-List>.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.



Attach to Bid Attach to Bid Bidders must provide either Affidavit A or Affidavit B (not both) Attach to Bid Attach to Bid  
**State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts**

County of Wake

(Name of Bidder)

Affidavit of Tri-State Utilities LLC

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: 1-31-22 Name of Authorized Officer: Jonathan Thomas

Signature: [Signature]

Title: Vice President

State of North Carolina, County of Chesapeake  
Subscribed and sworn to before me this 1<sup>st</sup> day of February 2022  
Notary Public [Signature]  
My commission expires 05/31/2022



MBForms

**CERTIFICATE OF INCUMBENCY**

I, Bruce Lux, Secretary of Tri-State Utilities LLC, a Virginia limited liability company (the "Company"), do hereby certify that the following persons were designated and appointed to the offices indicated below, and that said persons do continue to hold such offices at this time, and the signatures set forth opposite the names are genuine signatures:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Ken Biele	President and CEO	
Bruce Lux	Vice President and CFO	
Steven A. McSweeney	Vice President of Project Management	
Jonathan Thomas	Vice President	

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of April, 2020.

  
Bruce Lux  
VP, CFO, Secretary, Treasurer

2021

32168

# North Carolina

## Licensing Board for General Contractors

This is to Certify That:  
Tri-State Utilities LLC  
Chesapeake, VA

### is duly registered and entitled to practice General Contracting

Limitation: Unlimited  
Classification: PU (Water Lines & Sewer Lines)

until

December 31, 2021

when this Certificate expires.

Witness our hands and seal of the Board.

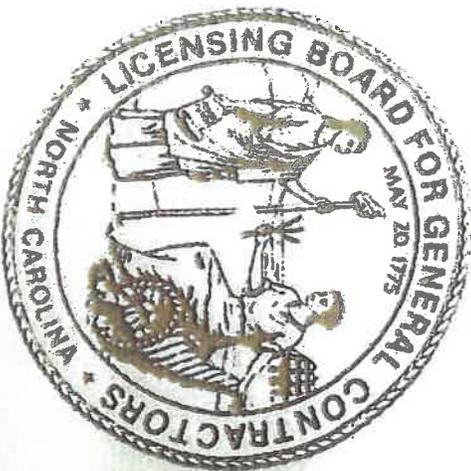
Rated, Raleigh, N.C.

January 1, 2021

This certificate may not be altered.

*J. P. [Signature]*  
Chairman

*C. Hank Wiener*  
Secretary-Treasurer



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

THIS AGREEMENT is by and between Town of Apex (“Owner”) and  
Tri-State Utilities, LLC (“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: Priority Sewer Rehabilitation Project – 2021 - consists of installation of approximately 6,380 LF of 8-inch cured-in-place pipe liner, approx. 1,150 LF of 18-inch cured-in-place pipe liner, and manhole rehabilitation consisting of approx. 85 VF of cementitious and epoxy coating.

**ARTICLE 3 – ENGINEER**

3.01 The part of the Project that pertains to the Work has been designed by Hydrostructures .

3.02 The Owner has retained Hydrostructures to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with 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 90 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 120 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 \$ 405,579.60
  - 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    , inclusive).
  - 5. Certificate of Insurance (pages 1 to    , inclusive).
  - 6. General Conditions (pages 1 to 65, inclusive).
  - 7. Supplementary Conditions (pages 1 to 21, inclusive).
  - 8. Specifications as listed in the table of contents of the Project Manual.
  - 9. Drawings (not attached but incorporated by reference) consisting of 20 sheets with each sheet bearing the following general title: Priority Sewer Rehabilitation Project - 2021
  - 10. Addenda (numbers 1 to 2, inclusive).
  - 11. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 1 to 10, inclusive), including E-Verify Affidavit.
    - b. Notice of Award (pages 1 to    , 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 [redacted] (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Apex

Tri-State Utilities

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Catherine Crosby, Apex Town Manager

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

2111 Smith Avenue

Apex, NC 27502-0250

Chesapeake, VA 23320

License No.: 32168  
*(where applicable)*

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

*This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.*

\_\_\_\_\_  
Vance Holloman, Finance Director

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22,2022

## Item Details

Presenter(s): Vance Holloman, Finance Director

Department(s): Finance Department

### Requested Motion

Motion to approve amendments to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administration Services, Exhibit A - Apex Customer Assistance Program Guidelines and to delegate authority to the Town Manager to sign this amendment.

### Approval Recommended?

Yes

### Item Details

Amendments to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administrative Services and Exhibit A - Apex Customer Assistance Program Guidelines and to authorize the Town Manager to sign this amendment.

### Attachments

- Second Amendment to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administrative Services.
- Exhibit A - Apex Customer Assistance Program Guidelines



**SECOND AMENDMENT TO THE APEX/WESTERN WAKE CRISIS MINISTRY,  
INC. AGREEMENT FOR UTILITY CUSTOMER ASSISTANCE PROGRAM  
ADMINISTRATION SERVICES**

This **SECOND AMENDMENT** to the Apex/Western Wake Crisis Ministry, Inc. Agreement for Utility Customer Assistance Program Administration Services dated April 27, 2021, hereinafter referred to as “AGREEMENT” is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Western Wake Crisis Ministry, Inc., hereinafter referred to as “Agency”, and the Town of Apex, hereinafter referred to as “Town”.

**WITNESSETH:**

**WHEREAS**, Agency and Town agreed to collaborate on the administration of the Town’s Utility Customer Assistance Program (UCAP);

**WHEREAS**, the Town created UCAP Guidelines to set the policy for the UCAP, in particular the eligibility requirements for applicants;

**WHEREAS**, the Town desires to modify those eligibility requirements;

**NOW, THEREFORE**, Town and Agency mutually agree to amend the AGREEMENT as follows:

1. **Article 6, Section 1. Changes in the Services** is hereby amended to read:

Changes in the Services. Changes in the Services or a change in the duration or any other term of this Agreement shall be made only by a written amendment executed by both parties. The Town Manager shall have the authority to approve and execute any amendments to this Agreement on behalf of the Town.

2. **Article 8, Section 3. Entire Agreement; Amendments** is hereby amended to read:

Entire Agreement; Amendments. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral, including clickthrough agreements, clickwrap agreements, clickwrap licenses, or similar non-reciprocal agreements (collectively, “clickthrough agreement”). ~~This Agreement may be amended only by written amendment signed by both parties.~~ Neither party may amend or seek to amend, this Agreement by clickthrough agreement.

3. **Attachment A, Town of Apex Customer Assistance Program Guidelines** is amended as shown on the attached Exhibit A.

IN WITNESS WHEREOF, Agency and Town, being duly authorized, have caused these presents to be signed in their names as of the day and year first above written, on the following pages.

**AGENCY**

**TOWN**

**Western Wake Crisis Ministry, Inc.    Town of Apex**

By: \_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(typed or printed name)

Name: \_\_\_\_\_  
(typed or printed name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Apex Customer Assistance Program Guidelines**

**Purpose:** COVID 19 has negatively impacted the economy and the financial stability of many customers of the Town of Apex (“Town”) utility system. The Town declared a moratorium on the disconnection of service and assessment of related fees in March, 2020 and has currently extended that suspension through May 31, 2021. There are currently over 1,800 residential customers whose account would be subject to disconnection if the moratorium was lifted. As the Council considers lifting the moratorium they want to establish a customer assistance program (“CAP”) to help those customers. It is anticipated that the CAP will continue after the impacts of COVID have passed in order to help less fortunate members of the community.

**Funding and Use of Funds:** The CAP will be funded entirely from the Town’s General Fund and voluntary contributions from utility customers. Funds will be used to reduce the outstanding balance of eligible customers and to reimburse cost incurred by human service organizations that make CAP eligibility determinations under the terms of written agreements with the Town.

Funds set aside for CAP will be applied to the outstanding balance of eligible customers by the recording of these transactions in the Town’s accounting records. Reimbursement of expenditures occurred by human service organizations will be paid by check.

**Staff Involvement:** The Town’s Finance, Administration and Legal Departments have been involved in establishing the program in collaboration with Western Wake Crisis Ministry (“WWCM”).

**Program Requirements:** To be eligible for assistance the account must be served by the Apex utility system. The account service address must be within the corporate limits of the Town of Apex due to the assistance being funded predominately by the Town’s General Fund. The account must be subject to disconnection or disconnected. If a moratorium on disconnections is in place, the account meets this requirement if it would be subject to disconnection if the moratorium were not in place.

**Eligibility Criteria:** The following eligible criteria are in place for the CAP:

The applicant must be a resident at the service address of the account,

The applicant must be a US citizen or lawfully present in the US and

The household must meet the income eligibility requirements (Income equal to or less than **80% of Area Median Income (AMI), adjusted for family size, for the Raleigh, NC Metropolitan Statistical Area (MSA) as published by the U.S. Department of Housing and Urban Development (HUD).** -200% of the federal poverty level.)

**Eligibility Determinations:** Determinations will be made by a human services organization that is independent of the Town. WWCM has agreed to make eligibility determinations in accordance with the terms of an agreement with the Town.

Due to the large number of potential applicants the Town and WWCM have agreed that a system of scheduling appointments for applicants and sharing that information will be put in place. The

applicant will not be disconnected prior to WWCM having adequate time to process the application and make an eligibility determination. If an applicant misses their initial appointment, these terms will apply to a second appointment only but to no rescheduled appointments thereafter.

**Administration of Awards:** The maximum award amount made to an applicant's outstanding balance will be \$636.00, or the total outstanding balance, whichever is lesser. \$636.00 is the current average outstanding balance of a residential customer subject to disconnection. Each applicant is eligible to be awarded assistance only once prior to June 30, 2022. Thereafter, an applicant is eligible to receive assistance once each fiscal year.

WWCM will inform the Town of the applicants who are eligible. Awards will be subject to the availability of funds. Availability means an unexpended and unencumbered appropriation remains in the Town's General Fund sufficient to make the award. Staff will keep WWCM informed of the amount available for awards. Prior to accounts being credited for the award staff will confirm the residence is within the Town limits.

**Communications:** The CAP will be communicated to utility customers through mailings, emails, social media and the Town's website.

# Affordable Housing Area Median Income (AMI) Limits per Household Size (HUD Published Raleigh, NC MSA – As of 3/21/22)

<b>March 22, 2022 Agenda Item Affordable AMI %</b>	<b>Household Size</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<u><b>CN9</b></u> Apex Utility Customer Assistance Program (UCAP) 80% AMI (Low-Income)	53,600	61,250	68,900	76,550	82,700

**Maximum Affordable Housing Area Median Income (AMI)  
Limits per Household Size  
(HUD Published Raleigh, NC MSA – As of 3/22/22)**

<b>March 22, 2022 Agenda Item Affordable AMI %</b>	<b>Household Size</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<u><b>CN9</b></u> Apex Utility Customer Assistance Program (UCAP) 80% AMI (Low-Income)	53,600	61,250	68,900	76,550	82,700
<u><b>PH1</b></u> Chapel Ridge Towns PUD 100% AMI (Median-Income)	66,990	76,560	86,130	95,700	103,356

## Market-Rate Salary Data Examples

#	Job Title	Average Annual/Job Rate Full-Time Salary	AMI %
1	Town of Apex Police Officer I	\$68,685	Workforce-Income 110% AMI
2	Town of Apex Environmental Specialist	\$72,120	Workforce-Income 110% AMI
3	Town of Apex Firefighter	\$59,333	Median-Income 100% AMI
4	Costco Retail Worker	\$52,000	Low-Income 80% AMI
5	Elementary Teacher	\$44,990	Low-Income 70% AMI
6	Bank Teller	\$30,642	Very Low-Income 50% AMI
7	Guidance & School Counselors	\$48,550	Low-Income 80% AMI
8	School Librarian	\$55,930	Median-Income 100% AMI
9	Landscape	\$36,520	Low-Income 60% AMI
10	School Administrator (Elementary, Middle School & High School)	<div style="border: 1px solid black; display: inline-block; padding: 2px;">- Page 142 -</div> \$73,490	Workforce-Income 110% AMI

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

### Requested Motion

Motion to approve the extension of the Emergency Sick Leave and Quarantine Leave provisions of the COVID-19 Vaccine Incentive Policy for Town employees, until such time as deemed appropriate by the Town Manager.

### Approval Recommended?

Yes

### Item Details

The Town's current COVID-19 (COVID) leave-related policies are set to expire on March 31, 2022. These policies were most recently extended as an incentive for Town employees and new hires to receive the COVID-19 vaccination. While the number of COVID cases within the workforce continue to trend positively (low COVID numbers), the Town would like to keep the current Emergency Sick Leave and Quarantine Leave provisions of the COVID-19 vaccine policy in place for the next few months, while remaining COVID-19 variant impacts are being monitored and to support continued vaccination efforts. With Town Council's authorization the decision to discontinue the use of the Emergency Sick Leave and Quarantine requirements would be at the discretion of the Town Manager. This decision would be supported by data reflecting continued positive trends, and announced in advance to employees.

The following section of the COVID Vaccine Leave Policy will be updated, as follows (new language in red):

#### **VII. Leave Provisions**

The 120 hours of TOA Emergency Sick Leave will be in addition to any remaining TOA ESL balances the employee may have as of September 30, 2021.

Paid Quarantine Leave and TOA Emergency Sick Leave will ~~be set to expire March 31, 2022~~ **expire at a date determined by the Town Manager, based on data reflecting positive trends in COVID-19 cases (low number of cases), and will be communicated in advance to employees.**

TOA Emergency Sick Leave is not eligible for rollover or pay out upon separation.

Additional Vacation Leave will not expire, but will be kept in a separate leave bank and not eligible for rollover or payout upon separation.

Attachments

- N/A



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: MARCH 22, 2022

## Item Details

Presenter(s): Julie Coco, PE (NC Department of Environmental Quality)

Department(s):

### Requested Motion

NCDEQ recognition of the Town's S&E Program.

### Approval Recommended?

N/A

### Item Details

Presentation by Julie Coco, State Sediment Program Engineer with the NC Department of Environmental Quality (DEQ), recognizing the Town's Soil Erosion and Sedimentation Control Program for excellence and being awarded the Best Small Local Program in the State for 2021.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning and Community Development

### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #21CZ32 Chapel Ridge Towns PUD. The applicant, Toll Brothers, Inc., seeks to rezone approximately 21.60 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way.

### Approval Recommended?

The Planning and Community Development Departments recommends approval.

The Planning Board held a Public Hearing on March 14, 2022 and unanimously voted to recommend approval of the rezoning with the conditions offered by the applicant.

### Item Details

The properties to be rezoned are identified as PINs 0732430661, 0732333570, 0732337537, 0732347080, 0732345135 & Barnside Lane right-of-way.

### Attachments

- Staff Report
- Application



## STAFF REPORT

### Rezoning #21CZ32 Chapel Ridge Towns PUD

March 22, 2022 Town Council Meeting



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:** 1400, 1401, 1408, & 1409 Barnside Lane; 1412 Olive Chapel Road; Barnside Lane right-of-way

**Applicant/Agent:** Toll Brothers, Inc. / Brendie Vega and Ed Tang, WithersRavenel

**Owners:** Gasiorowski Properties LLC, Kenneth G. and Erica Bunn, Paul A. and Anne H. Cain, Warren R. and Dianne B. Hinson, and Benjamin Arnold and Lesley Ballard Hoch

#### **PROJECT DESCRIPTION:**

**Acreage:** ±21.60 acres

**PINs:** 0732333570, 0732337537, 0732347080, 0732345135, 0732430661

**Current Zoning:** Rural Residential (RR)

**Proposed Zoning:** Planned Unit Development-Conditional Zoning (PUD-CZ)

**2045 Land Use Map Designation:** Medium Density Residential

**Town Limits:** ETJ & Inside

#### **Adjacent Zoning & Land Uses:**

	<b>Zoning</b>	<b>Land Use</b>
<b>North:</b>	Rural Residential (RR)	Single Family Residential (Chapel Ridge)
<b>South:</b>	Medium Density Residential-Conditional Use (MD-CU #94CU09); Medium Density Residential (MD)	Olive Chapel Road; Single Family Residential (Ashley Downs, Chapel Ridge Estates)
<b>East:</b>	Rural Residential (RR)	Single Family Residential (large lot single-family)
<b>West:</b>	Rural Residential (RR); Office & Institutional-Conditional Zoning (O&I-CZ #16CZ11)	Single Family Residential (Chapel Ridge); Office Park (Olive Chapel Professional Park)

#### **EXISTING CONDITIONS:**

The site consist of five (5) parcels on the north side of Olive Chapel Road totaling ±21.60 acres. The site has five single family residences, several outbuildings, and Barnside Lane right-of-way.

#### **NEIGHBORHOOD MEETING:**

The applicant conducted a neighborhood meeting on November 17, 2021. The neighborhood meeting report is attached.

# STAFF REPORT

## Rezoning #21CZ32 Chapel Ridge Towns PUD

March 22, 2022 Town Council Meeting



### 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 and high schools within the current assignment area for this rezoning/development are anticipated to have insufficient capacity for future students; transportation to schools outside of the current assignment area should be anticipated. School expansion or construction within the next five years may address concerns at the elementary and high school grade levels. Possible long-term solutions may include capping students out to schools with available seats (not very proximate), reassignments, or calendar changes.

### 2045 LAND USE MAP:

The 2045 Land Use Map designates the properties as Medium Density Residential. The proposed PUD is consistent with the Land Use Map designation.

### PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing a Planned Unit Development Plan with uses and development standards as follows:

#### Permitted Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately 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.

#### Residential:

- Single Family
- Accessory Dwelling Unit
- Townhouse

#### Non-Residential:

- Utility, minor
- Park, active
- Park, passive
- Greenway

### Proposed Design Controls:

**Maximum Density:** 4.7 units per acre

**Maximum Building Height:** 35 feet, 2 stories

**Maximum Built-Upon Area:** 70%

#### Setbacks

		Proposed PUD-CZ minimum setbacks	MD zoning district minimum setbacks
Single-family	Front	19' from garage to lot line and 20' from garage to back of sidewalk	25'



	Side	5'	6' min/16' total
	Rear	10'	20'
	Corner side	8'	15'
<b>HDSF zoning district minimum setbacks</b>			
Townhouse, front loaded	Front	19' from garage to lot line and 20' from garage to back of sidewalk	15'
	Side	0', 8' Building to Building	0' (8' between buildings)
	Rear	5'	15'
	Corner side	8'	15'

**Buffers**

The proposed PUD meets or exceeds the buffers required by the UDO.

Perimeter Buffers:	UDO Required	Proposed
Northern property boundary	20' Type B	20' Type A
Eastern property boundary	20' Type B	20' Type B
Western property boundary	None	20' Type B
Southern property boundary	30' Type B	30' Type B

**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 Residential Master Subdivision Plan submittal. The following conditions shall apply:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
3. Garage doors must have windows, decorative details or carriage-style adornments on them.
4. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
5. Building facades shall have horizontal relief achieved by the use of recesses and projections.
6. The visible side of a townhome 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 gables



- Decorative gable
- Decorative cornice
- Column
- Portico
- Balcony
- Dormer

**Affordable Housing:**

Of the 100 permitted townhouse dwellings, at least two (2) residential restricted median-income affordable housing townhome ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership initial sales price (includes unit price and lot price) that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh, NC MSA AMI, adjusted for family size as published by HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of ten (10) years shall be recorded against each residential restricted median-income affordable housing townhome ownership unit concurrently at the close of escrow upon the sale of the Affordable Housing Units to memorialize the affordable housing terms and conditions. The two (2) Affordable Housing Unit lots shall be identified on the Master Subdivision Final Plat, which may be amended from time to time. A restrictive covenant (i.e. affordable housing agreement) between the Town and Applicant shall be recorded against the two (2) Affordable Housing Unit lots prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. Developer will coordinate with Town staff to determine the maximum affordable housing median-income ownership initial sales prices, marketing, screening and selection process of the Affordable Housing Units.

**Parking**

The parking requirements of the Town of Apex UDO Section 8.3 will be met.

**Age Restriction:**

Dwellings constructed on the property shall be age-restricted in compliance with the Fair Housing Act (42 U.S.C Sec 3601, et. Seq.), and the North Carolina State Fair Housing Act (N.C. Gen Stat. 41A-1, et seq.), such that at least 80% of the dwellings shall be occupied by at least one person aged 55 or older.

**NATURAL RESOURCE AND ENVIRONMENTAL DATA:**

**Resource Conservation Area**

The Chapel Ridge Towns PUD is north and east of NC 540 and outside of Apex Peakway and is therefore required to provide 20% of the gross site as RCA. If any mass grading occurs in the PUD, that portion of the project will be required to provide an additional 5% RCA. They propose to meet the requirements of the UDO.

**Public Facilities**

All public facilities and infrastructure shall comply with the Town of Apex Sewer and Water Master Plans and the Town of Apex Standards and Specifications. Public facilities include:



Water/Sanitary Sewer:

Sewer is not directly available and will require an extension. This will flow to Beaver Creek Pump Station. A capacity study will be required at Construction Document phase. Water extension along the frontage will be required. Currently, there is water on Chapel Ridge that goes to Olive Chapel Professional Park.

Other Utilities:

Electric and gas service currently existing on-site and will be improved. Telephone and cable shall be provided by the builder as coordinated with the appropriate utility companies.

**Stormwater Management**

The properties in the PUD are located in the Primary Watershed Overlay District and the Beaver Creek Basin. The properties do not contain any FEMA designated 100-year flood plain. This project is located within the Upper Beaver Creek basin and will be required to attenuate the 1-year, 10-year, and 25-year storms.

**APEX TRANSPORTATION PLAN/ACCESS and CIRCULATION:**

The Site will require an internal public roadway network and parking spaces. The onsite transportation circulation system shall be consistent with the Town of Apex Transportation Plan and the Town of Apex Standard Specifications and Standard Details. The following conditions shall apply:

1. The Developer will provide frontage improvements on Olive Chapel Road, maintaining the existing westbound through lane, widening for a 6’ bike lane, constructing curb and gutter along with 5’ sidewalk, and ROW dedication for half of the ultimate 110’ ROW, measured 55’ from centerline. The existing two way left turn lane shall be restriped as needed to serve eastbound left turns at the proposed access.
2. There will be a deceleration taper at the site access on westbound Olive Chapel Road with 50’ of full width deceleration lane and 50’ taper.
3. The Developer will provide frontage improvements on Chapel Ridge Road based on a minimum 27’ curb and gutter roadway with 5’ sidewalks and ROW dedication a minimum of 30’ from roadway centerline.

**Pedestrian Facilities**

1. The development plan will incorporate sidewalk infrastructure along Olive Chapel Road and Chapel Ridge Road as well as on both sides of the internal street network.

**ENVIRONMENTAL ADVISORY BOARD**

The Environmental Advisory Board held a meeting with the applicant on November 18, 2021 and accepted the following recommendations as proposed by the applicant.

EAB Suggested Condition	Applicant’s Response
The developer shall provide pedestrian-friendly connections to the future Beaver Creek greenway expansion and surrounding neighborhoods.	Included
Install signage near environmentally sensitive areas	Included
Increase biodiversity	Included

## STAFF REPORT

### Rezoning #21CZ32 Chapel Ridge Towns PUD

March 22, 2022 Town Council Meeting



Implement green infrastructure	Included
Include landscaping that requires less irrigation and chemical use	Included
Include solar conduit in building design	Included
The homebuilder will provide EV charging outlets as an upgrade option to individual units	Included
Install pet waste stations	Included
Include energy efficient lighting in building design	Included

#### **PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY COMMISSION:**

The Parks, Recreation, and Cultural Resources Advisory Commission reviewed this item at their February 23, 2022 meeting and unanimously recommended a fee-in-lieu for the project. The 2022 rate for Single Family Attached units is \$2,528.25, the rate will be set at the time of Town Council approval and is based on 100 units.

#### **PLANNING BOARD RECOMMENDATION:**

The Planning Board held a Public Hearing on March 14, 2022 and unanimously voted to recommend approval of the rezoning with the conditions offered by the applicant.

#### **PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of rezoning #21CZ32 Chapel Ridge Towns PUD with the conditions as proposed by the applicant.

#### **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 designates the site as Medium Density Residential. The proposed PUD is consistent with that land use classification.

Approval of the rezoning is reasonable and in the public interest because the site provides increased perimeter buffers, higher planting standards, a crosswalk on Chapel Ridge Rd from the site to the future transit stop, and sidewalk infrastructure along Olive Chapel Road. In addition, the project proposes to provide two units that will be affordable to median income households earning up to 100% AMI.

#### **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.



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.

### Legislative Considerations

The Town Council shall find the Planned Unit Development-Conditional Zoning (PUD-CZ) designation demonstrates compliance with the following standards. 2.3.3. F:

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 #21CZ32

Beckett Crossing

Clark Farm Rd

540

NC 540 Hwy SB

NC 540 Hwy NB

Olive Chapel Professional Park

540 Flex and Business Park

Barnside Ln

Chapel Ridge

Chapel Ridge Rd

Olive Chapel Rd

Ashley Downs

Pearson Farms

Olde Walker Mill Rd

Ashbark Ct

Ashley Downs Dr

Patterson Grove Rd

Chenworth Dr

0 250 500 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 #: # 21CZ 32  
Fee Paid: \$ paid

Submittal Date: 12-1-2021  
Check #: Credit card

**PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP**

Project Name: Chapel Ridge Towns

Address(es): 1409, 1401, 1408, 1400 Barnside Lane 1412 Olive Chapel Road

PIN(s) 0732333570, 0732337537, 0732345135, 0732347080, 0732430661

Acreage: 21.6

Current Zoning: RR Proposed Zoning: PUD-CZ

Current 2045 LUM Designation: Medium Density Residential

Requested 2045 LUM Designation: Medium Density Residential

See next page for LUM amendment

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: \_\_\_\_\_

Area proposed as non-residential development: Acreage: \_\_\_\_\_

Percent of mixed use area proposed as non-residential: Percent: \_\_\_\_\_

**Applicant Information**

Name: Toll Bros, Inc

Address: 900 Perimeter Park Drive, Suite B3

City: Morrisville State: NC Zip: 27560

Phone: 919-801-6851 E-mail: jwestmoreland@tollbrothers.com

**Owner Information**

Name: See Attached, Multiple

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Agent Information**

Name: WithersRavenel

Address: 115 Mackenan Dr

City: Cary State: NC Zip: 27511

Phone: 919-535-5212 E-mail: bvega@withersravenel.com

Other contacts: Ed Tang, etang@withersravenel.com

Jason Barron, jbarron@morningstarlawgroup.com

**PLANNED UNIT DEVELOPMENT APPLICATION**

Application #:     # 21C232    

Submittal Date:     12-1-2021    

**2045 LAND USE MAP AMENDMENT (if applicable)**

The applicant does hereby respectfully request the Town Council amend the 2045 Land Use Map. In support of this request, the following facts are shown:

The area sought to be amended on the 2045 Land Use Map is located at:

    N/A None requested    

Current 2045 Land Use Classification: \_\_\_\_\_

Proposed 2045 Land Use Classification: \_\_\_\_\_

What conditions justify the passage of the amendment to the 2045 Land Use Map? Discuss the existing use classifications of the subject area in addition to the adjacent land use classifications.

\_\_\_\_\_  
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**CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS**

Application #: 21CZ32

Submittal Date: 12-1-2021

Provide a certified list of property owners subject to this application and all property owners within 300' of the subject property and HOA Contacts.

	Owner's Name	PIN
1.	See attached	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
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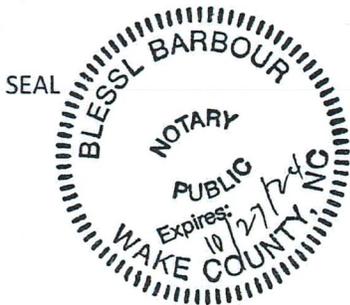
I, Brendie Vega, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 12/1/2021

By: Brendie Vega

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, BLESSL BARBOUR, a Notary Public for the above State and County, on this the 1<sup>st</sup> day of DECEMBER, 2021.



Blessl Barbour  
 Notary Public  
BLESSL BARBOUR  
 Print Name

My Commission Expires: 10/27/2024

SITE ADDRESS	PIN_NUM	OWNER	MAILING ADDRESS	
1600 OLIVE CHAPEL RD	0732235461	540 FLEX & BUSINESS PARK LLC	2509 SOUTHWINDS RUN	APEX NC 27502-6512
1505 OLIVE CHAPEL RD	0732322948	AIMAN, PAUL JOHNAS, KEZIA	1505 OLIVE CHAPEL RD	APEX NC 27502-6744
0 OLIVE CHAPEL RD	0732314682	APEX TOWN OF	PO BOX 250	APEX NC 27502-0250
1404 ASHLEY DOWNS DR	0732326858	AVIGLIANO, JOSEPH M AVIGLIANO, ELIZABETH H	1404 ASHLEY DOWNS DR	APEX NC 27502-4963
1004 DOUBLE SPRING CT	0732336072	BARFIELD, WILLIAM W BARFIELD, PAMELA M	1004 DOUBLE SPRING CT	APEX NC 27502-4967
1500 CLARK FARM RD	0732342436	BOYKIN, V RAYMOND JR BOYKIN, RITA L	1500 CLARK FARM RD	APEX NC 27502-8500
1304 CHAPEL RIDGE RD	0732343658	SERINO, JAMES PATRICK BUSI, MELINDA	1304 CHAPEL RIDGE RD	APEX NC 27502-8503
1408 BARNSIDE LN	0732345135	BUNN, KENNETH G. BUNN, ERICA CHRISTINE	1408 BARNSIDE LN	APEX NC 27502-8501
1401 BARNSIDE LN	0732337537	CAIN, PAUL A CAIN, ANNE H	1401 BARNSIDE LN	APEX NC 27502-8501
1505 CLARK FARM RD	0732340146	CHAGANTIPATI, RAJ KIRAN VEMURI, JYOTSNA	4016 SYKES ST	CARY NC 27519-7301
1704 ASHBARK CT	0732227949	CONTRERAS-BLANCO, ERICK I WILSON, TYLER E	1704 ASHBARK CT	APEX NC 27502-5298
1005 WILD SONNET CT	0732432055	COOK, MATTHEW A VAISHNAVA, PREMLATA	1005 WILD SONNET CT	APEX NC 27502-9206
1521 OLIVE CHAPEL RD	0732229953	DASHNAU, HEATHER H KAMPANAKIS, PANAGIOTIS	1521 OLIVE CHAPEL RD	APEX NC 27502-6744
1002 TRIBBLE GATE CT	0732338134	DICKSON, DWAYNE W	1002 TRIBBLE GATE CT	APEX NC 27502-9033
1000 ASHLEY DOWNS DR	0732339147	FREITAS, BRIAN FREITAS, PERDANA	1000 ASHLEY DOWNS DR	APEX NC 27502-9541
1409 BARNSIDE LN	0732333570	GASIOROWSKI PROPERTIES LLC	1121 PEMBERTON HILL RD	APEX NC 27502-4280
1313 CHAPEL RIDGE RD	0732347395	GROVER, SARA W PRESTRUD, DAVID G	1313 CHAPEL RIDGE RD	APEX NC 27502-8503
1005 DOUBLE SPRING CT	0732324938	HASSAN, MOHAMMED A FATEMA, ISRAT	1005 DOUBLE SPRING CT	APEX NC 27502-4967
1400 BARNSIDE LN	0732347080	HINSON, WARREN R HINSON, DIANNE B	1400 BARNSIDE LN	APEX NC 27502-8501
1412 OLIVE CHAPEL RD	0732430661	HOCH, BENJAMIN ARNOLD HOCH, LESLEY BALLARD	1412 OLIVE CHAPEL RD	APEX NC 27502-8511
1702 ASHBARK CT	0732228956	HOUSE, JESSE E HOUSE, REGINA B	1702 ASHBARK CT	APEX NC 27502-5298
1007 DOUBLE SPRING CT	0732334047	KOCHAR, SUMEET KOCHAR, VINITA	717 MANASSAS GAP PL	CARY NC 27519-9618
1001 WILD SONNET CT	0732431210	KUNTARICH, DAVID R KUNTARICH, LAURA A	1001 WILD SONNET CT	APEX NC 27502-9206
1006 DOUBLE SPRING CT	0732336121	LACHES, MICHAEL J LACHES, TRUDIE M	1006 DOUBLE SPRING CT	APEX NC 27502-4967
1000 WILD SONNET CT	0732420976	MARTINDALE, RANDOLPH A MARTINDALE, CANDACE E	1000 WILD SONNET CT	APEX NC 27502-9206
1003 DOUBLE SPRING CT	0732324950	MORAVEC, WENDY	1003 DOUBLE SPRING CT	APEX NC 27502-4967
1700 ASHBARK CT	0732228864	NAVY, FRANK NAVY, CECILIA	1700 ASHBARK CT	APEX NC 27502-5298
1008 DOUBLE SPRING CT	0732335130	NONG, TIEN D NGUYEN, NHAM N	1008 DOUBLE SPRING CT	APEX NC 27502-4967
1400 CHAPEL RIDGE RD	0732239874	OLIVE CHAPEL PROFESSIONAL PARK, LLC	1121 PEMBERTON HILL RD	APEX NC 27502-4280
1305 CHAPEL RIDGE RD	0732348563	OVERTON, RUSS OVERTON, KRISTAL RAWLS	1305 CHAPEL RIDGE RD	APEX NC 27502-8503
1003 TRIBBLE GATE CT	0732327999	PEPSNY, THOMAS S PEPSNY, SALLY HANCOCK	1003 TRIBBLE GATE CT	APEX NC 27502-9033
1004 TRIBBLE GATE CT	0732337079	PICKERING, WILLIAM VARSON MINCHER, JESSICA LYNN	1004 TRIBBLE GATE CT	APEX NC 27502-9033
1408 OLIVE CHAPEL RD	0732443421	POPE, CHARLES V POPE, IRIS ISLEY	1408 OLIVE CHAPEL RD	APEX NC 27502-8511
1002 ASHLEY DOWNS DR	0732339048	PROPST, LEE MAURICE	1002 ASHLEY DOWNS DR	APEX NC 27502-9541
1513 OLIVE CHAPEL RD	0732321905	RAO, GANESH K RAO, SUSHMA G TRUSTEE	1513 OLIVE CHAPEL RD	APEX NC 27502-6744
1501 OLIVE CHAPEL RD	0732323917	SAVARD, TODD A SAVARD, JENNIFER	1501 OLIVE CHAPEL RD	APEX NC 27502-6744
1509 OLIVE CHAPEL RD	0732321976	SCHUMAN-HUMBERT, BRITT HUMBERT, GREGOIRE	1509 OLIVE CHAPEL RD	APEX NC 27502-6744
1302 ASHLEY DOWNS DR	0732327829	SHERE, KASHIRAM I SHERE, MANGALA	1302 ASHLEY DOWNS DR	APEX NC 27502-4957
1512 CLARK FARM RD	0732340602	SHERRY, DAVID D SHERRY, ETHEL V	1512 CLARK FARM RD	APEX NC 27502-8500
1310 OLIVE CHAPEL RD	0732439867	SLATE, LYNN S SLATE, TERRY E	1310 OLIVE CHAPEL RD	APEX NC 27502-6743
1517 OLIVE CHAPEL RD	0732320934	THOMAS, ALEXANDER SEBASTIAN RAMONDINO, MARISKA MICHAEL MARIA	1517 OLIVE CHAPEL RD	APEX NC 27502-6744
1004 WILD SONNET CT	0732422942	WALL, VIRGIL M JR WALL, APRIL C	1004 WILD SONNET CT	APEX NC 27502-9206
1003 WILD SONNET CT	0732432148	WENZEL, VALERIE J	1003 WILD SONNET CT	APEX NC 27502-9206
		ASHLEY DOWNS HOA	PO BOX 1117	APEX NC 27523
		CHAPEL RIDGE ESTATES HOA	1001-105 GOODWORTH DR	APEX NC 27539
		Current Tenant	1409 Barnside LN	APEX NC 27502
		Current Tenant	1304 Chapel Ridge	APEX NC 27502
		Current Tenant	1305 Chapel Ridge	APEX NC 27502
		Current Tenant	1313 Chapel Ridge	APEX NC 27502
		Current Tenant	1404 Chapel Ridge RD	APEX NC 27502
		Current Tenant	1424 Chapel Ridge RD	APEX NC 27502
		Current Tenant	1434 Chapel Ridge RD	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 100	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 110	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 130	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 150	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 170	APEX NC 27502
		Current Tenant	1460 Chapel Ridge RD Suite 180	APEX NC 27502



	Current Tenant	1600 Olive Chapel RD Suite 416	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 500	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 504	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 508	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 600	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 604	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 608	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 612	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 616	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 620	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 624	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 628	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 700	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 704	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 708	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 712	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 716	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 720	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 724	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 728	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 732	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 736	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 740	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 264	APEX NC 27502
	Current Tenant	1600 Olive Chapel RD Suite 338	APEX NC 27502

**DEVELOPMENT NAME APPROVAL APPLICATION**

Application #: 210232

Submittal Date: 12-1-2021

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 #: 21CZ32

Submittal Date: 12-1-2021

**Proposed Subdivision/Development Information**

Description of location: \_\_\_\_\_

Nearest intersecting roads: \_\_\_\_\_

Wake County PIN(s): \_\_\_\_\_

Township: \_\_\_\_\_

**Contact Information (as appropriate)**

Contact person: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Owner: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**Proposed Subdivision/Development Name**

1<sup>st</sup> Choice: \_\_\_\_\_

2<sup>nd</sup> Choice (Optional): \_\_\_\_\_

**Town of Apex Staff Approval:**

\_\_\_\_\_  
Town of Apex Planning Department Staff

\_\_\_\_\_  
Date

<b>PIN</b>	<b>ADDRESS</b>	<b>OWNER</b>	<b>ACREAGE</b>
0732333570	1121 PEMBERTON HILL RD APEX NC 27502-4280	GASIOROWSKI PROPERTIES LLC	6.10
0732337537	1401 BARNSIDE LN APEX NC 27502-8501	CAIN, PAUL A CAIN, ANNE H	4.01
0732347080	1400 BARNSIDE LN APEX NC 27502-8501	HINSON, WARREN R HINSON, DIANNE B	3.26
0732345135	1408 BARNSIDE LN APEX NC 27502-8501	BUNN, KENNETH G. BUNN, ERICA CHRISTINE	3.33
0732430661	1412 OLIVE CHAPEL RD APEX NC 27502-8511	HOCH, BENJAMIN ARNOLD HOCH, LESLEY BALLARD	4.46
BARNSIDE LANE R/W		NCDOT	.40

**AGENT AUTHORIZATION FORM**

Application #: 21CZ 3Z

Submittal Date: 12-1-2021

John Gasiorowski

is the owner\* of the property for which the attached

application is being submitted:

- Land Use Amendment
- 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: 1409 Barnside Lane

The agent for this project is: WithersRavenel

I am the owner of the property and will be acting as my own agent

Agent Name: WithersRavenel, Brendie Vega/ Ed Tang

Address: 137 S Wilmington St, Ste 200, Raleigh, NC 27601

Telephone Number: 919-656-8976

E-Mail Address: bvega@withersravenel.com, etang@withersravenel.com

Signature(s) of Owner(s)\*

John Gasiorowski

893B6C0675DA4B8...

John Gasiorowski

12/1/2021

Type or print name

Date

Type or print name

Date

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.

# AGENT AUTHORIZATION FORM

Application #: 21CZ32 Submittal Date: 12-1-2021

Paul Cain and Anne Cain is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 1401 Barnside Lane

The agent for this project is: WithersRavenel

I am the owner of the property and will be acting as my own agent

Agent Name: WithersRavenel, Brendie Vega/ Ed Tang

Address: 137 S Wilmington St, Ste 200, Raleigh, NC 27601

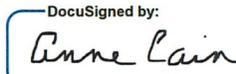
Telephone Number: 919-656-8976

E-Mail Address: bvega@withersravenel.com, etang@withersravenel.com

Signature(s) of Owner(s)\*

  
305C914BA24B4BC...  
Paul Cain 12/1/2021

Type or print name Date

DocuSigned by:  
  
93141A3A371E43D...  
Anne Cain 12/1/2021

Type or print name Date

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.

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**AGENT AUTHORIZATION FORM**

Application #: 21CZ 32

Submittal Date: 12-1-2021

Kenneth Bunn and Erica Bunn is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 1408 Barnside Lane

The agent for this project is: WithersRavenel

I am the owner of the property and will be acting as my own agent

Agent Name: WithersRavenel, Brendie Vega/ Ed Tang

Address: 137 S Wilmington St, Ste 200, Raleigh, NC 27601

Telephone Number: 919-656-8976

E-Mail Address: bvega@withersravenel.com, etang@withersravenel.com

Signature(s) of Owner(s) By:

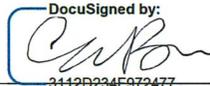


F3C8E94BD0024B6...  
Kenneth Bunn

11/30/2021

Type or print name

Date

DocuSigned by:  
  
3112D234F972477...

Erica Bunn

11/30/2021

Type or print name

Date

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.

**AGENT AUTHORIZATION FORM**

Application #: 21CZ 32

Submittal Date: 12-1-2021

Warren Hinson and Dianne Hinson is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 1400 Barnside Lane

The agent for this project is: WithersRavenel

I am the owner of the property and will be acting as my own agent

Agent Name: WithersRavenel, Brendie Vega/ Ed Tang

Address: 137 S Wilmington St, Ste 200, Raleigh, NC 27601

Telephone Number: 919-656-8976

E-Mail Address: bvega@withersravenel.com, etang@withersravenel.com

Signature(s) of Owner(s)\*

Warren R Hinson

D954A81E4FB4F8...  
warren Hinson

12/1/2021

Type or print name

Date

DocuSigned by:  
Dianne Hinson

D46F796595B6458  
Dianne Hinson

12/1/2021

Type or print name

Date

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.

**AGENT AUTHORIZATION FORM**

Application #: 210232

Submittal Date: 12-1-2021

Ben Hoch and Lesley Hoch is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 1412 Olive Chapel Road

The agent for this project is: WithersRavenel

I am the owner of the property and will be acting as my own agent

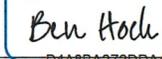
Agent Name: WithersRavenel, Brendie Vega/ Ed Tang

Address: 137 S Wilmington St, Ste 200, Raleigh, NC 27601

Telephone Number: 919-656-8976

E-Mail Address: bvega@withersravenel.com, etang@withersravenel.com

Signature(s) of Owner(s)\*

  
D4A8BA272DDA4F1...  
 Ben Hoch

11/30/2021

Type or print name

Date

DocuSigned by:  
  
0B516D040972493...  
 Lesley Hoch

11/30/2021

Type or print name

Date

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.

**AFFIDAVIT OF OWNERSHIP**

Application #: 21CZ32

Submittal Date: 12-1-2021

The undersigned, Brendie Vega (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 1409, 1401, 1408, 1400 Barnside Lane 1412 Olive Chapel Road 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 \_\_\_\_\_, and recorded in the Wake County Register of Deeds Office on \_\_\_\_\_, in Book \_\_\_\_\_ Page \_\_\_\_\_.
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 \_\_\_\_\_, 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 \_\_\_\_\_, 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 1st day of December, 2021.

Brendie M Vega (seal)  
Brendie M Vega, Authorized Agent

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 BRENDIE M. VEGA, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's NCDL 30523071, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Bless Barbour  
Notary Public  
State of North Carolina  
My Commission Expires: 10/27/2024

**AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION**

Application #: 21C23Z

Submittal Date: 12-1-2021

**Insert legal description below.**

See attached

Beginning at an existing iron pipe on the eastern right of way of Chapel Ridge Rd (50' Public R/W), said pipe having NC grid coordinates (NAD 83 – 2011) of N=724,296.53, E=2,033,345.72, thence from said beginning point South 83°24'52" East 567.88 feet to an existing iron pipe, thence South 83°21'57" East 99.74 feet to an existing iron pipe, thence South 06°32'09" West 153.92 feet to an existing iron pipe, thence South 73°20'32" East 112.24 feet to an existing iron pipe, thence South 51°49'45" East 259.77 feet to an existing iron pipe, thence South 17°49'15" West 448.39 feet to an existing iron pipe, thence South 06°52'59" West 114.60 feet to an existing iron pipe on the northern right of way of Olive Chapel Road (SR 1160) (Public Variable R/W), thence with said right of way South 81°11'19" West 253.55 feet to an existing iron pipe, thence South 81°09'09" West 256.96 feet to an existing iron pipe, thence South 81°34'12" West 538.21 feet to a new iron pipe, thence South 81°52'03" West 43.17 feet to a new iron pipe, thence leaving said right of way along a curve to the right having a radius of 30.00 feet, an arc length of 51.52 feet, and a chord bearing and distance of North 48°56'05" West 45.42 feet to a new iron pipe on the eastern right of way of Chapel Ridge Road (50' Public R/W), thence with said right of way along a curve to the right having a radius of 177.00 feet, an arc length of 140.62 feet, and a chord bearing and distance of North 23°01'22" East 136.95 feet to a new iron pipe, thence North 45°46'57" East 115.00 feet to a new iron pipe, thence along a curve to the left having a radius of 244.00 feet, an arc length of 253.38 feet, and a chord bearing and distance of North 16°01'55" East 242.15 feet to a new iron pipe, thence along a curve to the right having a radius of 374.54 feet, an arc length of 158.98 feet, and a chord bearing and distance of North 01°33'27" West 157.79 feet to a new iron pipe, thence North 10°36'09" East 78.30 feet to a new iron pipe, thence North 10°36'09" East 95.00 feet to a new iron pipe, thence North 10°46'29" East 230.80 feet to a new iron pipe, thence along a curve to the right having a radius of 400.00 feet, an arc length of 108.42 feet, and a chord bearing and distance of North 18°11'52" East 108.09 feet to the point and place of beginning, containing 21.569 acres (939,562 Sq Ft) more or less.

## Wake County Residential Development Notification

Please complete each section of this form and submit with your application.

Town of Apex staff will enter this information into the online WCPSS form.

Please send any questions about this form to:

[studentassignment-gis-group@wcpss.net](mailto:studentassignment-gis-group@wcpss.net)

Developer Company Information	
<b>Company Name</b>	Toll Bros., Inc
<b>Company Phone Number</b>	919-321-4800
<b>Developer Representative Name</b>	Jeff Westmoreland
<b>Developer Representative Phone Number</b>	919-321-4800
<b>Developer Representative Email</b>	jwestmoreland@tollbrothers.com

New Residential Subdivision Information	
<b>Date of Application for Subdivision</b>	05.03.2021 (Rezoning)
<b>City, Town or Wake County Jurisdiction</b>	Town of Apex
<b>Name of Subdivision</b>	Chapel Ridge Towns
<b>Address of Subdivision (if unknown enter nearest cross streets)</b>	Intersection of Olive Chapel Road and Chapel Ridge Road
<b>REID(s)</b>	0732-33-3570, 0732-33-7537, 0732-34-5135, 0732-34-7080, 0732-43-0661
<b>PIN(s)</b>	0157888, 0157887, 0157885, 0157886, 0104759

Projected Dates Information	
<b>Subdivision Completion Date</b>	Q3 - 2025
<b>Subdivision Projected First Occupancy Date</b>	Q3 - 2023

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	100 (3 BR)							2200	2400	TBD	TBD	2023	30	2024	60	2025	30
Condos																	
Apartments																	
Other																	

Revised 08/10/2018

**RE: CHAPEL RIDGE PLANNED UNIT DEVELOPMENT**

Dear Resident or Property Owner:

Please find enclosed an invitation for a neighborhood meeting on **Wednesday, November 17, 2021**, to be held virtually by **WebEx** from **6 pm to 8 pm**. You can join by computer, smartphone, tablet or other internet-enabled device at the meeting link (this will first take you to a registration to collect information required by the Town of Apex for neighborhood meetings):

Please register in advance at <https://bit.ly/3EwOvJR>

**or** Use the camera on your smartphone to scan the code, you will be taken to the registration page.



**To join by phone**

+1-415-655-0001 US Toll

Access code: 243 578 18796

If you are unable to attend the meeting, would like to talk outside of the meeting, or have any other questions or concerns, please do not hesitate to contact me.

[bvega@withersravenel.com](mailto:bvega@withersravenel.com) or 919-535-5212

If you have questions for the Town, the Planner on the rezoning case is Liz Loftin:

[Liz.Loftin@apexnc.org](mailto:Liz.Loftin@apexnc.org) or 919-249-3439.

Sincerely,

WithersRavenel



Brendie Vega, ACIP, CNU-A  
Director of Planning



# 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.

11/03/2021

Date



Please register in advance with the QR code or at <https://bit.ly/3Ew0vJR>

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at  
1409, 1401, 1408, 1400 Barnside Lane 1412 Olive Chapel Road 0732333570, 0732337537,0732345135,  
0732347080, 0732430661

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/Planning-Community-Development>.

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	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council 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)):

A rezoning request for a Planned Unit Development for residential units.

Estimated submittal date: December 1, 2021

MEETING INFORMATION:	
Property Owner(s) name(s):	Gasiorowski Properties LLC, Paul and Anne Cain, Kenneth and Erica Christine Bunn, Warren and Dianne Hinson, Benjamin and Arnold Hoch, and Lesley Ballard
Applicant(s):	<u>WithersRavenel for Toll Bros.</u>
Contact information (email/phone):	<u>Brendie Vega bvega@withersravenel.com 919-535-5212</u>
Meeting Address:	<u>Please register in advance: https://bit.ly/3Ew0vJR</u>
Date/Time of meeting**:	<u>November 17, 2021</u>

MEETING AGENDA TIMES:		
Welcome:	<u>6 pm</u>	Project Presentation: <u>6:15 pm</u> Question & Answer: <u>7 pm</u>

\*\*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 and Community Development 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/Planning-Community-Development>.

# 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: Chapel Ridge Towns Zoning: RR to PUD-CZ  
 Location: 1409, 1401, 1408, 1400 Barnside Lane 1412 Olive Chapel Road  
 Property PIN(s): 0732333570, 0732337537, 0732345135, 0732347090, 0732430661 Acreage/Square Feet: 21.6 acres

Property Owner: Gasiorowski Properties LLC, Paul and Anne Cain, Kenneth and Erica Christine Bunn, Warren and Dianne Hinson, Benjamin and Arnold Hoch, and Lesley Ballard  
 Address: 1409, 1401, 1408, 1400 Barnside Lane 1412 Olive Chapel Road  
 City: Apex State: NC Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Developer: Toll Brothers  
 Address: 900 Perimeter Park Drive, Suite B3  
 City: Morrisville State: NC Zip: 27560  
 Phone: 704-430-9392 Fax: \_\_\_\_\_ Email: jwestmoreland@tollbrothers.com

Engineer: Ben Mayo  
 Address: 115 Mackenan Dr  
 City: Cary State: NC Zip: 27511  
 Phone: 919-238-0341 Fax: \_\_\_\_\_ Email: bmayo@withersravenel.com

Builder (if known): Toll Brothers  
 Address: 900 Perimeter Park Drive, Suite B3  
 City: Morrisville State: NC Zip: 27560  
 Phone: 704-430-9392 Fax: \_\_\_\_\_ Email: jwestmoreland@tollbrothers.com/jwestmoreland@tollbrothers.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 and Community Development 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 and Greenways Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
James Gregg, Utility Engineering Manager (Water & Sewer)	(919) 249-3324
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

### Providing Input to Town Council:

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at [AllCouncil@apexnc.org](mailto:AllCouncil@apexnc.org).

### Private Agreements and Easement Negotiation:

The Town of Apex cannot enforce private agreements between developers and neighbors and is not a party to the easement and right-of-way negotiation that occurs between developers and neighboring property owners for easements or rights-of-way that are necessary to build the project.

It is recommended that all private agreements be made in writing and that if a property owner feels it necessary, they should obtain private legal counsel in order to protect their interests in both private agreements and during easement negotiations. The only conditions that the Town of Apex can enforce are those conditions that are made a part of the conditional zoning of the property by agreement of the developer and the Town.

As an example, if a developer offers to build a fence for a neighbor to mitigate some impact, the Town can only enforce the construction of the fence if the fence becomes a condition of the rezoning. This would occur by the developer offering the condition as part of their conditional zoning application package or at the Town Council public hearing on the conditional zoning and the Town accepting it as a condition. Private agreements regarding a fence being constructed will not be enforced by the Town.

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

### Documentation:

Neighbors to a requested new development and/or rezoning are strongly encouraged to fully document (such as through dated photographs) the condition of their property before any work is initiated for the new development. Stormwater controls installed on developed property are not designed to and will likely not remove 100% of the soil particles transported by stormwater runoff. As a result, creeks and ponds could become cloudy for a period of time after rain events.

# COMMON CONSTRUCTION ISSUES & WHO TO CALL

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.

## **Noise & Hours of Construction: Non-Emergency Police 919-362-8661**

Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

## **Construction Traffic: James Misciagno 919-372-7470**

Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

## **Road Damage & Traffic Control: Water Resources – Infrastructure Inspections 919-362-8166**

There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

## **Parking Violations: Non-Emergency Police 919-362-8661**

Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

## **Dirt in the Road: James Misciagno 919-372-7470**

Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

## **Dirt on Properties or in Streams: James Misciagno 919-372-7470 Danny Smith [Danny.Smith@ncdenr.gov](mailto:Danny.Smith@ncdenr.gov)**

Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith ([danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov)) with the State.

## **Dust: James Misciagno 919-372-7470**

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

## **Trash: James Misciagno 919-372-7470**

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

## **Temporary Sediment Basins: James Misciagno 919-372-7470**

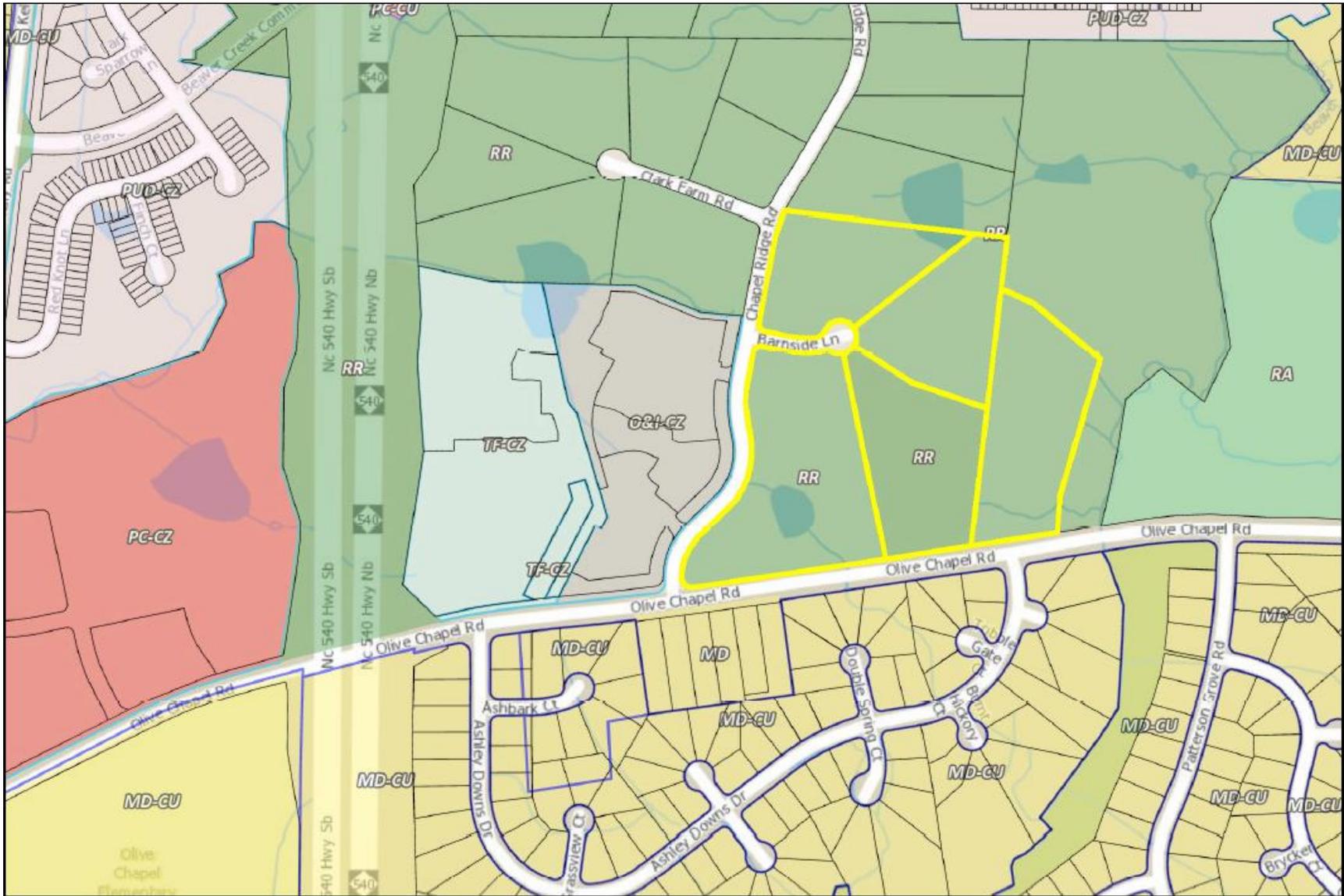
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

## **Stormwater Control Measures: Jessica Bolin 919-249-3537**

Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

## **Electric Utility Installation: Rodney Smith 919-249-3342**

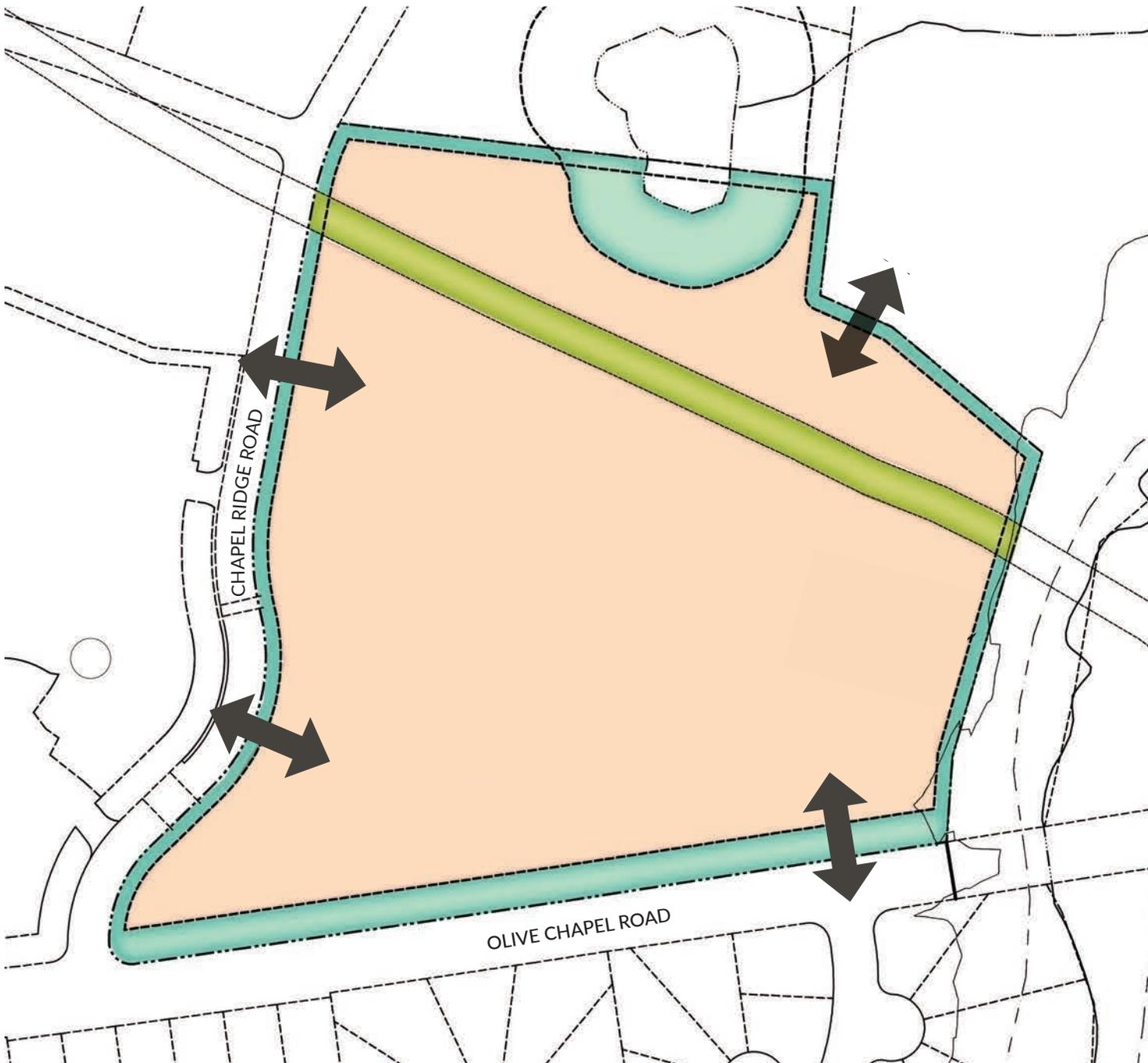
Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



## Zoning Map

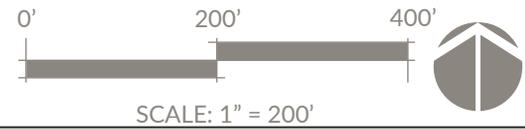


**WithersRavenel**  
Our People. Your Success.



**LEGEND**

-  CONCEPTUAL VEHICULAR ACCESS POINT
-  TOWNHOME/SINGLE FAMILY
-  BUFFER
-  GAS EASEMENT



**CHAPEL RIDGE : BUBBLE DIAGRAM**

SITE ADDRESS	PIN_NUM	OWNER	MAILING ADDRESS	
1600 OLIVE CHAPEL RD	0732235461	540 FLEX & BUSINESS PARK LLC	2009 SOUTHWINDS RUN	APEX NC 27502-8512
1506 OLIVE CHAPEL RD	0732322949	MIAMI PAUL JOHNS KEZA	1506 OLIVE CHAPEL RD	APEX NC 27502-8744
0 OLIVE CHAPEL RD	0732314882	APEX TOWN OF	PO BOX 250	APEX NC 27502-0250
1404 ASHLEY DOWNS DR	0732320888	AVILANO, JOSEPH M ANGLIANO, ELIZABETH H	1404 ASHLEY DOWNS DR	APEX NC 27502-4963
1004 DOUBLE SPRING CT	0732336072	BARFIELD, WILLIAM M BARFIELD, PAMELA M	1004 DOUBLE SPRING CT	APEX NC 27502-4967
1500 CLARK FARM RD	0732424248	BOYVIN V RAYMOND JR BOYVIN, RITAL	1500 CLARK FARM RD	APEX NC 27502-8500
1304 CHAPEL RIDGE RD	0732343668	BROWN, STEPHEN J BROWN, JILL T	1304 CHAPEL RIDGE RD	APEX NC 27502-8603
1408 BARNSIDE LN	0732345135	BUNN, KENNETH G, BUNN, ERICA CHRISTINE	1408 BARNSIDE LN	APEX NC 27502-8501
1401 BARNSIDE LN	0732337537	CAN, PAN JIA CAN, ANNE H	1401 BARNSIDE LN	APEX NC 27502-8501
1505 CLARK FARM RD	0732340146	CHAGANTI, RAJ, RAJAN VEMURU, JYOTNA	4016 SYKES ST	GARY NC 27519-7301
1704 ASHBARK CT	0732272949	CONTRERAS-BLANCO, ERICK WILSON, TYLER E	1704 ASHBARK CT	APEX NC 27502-5208
1000 WILD SONNET CT	0732432065	COOK, MATTHEW A WASHNAVA, PREMLATA	1000 WILD SONNET CT	APEX NC 27502-9206
1521 OLIVE CHAPEL RD	0732429663	DASHNAU HEATHER H KAMPANNAIS, PANAGIOTIS	1521 OLIVE CHAPEL RD	APEX NC 27502-8744
1002 TRIBLE GATE CT	0732339134	DIXSON, DWYANE W	1002 TRIBLE GATE CT	APEX NC 27502-9033
1000 ASHLEY DOWNS DR	0732339147	FREITAS, BRIAN FREITAS, PERDANA	1000 ASHLEY DOWNS DR	APEX NC 27502-8541
1409 BARNSIDE LN	0732333570	GASBOROWSKI PROPERTIES LLC	1121 PEMBERTON HILL RD	APEX NC 27502-4280
1313 CHAPEL RIDGE RD	0732447865	GHANI, SAKA W PRESTIUD, DAVID G	1313 CHAPEL RIDGE RD	APEX NC 27502-8603
1005 DOUBLE SPRING CT	0732324938	HASSAN, MOHAMMED A FATEMA, ISRAAT	1005 DOUBLE SPRING CT	APEX NC 27502-4967
1400 BARNSIDE LN	0732340780	HINSON, WARREN R HINSON, DIANNE B	1400 BARNSIDE LN	APEX NC 27502-8501
1412 OLIVE CHAPEL RD	0732430661	HOCH, BENJAMIN ARNOLD HOCH, LESLEY BALLARD	1412 OLIVE CHAPEL RD	APEX NC 27502-8511
1702 ASHBARK CT	0732228956	HOUSE, JESSE E HOUSE, REGINA B	1702 ASHBARK CT	APEX NC 27502-5208
1007 DOUBLE SPRING CT	0732334047	KOCHER, SUMET KOCHER, VINITA	717 MANASSAS GAP PL	GARY NC 27519-9918
1001 WILD SONNET RD	0732432170	KUNTARICH, DAVID R KUNTARICH, LAURA A	1001 WILD SONNET CT	APEX NC 27502-9206
1008 DOUBLE SPRING CT	0732338151	LACHES, MICHAEL J LACHES, TRUDIE H	1008 DOUBLE SPRING CT	APEX NC 27502-4967
1000 WILD SONNET CT	0732420976	MARTINDALE, RANDOLPH A MARTINDALE, CANDACE E	1000 WILD SONNET CT	APEX NC 27502-9206
1003 DOUBLE SPRING CT	0732224960	MICHAEL, WENDY	1003 DOUBLE SPRING CT	APEX NC 27502-4967
1700 ASHBARK CT	0732228684	NAVY, FRANK NAVY, CECILIA	1700 ASHBARK CT	APEX NC 27502-5208
1008 DOUBLE SPRING CT	0732335130	NONG, TIEN N NGUYEN, NHAM N	1008 DOUBLE SPRING CT	APEX NC 27502-4967
1400 CHAPEL RIDGE RD	0732259874	OLIVE CHAPEL PROFESSIONAL PARK, LLC	1121 PEMBERTON HILL RD	APEX NC 27502-4280
1305 CHAPEL RIDGE RD	0732448663	OVERTON, RUSS OVERTON, KRISTAL RAWLS	1305 CHAPEL RIDGE RD	APEX NC 27502-8503
1003 TRIBLE GATE CT	0732272969	PEPINSY, THOMAS S PEPINSY, HOLLY HANCOCK	1003 TRIBLE GATE CT	APEX NC 27502-9033
1004 TRIBLE GATE CT	0732337079	PICKERNS, WILLIAM WARSON MINCHER, JESSICA LYNN	1004 TRIBLE GATE CT	APEX NC 27502-9033
1408 OLIVE CHAPEL RD	0732443421	POPE, CHARLES W POPE, IRIS ISLEY	1408 OLIVE CHAPEL RD	APEX NC 27502-8511
1002 ASHLEY DOWNS DR	0732320948	POST, LEE MAURICE	1002 ASHLEY DOWNS DR	APEX NC 27502-9441
1513 OLIVE CHAPEL RD	0732321905	RAO, GANESH K RAO, SUSHMA G	1513 OLIVE CHAPEL RD	APEX NC 27502-8744
1501 OLIVE CHAPEL RD	0732322879	SAHARD, TODD SAHARD, JENNIFFER	1501 OLIVE CHAPEL RD	APEX NC 27502-8502
1509 OLIVE CHAPEL RD	0732321976	SCHUMANN-HUMBERT, BRITTI HUMBERT, GREGOIRE	1509 OLIVE CHAPEL RD	APEX NC 27502-8744
1302 ASHLEY DOWNS DR	0732272829	SHERE, KASHIRAM J SHERE, MANGALA	1302 ASHLEY DOWNS DR	APEX NC 27502-4967
1512 CLARK FARM RD	0732440662	SHERREY, DAVID D SHERREY, ETHEL V	1512 CLARK FARM RD	APEX NC 27502-8500
1310 OLIVE CHAPEL RD	0732439887	SLATE, LYNN S SLATE, TERRY E	1310 OLIVE CHAPEL RD	APEX NC 27502-8743
1517 OLIVE CHAPEL RD	0732320585	SMAROD, ALEXANDER SEBASTIAN RAMONINDO, MARISKA MICHAEL MARIA	1517 OLIVE CHAPEL RD	APEX NC 27502-8511
1004 WILD SONNET CT	0732425242	WALL, VIRGIL M JR WALL, APRIL C	1004 WILD SONNET CT	APEX NC 27502-9206
1003 WILD SONNET CT	0732432148	WENZEL, VALERIE J	1003 WILD SONNET CT	APEX NC 27502-9206
		ASHLEY DOWNS HOA	PO BOX 117	APEX NC 27502-9205
		CHAPEL RIDGE ESTATES HOA	1001-105 GOODWORTH DR	APEX NC 27502-9205
Current Tenant			1408 Barnside Ln	APEX NC 27502
Current Tenant			1304 Chapel Ridge	APEX NC 27502
Current Tenant			1303 Chapel Ridge	APEX NC 27502
Current Tenant			1313 Chapel Ridge	APEX NC 27502
Current Tenant			1424 Chapel Ridge Rd	APEX NC 27502
Current Tenant			1424 Chapel Ridge Rd	APEX NC 27502
Current Tenant			1434 Chapel Ridge	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 100	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 110	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 130	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 150	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 170	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 180	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 200	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 220	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 240	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 260	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 280	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 300	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 320	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 340	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 360	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 380	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 400	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 420	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 440	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 460	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 480	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 500	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 520	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 540	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 560	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 580	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 600	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 620	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 640	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 660	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 680	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 700	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 720	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 740	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 760	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 780	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 800	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 820	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 840	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 860	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 880	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 900	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 920	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 940	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 960	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 980	APEX NC 27502
Current Tenant			1460 Chapel Ridge RD Suite 1000	APEX NC 27502
Additional mailings added by applicant			137 S Wilmington St, Ste 200	RALEIGH NC 27601
Additional mailings added by applicant			900 Perimeter Park Drive, Suite B3	MORRISVILLE NC 27560
Additional mailings added by applicant			1513 CLARK FARM RD	APEX NC 27502-8500
Additional mailings added by applicant			1517 CLARK FARM RD	APEX NC 27502-8500
Additional mailings added by applicant			1516 CLARK FARM RD	APEX NC 27502-8500
Additional mailings added by applicant			1220 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1205 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1205 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1205 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1213 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1225 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1213 PEMBERTON HILL RD STE 202	APEX NC 27502
Additional mailings added by applicant			1200 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1205 CHAPEL RIDGE RD	APEX NC 27502
Additional mailings added by applicant			1220 CHAPEL RIDGE RD	APEX NC 27502

Requested By: Brendie Vega  
Date Requested: October 4th

## Chapel Ridge PUD Neighborhood Meeting via WebEx

**Date: November 17, 2021, 6pm to 8 pm**

Jason Barron introduced the team and went through the Chapel Ridge Planned Unit Development, the Council's comments through the process, and the changes to the project with the new submittal.

- The density of the overall project will decrease
- The townhomes will be limited to 2-story
- The project will be age-restricted

Russ Overton will send a list of changes, same one from prior version, and would like the questions memorialized in the neighborhood meeting minutes. Wanted to know where the team is in the process. Will submit the rezoning in December, will follow with subdivision plan and construction documents.

The neighbors would like to meet in the neighborhood sooner rather than later. Project team to coordinate with Russ Overton and Rita Boykin.

Rita Boykin asked what was meant by age restricted, Jason confirmed that it meant 55 years old and older. She also asked what the price point and elevations would be. Jason and Jeff noted that the information would not be available by the time of submittal. Jeff explained that this is referred to a carriage home which Toll calls their townhome with a master down. Will push for having a graphic after the holiday season. Will probably have plan graphics with the elevations following.

Rita asked who was at the staff at our pre-application meeting today. Jason responded with Amanda Bunce, Liz Loftin and Russell Dalton.

Rita asked about Council comments, specifically the Council person who was not supportive of the project based on wanting apartments/ higher density. Council member Brett Gantt in previous conversations has said he would not support development here at this density. She also asked how staff felt. Jason said no concerns by traffic, but affordable housing was brought up as a continued Council concern.

Per the PUD schedule, March 14, 2022 **Planning Board Meeting** and March 22, 2022 **Town Council Meeting**. Brendie noted that the schedule could be subject to change if the project moves through the process faster or slower, Jason advised that if it went any sooner we would communicate that to the neighbors.

Several members of the community thanked the team for presenting and then left the meeting. Jason mentioned that someone would be on until 8 pm if anyone thought of anything.

Many on the call left the WebEx at 6:35 pm.

Warren Hinson asked about a Council members' comment on the connection to Beaver Creek. Jason explained that there was no way to make that connection with this project as it does not have control of the parcels needed to make a connection.

The team members left the call with the exception of Brendie Vega.

At 7:30 Charles Pope joined the call, Brendie explained the changes to the project and Charles did not have any questions.

The meeting ended at 8 pm.

<b>Name</b>	<b>Attendee Email</b>	<b>Join Time</b>	<b>Leave Time</b>	<b>Attendance Duration</b>
Brendie Vega	raleighwebex@withersravenel.com	2021-11-17 17:49:26	2021-11-17 20:01:10	132 mins
Call-in User_4		2021-11-17 18:21:28	2021-11-17 20:01:05	100 mins
Jeff Westmoreland	jwestmoreland@tollbrothers.com	2021-11-17 18:00:52	2021-11-17 19:17:41	77 mins
Jason Barron	jbarron@morningstarlawgroup.com	2021-11-17 17:55:59	2021-11-17 19:10:27	75 mins
Ed Tang	etang@withersravenel.com	2021-11-17 18:00:27	2021-11-17 19:11:10	71 mins
Call-in User_5		2021-11-17 18:54:33	2021-11-17 20:01:05	67 mins
Barbara	jandbfaulkner@mindspring.com	2021-11-17 17:53:08	2021-11-17 18:40:20	48 mins
Barbara	jandbfaulkner@mindspring.com	2021-11-17 17:53:08	2021-11-17 18:40:20	48 mins
Barbara Faulkner	jandbfaulkner@mindspring.com	2021-11-17 17:56:58	2021-11-17 18:44:55	48 mins
Ben Mayo	bmayo@withersravenel.com	2021-11-17 18:03:27	2021-11-17 18:51:12	48 mins
annecain	annecain@aol.com	2021-11-17 18:00:50	2021-11-17 18:40:46	40 mins
rita boykin	raboykin@bellsouth.net	2021-11-17 17:58:40	2021-11-17 18:35:26	37 mins
Paul Cain	paul_cain@bellsouth.net	2021-11-17 18:01:05	2021-11-17 18:36:19	36 mins
Nancy Corey	icorey@nc.rr.com	2021-11-17 18:02:04	2021-11-17 18:36:25	35 mins
Russ Overton	croverto@att.net	2021-11-17 18:00:24	2021-11-17 18:35:23	35 mins
Sara	sara_grover@bellsouth.net	2021-11-17 18:03:02	2021-11-17 18:37:11	35 mins
larry carlson	llcarlson1@aol.com	2021-11-17 18:03:40	2021-11-17 18:37:28	34 mins
ben hoch	hoch99@gmail.com	2021-11-17 18:02:24	2021-11-17 18:35:20	33 mins
ben hoch	hoch99@gmail.com	2021-11-17 18:02:24	2021-11-17 18:35:20	33 mins
David Prestrud	planaarch@bellsouth.net	2021-11-17 18:06:04	2021-11-17 18:36:05	31 mins
Pam Barfield	billpamb@bellsouth.net	2021-11-17 18:07:41	2021-11-17 18:35:25	28 mins
Warren Hinson	dbhinson@bellsouth.net	2021-11-17 18:25:30	2021-11-17 18:53:07	28 mins
Call-in User_3		2021-11-17 18:09:25	2021-11-17 18:35:14	26 mins
Warren Hinson	dbhinson@bellsouth.net	2021-11-17 18:11:16	2021-11-17 18:26:05	15 mins
Charles Pope	cvpope@bellsouth.net	2021-11-17 19:23:40	2021-11-17 19:29:31	6 mins
Call-in User_2		2021-11-17 18:01:44	2021-11-17 18:05:51	5 mins
Barbara Faulkner	jandbfaulkner@mindspring.com	2021-11-17 17:52:12	2021-11-17 17:53:33	2 mins

## Vega, Brendie

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**From:** croverto(ATT) <croverto@att.net>  
**Sent:** Monday, November 22, 2021 8:43 PM  
**To:** Jason Barron; Vega, Brendie  
**Cc:** Russ Overton; Rita Boykin; David Prestrud; David Prestrud; c\_bria@hotmail.com; c\_bria@hotmail.com; James Faulkner; John A Roccoforte; Dan & Nancy Corey  
**Subject:** Chapel Ridge Neighborhood Meeting Comments  
**Attachments:** Chapel Ridge Toll Bros Nov REZ Comments.pdf

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Jason/Brendie:

Attached are a collection of comments from Chapel Ridge neighbors (also copied). I've removed a bunch from last time that probably are no longer relevant and some still on the list may be the same answer as your last rezoning and figured we'd at least give you the opportunity to state that back again since this is a new rezoning. And lastly as stated at the neighborhood meeting we'd appreciate the chance to meet you and the Toll Bros team in the neighborhood again when you have more info like a preliminary layout completed and not too far into the Apex Council process if that's possible.

Thanks.

## **Comments (in no particular order)**

### **General:**

What is the process and timing of approval expected with Apex?

What conditions are you offering?

- How do we know that the Chapel Ridge Towns will remain 55+?

And what is being proposed above minimum standards of Apex?

Does this project address Apex concerns about school capacity from the prior denied rezoning.

What are the home square footage or price points planned for the units?

What is going to happen to the Chapel Ridge Subdivision sign?

- Would you consider moving it or at least giving it back to the residents of Chapel Ridge Subdivision?

Any conditions to building quality or materials?

When are you closing on the property?

How will the existing homes be maintained between the time you buy and the time you build?

- How much time will that be?
- When do you expect to be in front of Town Council or P&Z?

How does Toll Brothers plan on being good neighbors to the existing longtime owners of the Chapel Ridge?

What schools will be served by this new subdivision.

What else can you provide us that is not included in the mailed notice?

What is the proposed width of the new proposed town homes?

Has the sewer capacity study been completed?

Will construction not go beyond Barnside Lane - particularly for turning around?

## **Lots/Layout:**

Can we get a copy of the preliminary lot layout when you get have it?

What is the unit count/yield of each or density of each (units/ac)

What are lot sizes? Or dimensional standards?

What kind of opened space or community amenities are planned?

What are your proposed perimeter buffers?

- Are they the minimums allowable by Apex?
- Commentary: We would prefer to see buffers above the minimums along the northern most property boundary and adjacent to homeowners in Chapel Ridge subdivision (like you proposed towards the end of the last rezoning.)
  - Would you consider a privacy fence and also a protection fence to keep people out of/away from the pond adjacent to and on private property to the north of your site.

What can be developed on/over the Gas Easement?

What else will have to be done along Chapel Ridge Road?

- Example, will you be extending waterline to connect to Hempstead connection?

Are any retaining walls planned for the site?

Please keep the keep the subdivisions recreation/community gathering space internal/central to your site. Please do not place it along an edge or abutting/adjacent to existing Olive Chapel neighboring properties.

- Same statement as above with cluster mailbox units. Consider keeping at a central location to the new subdivision. As this can be a location for a lot of noise with engine start/stops and parking stops. New residents should know what they are buying into rather than placement of such amenities to existing/longtime Olive Chapel neighbors.
- Consider working on private agreement for pond property (as discussed in the last rezoning case)

### **Transportation/Vehicular Access:**

We like the vehicular access point directly onto Olive Chapel Road, specifically how it aligns with Ashley Downs Drive.

- Will this (of can this serve as the main subdivision entrance?
- Will this ultimately be the street connection into the stub of Hempstead? (in the future when the Pope property develops?)
  - In other words will also tie to the northeastern most vehicular access point?
    - And then would that connect into the stub of Hempstead? (in the future when the Pope property develops?)

What transportation improvements will be made to Chapel Ridge Road or Olive Chapel Road?

- Will you consider straitening the intersection and improving the dangerous site distance situations at the Chapel Ridge Road alignment towards Olive Chapel Road?

How do you plan to keep construction traffic off Olive Chapel Road while under construction?

Why do the vehicular access point onto Chapel Ridge Road not align with other intersections? And why 2 separate intersections?

- Commentary: What you are proposing would create 6 different intersections within less than a quarter (0.22) of a miles.
  - This seems like it would create unsafe conditions. Is it even safe?
  - Is that even allowed? How were these locations evaluated?
- That's a lot of intersections for pedestrians to dodge that much traffic at access points.

What traffic will be generated? (provide revised traffic info or at least a comparison summary to the last rezoning once you have it)

### **Stormwater/Environmental:**

What are your stormwater plans?

Are you offering any conditions specific to stormwater?

- What year storm are you designing your features for?
- And just how much new impervious surface area will be added that will be draining off of your site into existing ditches, swales and yards?
- Are considering wet ponds, dry ponds, underground, ect?
- Generally, where will these be located?

How do you plan to keep additional impervious runoff produced from your site for going into the pond north of your property?

- How will the existing pond be protected?
- If additional water goes into the pond, how are you projecting the dam or overflow from deteriorating past pre-development levels?

Any special/compelling environmental/sustainability features being considered?

- What has been discussed with Apex's Environmental Advisory Board?

Opened to another onsite neighborhood meeting, like the last rezoning?

# 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, Brendie Vega, do hereby declare as follows:  
Print Name

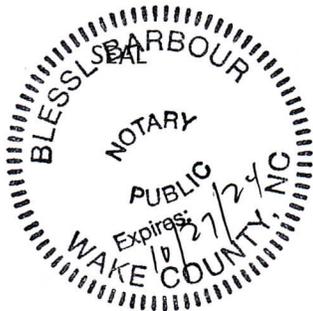
- I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- The meeting invitations were mailed to the Apex Department of Planning and Community Development, 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.
- The meeting was conducted at Web Ex (location/address) on 11/17/2021 (date) from 6pm (start time) to 8pm (end time).
- I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
- I have prepared these materials in good faith and to the best of my ability.

12/1/21  
Date

By: Brendie Vega

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, BLESSL BARBOUR, a Notary Public for the above State and County, on this the 1st day of DECEMBER, 2021.



Blessl Barbour  
Notary Public  
BLESSL BARBOUR  
Print Name

My Commission Expires: 10/27/24

# 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): \_\_\_\_\_

Applicant(s): WithersRavenel for Toll Bros.

Contact information (email/phone): Brendie Vega bvega@withersravenel.com 919-535-5212

Meeting Address: Please register in advance: <https://bit.ly/3Ew0vJR>

Date of meeting: 11/17/21 Time of meeting: \_\_\_\_\_

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.

*see attached notes*

Question/Concern #1:

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Applicant's Response:

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Question/Concern #2:

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Applicant's Response:

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Question/Concern #3:

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---

Applicant's Response:

---

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Question/Concern #4:

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Applicant's Response:

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# 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: Please register in advance: <https://bit.ly/3Ew0vJR>  
 Date of meeting: 11/17/21 Time of meeting: \_\_\_\_\_  
 Property Owner(s) name(s): \_\_\_\_\_  
 Applicant(s): WithersRavenel for Toll Bros.

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.	<i>See attached</i>				
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

# CHAPEL RIDGE TOWNS

PLANNED UNIT DEVELOPMENT

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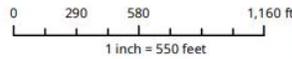
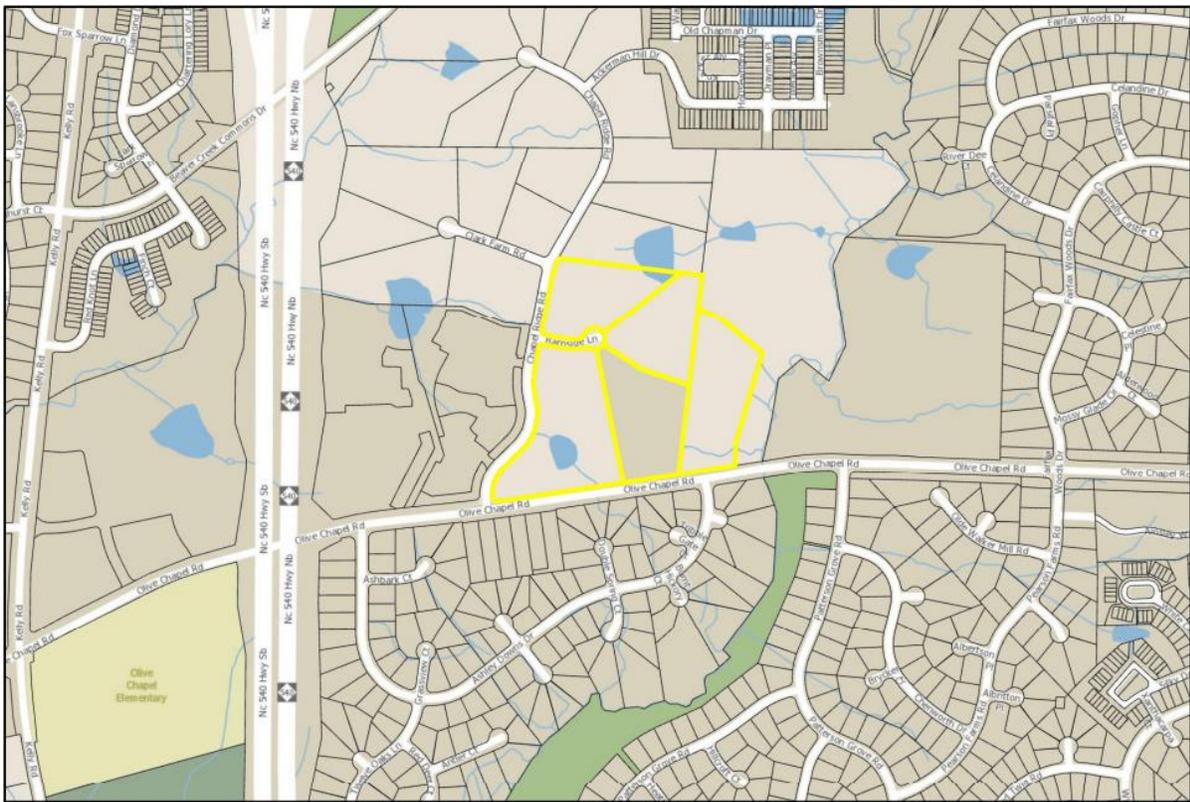
December 1, 2021  
Updated March 15, 2022

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# 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.

## PROJECT INFORMATION

Name of Project	Chapel Ridge Towns
PIN(s)	0732333570, 0732337537, 0732347080, 0732345135, 0732430661
Preparer Information	WithersRavenel 115 MacKenan Drive, Cary, NC 27511 Phone: 919.469.3340 Fax: 919.467.6008 Email: <a href="mailto:bvega@withersravenel.com">bvega@withersravenel.com</a> <a href="mailto:bmayo@withersravenel.com">bmayo@withersravenel.com</a> Attn: Brendie Vega, AICP, CNU-A Ben Mayo, PE
Contract Purchaser	Toll Bros. Inc 900 Perimeter Park Drive, Suite B3, Morrisville, NC 27560 (919) 321-4800 Attn: Jeff Westmoreland, PLA
Attorney	Morningstar Law Group 421 Fayetteville St, Suite 530, Raleigh, NC 27601 (919)590-0371 Attn: Jason L. Barron, Partner
Traffic Consultant	Exult Engineering 304-F West Millbrook Road Raleigh, NC 27609 Attn: Lisa Lundeen, PE
Current Zoning Designation	Rural Residential (RR)
Proposed Zoning Designation	Planned Unit Development (PUD-CZ)
Current 2045 Land Use Map Designation	Medium Density Residential
Proposed 2045 Land Use Map Designation	Medium Density Residential
Area of Tracts (ac.)	21.17 Parcel Area 0.40 Barnside Lane R/W 21.57 Total Rezoning

## LIST OF USES

The Rezoned Lands may be used for, and only for, the uses listed immediately 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.

<u>Residential</u>	<u>Non-Residential</u>
Single-Family	Utility, Minor
Accessory Apartment	Park, Active
Townhouse	Park, Passive
	Greenway

## PURPOSE STATEMENT

The Chapel Ridge Towns PUD meets the standards of the Town of Apex UDO Sections 2.3.4.F.1.iv-vi as follows:

- The PD Plan encourages cluster and compact development to the greatest extent possible. The PD plan will be interrelated and linked internally and externally by pedestrian ways, bikeways and other transportation systems.
- Sidewalks are provided on all streets throughout the subdivision, as well as sidewalk that will be installed on the frontage of Chapel Ridge and Olive Chapel Road.
- Cul-de-sacs will be avoided and instead will provide connectivity in the form of connections to existing roads and provide stubs to future connection points.
- The development is compatible with the character of the site, where a change to existing land use patterns in the area has increased the surrounding densities and introduced non-residential uses.
- The site will be across from a proposed transit stop and is walkable to many shopping opportunities in the area.
- The PD Plan proposes architectural standards that are exceptional and provide high quality while incorporating energy saving features.

The Chapel Ridge Towns PD Plan meets the Legislative Considerations as defined in the Town of Apex UDO Sections 2.3.3.F.1-10:

- The PD Plan is consistent with the 2045 Land Use Map, which has identified this area as Medium Density Residential which allows for Single-family homes, duplexes, and townhomes.
- The proposed plan is consistent with the changing character of the neighborhood. The Town's adopted 2045 plans, are demonstrative of the changes that have occurred and are proposed for this area.
- The Zoning district supplemental standards do not apply to the uses that have been listed in the List of Uses.
- Adverse impacts will be minimal since there are currently residences in this location that are served by private services. Annexation into the Town will provide the new subdivision with trash, public water and sewer, and Town of Apex public safety services.
- While not yet designed, the subdivision will incorporate recommendations made by the Environmental Advisory Board to minimize environmental impacts.
- The proposed Conditional Zoning District uses will meet the UDO's requirements for public improvement. The introduction of public water and sewer to a neighborhood currently served by multiple wells and septic systems will improve the facilities on the site as well as to the adjoining parcels. Several of the existing homes contain underground propane tanks, which will be removed. Improvements made to the existing infrastructure as well as new infrastructure will improve the public facilities. A fee-in-lieu will be provided to the Town of Apex for parks and recreation, while other public services will benefit from the tax base provided by the increased tax value of the current properties.
- The proposed District will meet or exceed the Town's requirements which are meant to protect the health, safety and welfare of the Town and ETJ residents.
- There will be no substantial detriment to the adjacent properties. The addition of residential at a slightly higher density than what is existing will not be a substantial detriment to adjacent properties.
- The use will not constitute a nuisance or hazard as residential uses are inherently intended for the use, enjoyment and safety of residents in their homes.
- The proposed Conditional Zoning district use will meet or exceed the applicable provisions of the Ordinance except where noted in this document and as permitted by the Conditional Zoning process.

# DESIGN CONTROLS

## Intensity and Density

Maximum Density (du/Acre)	4.7 du/acre		
Maximum Dwelling Units	100		
Maximum Height of Buildings	35 feet, 2 stories		
Setbacks, Townhome:	Front: 19' from garage to lot line and 20' from garage to back of sidewalk	Side: 0' 8' Building to Building	Rear: 5'
		Corner Side: 8'	
Setbacks, Single Family:	Front: 19' from garage to lot line and 20' from garage to back of sidewalk	Side: 5'	Rear: 10'
		Corner Side: 8'	
Amount and Percentage of Built Upon Area Allowed	70%		
Amount and Percentage of Proposed Built Upon Area (Max)	Not to exceed 65%		

## Perimeter Buffers

North	20' Type A Buffer
East	20' Type B Buffer
South	30' Type B Buffer
West	20' Type B Buffer

## Additional Buffer Conditions for West Buffer Along Chapel Ridge Road

- North and South of the proposed access points, the buffer will be increased to a 20' Type A Buffer. \*No buffer will be provided along the Colonial Pipeline easement due to planting restrictions.
- Between the two access points, an opaque fence will be placed either along the buffer or aligned with backs of units.

## ARCHITECTURAL CONTROLS

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
3. Garage doors must have windows, decorative details or carriage-style adornments on them.
4. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
5. Building facades shall have horizontal relief achieved by the use of recesses and projections.
6. The visible side of a townhome 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 gables
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer

## SIGNAGE

All signage on the Chapel Ridge Towns site will comply with the requirements in Section 8.7 of the Town of Apex Unified Development Ordinance.

## PARKING

The parking requirements of the Town of Apex UDO Section 8.3 will be met.

## ENVIRONMENTAL ADVISORY BOARD RECOMMENDATIONS

The Environmental Advisory Board held a meeting on November 18, 2021. The following recommendations are proposed by the applicant:

1. The developer shall provide pedestrian-friendly connections to the future Beaver Creek greenway expansion and surrounding neighborhoods.
2. The developer shall include signage identifying environmentally sensitive areas to discourage pet waste and chemical use in the vicinity. A minimum of 2 signs will be provided.
3. The development shall provide diverse and abundant pollinator sources (e.g. larval host plants, nectar, pollen, berries and blooming plants) that bloom in succession from spring to fall.
4. Species shall be selected from the Design & Development Manual or otherwise approved by Planning Staff.

5. The development shall provide native species listed in the Design and Development Manual or otherwise approved by Planning Staff to increase the native diversity of hardwood trees on site. No species shall constitute more than 25% of the required plantings for each planting type (trees, shrubs, etc.).
6. All homes shall be pre-configured with conduit for a solar energy system.
7. The builder will provide EV charging outlets as an option to individual units.
8. The developer shall provide at least 2 pet stations.
9. Outdoor lighting shall be full cut off and shielded to prevent glare and light spill over to minimize impact of neighboring residential properties. LED fixtures shall be used, and the lighting temperature shall be a maximum of 3500 Kelvin.

## NATURAL RESOURCE AND ENVIRONMENTAL DATA

### Watershed

The properties in the PD Plan are located in the Primary Watershed Overlay District and the Beaver Creek Basin.

### FEMA Floodplain

The properties are not in a 100-Year FEMA Flood Plain as shown on the existing conditions plan.

### Resource Conservation Area

The Site is subject to the Resource Conservation Area requirements outlined in the Town of Apex Unified Development Ordinance.

The PUD will meet the requirements of:

8.1.2.C.1 Planned Developments. The RCA for all planned developments shall be determined by the Town Council per Sec. 2.3.4.F.1.c and per Sec. 8.1.2.C.4, 5, 6, 7, or 10 as applicable.

Development located north and east of NC 540 and outside Apex Peakway which do not meet the criteria of subsections 8.1.2.C.2, 3, or 10 and which are located north and east of NC 540 and outside existing and future Apex Peakway shall provide buffers and RCA equal to or greater than 20% of the gross site acreage per UDO Section 8.1.2.C.4.

Per UDO Section 7.2.5.B.8, if any mass grading is proposed in the single-family sections of the PUD, the following provision will apply to lot coverage area for single-family: An additional five percent (5%) Resource Conservation Area (RCA) shall be set aside. This requirement is added to the standard RCA percentage requirement found in Sec. 8.1.2.C Size of the RCA.

According to the North Carolina Historic Preservation Office's records, the subject site does not contain historic structures.

### Tree Replanting

Existing deciduous trees greater than 18" in diameter (DBH), as identified in the tree survey, that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual as a street tree or as other required landscaping. Excess required tree replacement will occur in common open space areas.

## STORMWATER MANAGEMENT REQUIREMENTS

This project is located within the Upper Beaver Creek basin and will be required to attenuate the 1-year, 10-year, and 25-year storms.

## PARKS, RECREATION AND CULTURAL RESOURCES ADVISORY COMMISSION

The project was presented to the Parks, Recreation and Cultural Resources Advisory Commission meeting on February 23, 2022. The recommendation by the Advisory Commission is for a fee-in-lieu of dedication for single family attached units with a 2022 rate of \$2,528.25.

## PUBLIC FACILITIES REQUIREMENTS

All utilities shall meet the Town of Apex Master Utility Maps.

### Sanitary Sewer Service

Sewer is not directly available and will require an extension. This will flow to Beaver Creek Pump Station. A capacity study will be required at Construction Document phase.

### Water Service

Water extension along the property frontage will be required. Currently there is water on Chapel Ridge that goes to Olive Chapel Professional Park.

### Gas & Electric Service

Electric service currently exists on-site and will be improved.

### Roadways

A Trip Generation Letter was prepared showing the proposed land use and number of units would be below the threshold for requiring a Traffic Impact Analysis, so recommended improvements are limited to development frontage and proposed access. The Site will require an internal public roadway network and privately maintained parking spaces. The transportation system shall be consistent with the Town of Apex Transportation Plan and the Town of Apex Standard Specifications and Standard Details. Frontage improvements along Olive Chapel Road and Chapel Ridge Road have been identified and will be incorporated into the design of the development, subject to approval by the Town of Apex and NCDOT.

Olive Chapel Road is identified as a 4-lane median divided thoroughfare with 6' bike lanes and 5' sidewalks on 110' ROW.

- Developer shall provide frontage improvements on Olive Chapel Road, maintaining the existing westbound through lane, widening for a 6' bike lane, constructing curb and gutter along with 5' sidewalk, and ROW dedication for half of the ultimate 110' ROW, measured 55' from centerline. The existing two way left turn lane shall be restriped as needed to serve eastbound left turns at the proposed access.
- Developer shall provide a deceleration taper at the site access on westbound Olive Chapel Road with 50' of full width deceleration lane and 50' taper.

Chapel Ridge Road is identified as a minor collector street with 5' sidewalks on 60' ROW.

- Developer shall provide frontage improvements based on a minimum 27' curb and gutter roadway with 5' sidewalk and ROW dedication a minimum of 30' from roadway centerline.

### Transit

GoApex Route 1 is planned to include a bus stop at the Olive Chapel Professional Park directly across Chapel Ridge Road from this site and begin service by 2022. The Route will tie into a larger network of transit that provides ridership to downtown Raleigh and the greater Triangle. A crosswalk will be provided across the stop-controlled approach of Chapel Ridge Road at Olive Chapel Road with the addition of sidewalk along the development frontage.

### Pedestrian Facilities

Sidewalks shall be provided along the property frontage on Olive Chapel Road and Chapel Ridge Road as well as both sides of all proposed subdivision streets.

## PHASING PLAN

Currently the intent is to prepare the site in one phase. More details will be developed at subdivision plan.

## AFFORDABLE HOUSING

Of the 100 permitted townhouse dwellings, at least two (2) residential restricted median-income affordable housing townhome ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership initial sales price (includes unit price and lot price) that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh, NC MSA AMI, adjusted for family size as published by HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of ten (10) years shall be recorded against each residential restricted median-income affordable housing townhome ownership unit concurrently at the close of escrow upon the sale of the Affordable Housing Units to memorialize the affordable housing terms and conditions. The two (2) Affordable Housing Unit lots shall be identified on the Master Subdivision Final Plat, which may be amended from time to time. A restrictive covenant (i.e. affordable housing agreement) between the Town and Applicant shall be recorded against the two (2) Affordable Housing Unit lots prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. Developer will coordinate with Town staff to determine the maximum affordable housing median-income ownership initial sales prices, marketing, screening and selection process of the Affordable Housing Units.

## AGE RESTRICTION

Dwellings constructed on the Property shall be age-restricted in compliance with the Fair Housing Act (42 U.S.C Sec 3601, et. seq.), and the North Carolina State Fair Housing Act (N.C. Gen. Stat. 41A-1, et seq.), such that at least 80% of the dwellings shall be occupied by at least one person aged 55 or older.

## ELEVATIONS

Elevations will comply with the Architectural and Design Controls for the Chapel Ridge Towns PUD. Elevations submitted with this PD Plan are representative of what may be provided. Elevations will be customized to the site and may differ from what is shown in the PD Plan or on other Toll Bros. residential townhome products.

## CONSISTENCY WITH ADVANCE APEX, THE 2045 PLAN

The PD Plan is consistent with the Advance Apex Plan and Maps as follows:

- The Apex 2045 Future Land Use Map identifies the subject parcels as Medium Density Residential.
- The Transit Plan Map dated April 27, 2021 shows the Future Apex Go Route 1 having a stop at the Olive Chapel Business Park. With close access to the transit stop, residents of this subdivision will be able to take transit locally and connect to the larger transit system.
- The Thoroughfare and Collector Street Plan Map dated March 29, 2021 identifies Chapel Ridge Road as an existing Minor collector Road, and Olive Chapel Road as a 4-Lane with Median, Widening.
- The Bicycle, Pedestrian and Equestrian Plan identifies proposed sidewalks along Chapel Ridge Road, and proposed sidewalks along this section of Olive Chapel Road.

## CONSISTENCY WITH UNIFIED DEVELOPMENT ORDINANCE

The proposed development is consistent with all applicable requirements of the Town of Apex Unified Development Ordinance.



- NO NGS MONUMENT FOUND WITHIN 2,000 FEET OF THE SITE.
- THE FOLLOWING INFORMATION WAS USED TO OBTAIN NC GRID NAD 83 (2011), NAVD 88 (GEOID 12B) STATE PLANE COORDINATES (SPC) FOR THIS PROJECT.
  - CLASS OF SURVEY: URBAN LAND SURVEYS (CLASS A)
  - POSITIONAL ACCURACY: 0.03' (H), 0.07' (V)
  - GPS FIELD PROCEDURE: VRS
  - DATE OF SURVEY: 03/31/2021
  - DATUM/EPOCH: NAD 83 (2011), EPOCH 2010.00
  - PUBLISHED DATE/FIXED CONTROL USED: VRS, NCRD
  - GEOID MODEL: GEOID 12B
  - COMBINED GRID FACTOR: 0.99989615
  - UNITS: U.S. SURVEY FEET
  - GRID/GROUND POINT: Y(N) 724,296.53 X(E) 2,033,345.72
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET UNLESS OTHERWISE NOTED.
- ALL AREAS DERIVED BY THE COORDINATE COMPUTATION METHOD.
- PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD. THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH NORTH CAROLINA STANDARDS, G.S. 47-30, AND REQUIREMENTS OF LAW, BUT A NORTH CAROLINA LICENSED ATTORNEY-AT-LAW SHOULD BE CONSULTED REGARDING CORRECT OWNERSHIP, WIDTH, AND LOCATION OF EASEMENTS AND OTHER TITLE QUESTIONS REVEALED BY TITLE EXAMINATION.
- PORTIONS OF SUBJECT PROPERTY IS LOCATED WITHIN A FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP 3720073200J DATED MAY 02, 2006.
- LOCATION OF UTILITIES, WHETHER PUBLIC OR PRIVATE, IS BASED UPON FIELD LOCATION OF VISIBLE APPURTENANCES ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY LOCATION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. WITHERSRAVENEL CANNOT ASSUME RESPONSIBILITY FOR MISIDENTIFICATION OR OMISSION OF UNDERGROUND UTILITIES.

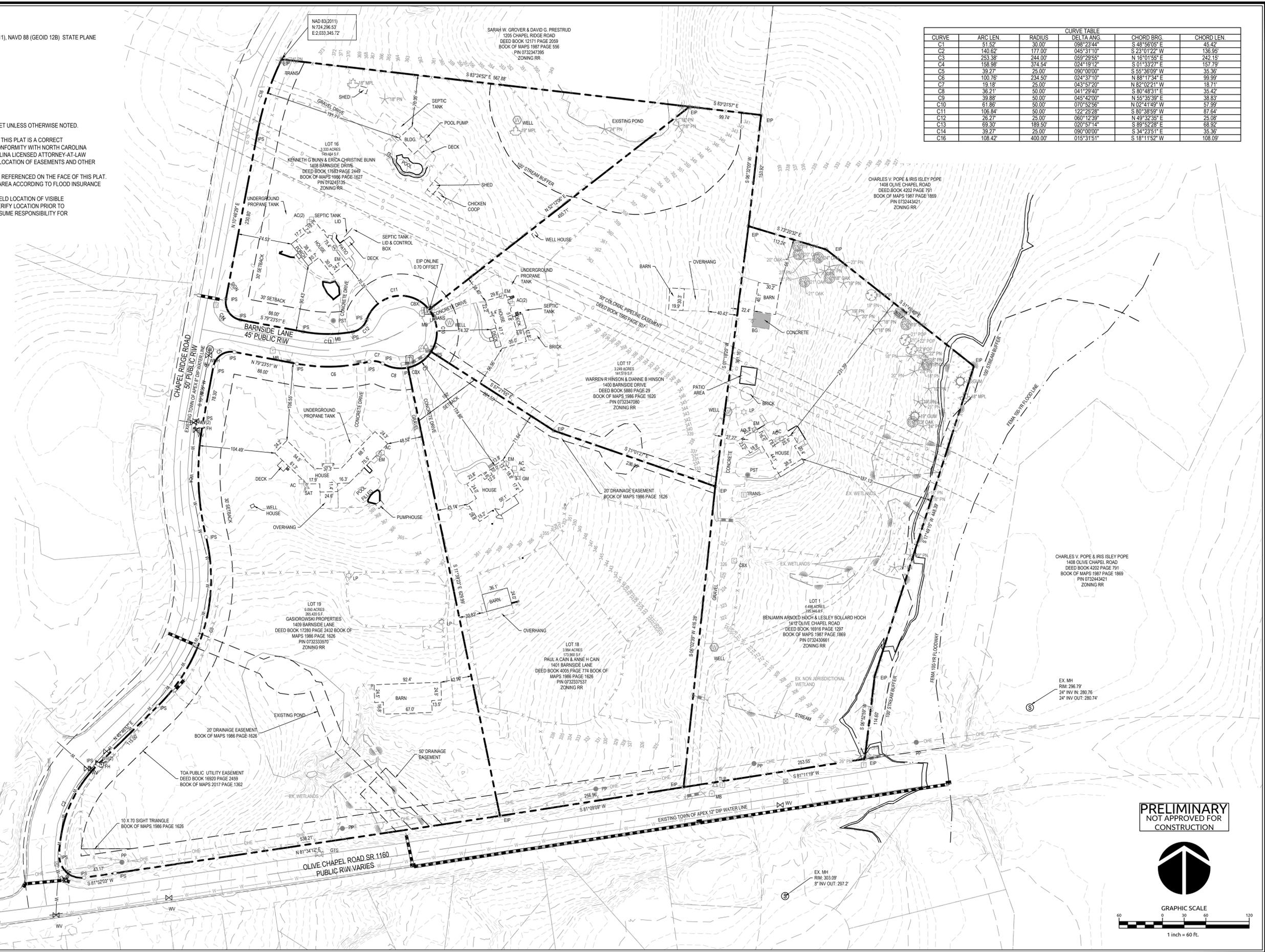
CURVE		CURVE TABLE			
CURVE	ARC LEN.	RADIUS	DELTA ANG.	CHORD BRG.	CHORD LEN.
C1	51.52'	30.00'	088°23'41"	S 48°58'05" E	45.42'
C2	140.62'	177.00'	045°31'10"	S 23°01'22" W	136.95'
C3	253.38'	244.00'	059°29'55"	N 16°01'55" E	242.15'
C4	158.98'	374.54'	024°19'12"	S 01°33'27" E	157.79'
C5	39.27'	25.00'	090°00'00"	S 55°36'09" W	35.36'
C6	100.76'	234.50'	024°37'10"	N 83°13'34" E	93.99'
C7	19.18'	25.00'	043°57'20"	N 82°02'21" W	18.71'
C8	36.21'	50.00'	041°29'40"	S 80°48'31" E	35.42'
C9	39.88'	50.00'	045°42'00"	N 55°36'39" E	38.83'
C10	61.86'	50.00'	070°52'56"	N 02°41'49" W	57.99'
C11	105.84'	50.00'	122°25'28"	S 90°38'59" W	87.64'
C12	28.27'	25.00'	060°12'39"	N 49°33'25" E	25.08'
C13	69.30'	189.50'	020°57'14"	S 89°52'28" E	68.92'
C14	38.27'	25.00'	090°00'00"	S 34°23'51" W	35.36'
C16	108.42'	400.00'	015°31'51"	S 18°11'52" W	108.09'

LINETYPES	
PROPERTY LINE	---
ADJOINER LINE	---
OVERHEAD ELECTRIC	---OHE---
GAS LINE	---G---
FLOOD LINE	---
BUFFER	---
WATER LINE	---W---
EASEMENT	---
GRAVEL	---
WETLANDS	---
STORM DRAIN	---

LEGEND	
EXISTING IRON PIPE	○ EIP
IRON PIPE SET	○ IPS
SIGN	⊠
CLEANOUT	⊙ CO
SEWER MANHOLE	⊙ SSMH
CATCH BASIN	⊙ CB
DROP INLET	⊙ DI
FLARED END SECTION	⊙ FES
WATER SPIGOT	⊙ SPG
TELEPHONE PEDESTAL	⊙ TLP
CATV BOX	⊙ CBX
GAS VALVE	⊙ GV
WELL	⊙ W
FIRE HYDRANT	⊙ FH
FIBER OPTIC MARKER	⊙ FOM
WATER MANHOLE	⊙ WMH
BASKETBALL GOAL	⊙ BG
SATELLITE DISH	⊙ SAT
AIR CONDITION UNIT	⊙ AC
POWER POLE	⊙ PP
LIGHT POLE	⊙ LP
TRANSFORMER	⊙ TRANS
UNDERGROUND TELEPHONE BOX	⊙ UTX
MAILBOX	⊙ MB
WATER VALVE	⊙ WV

**EXISTING CONDITION NOTES:**

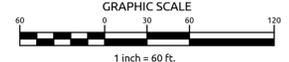
- TOPOGRAPHIC AND UTILITY INFORMATION BASED ON SURVEY BY WITHERSRAVENEL DATED 4/13/2021. PRELIMINARY BOUNDARY SURVEY PREPARED BY WITHERSRAVENEL DATED 4/13/21.
- WETLAND/STREAM INFORMATION BASED ON EVALUATION BY WITHERSRAVENEL DATED 4/27/21. BUFFERS BASED ON TOWN OF APEX STREAM BUFFER DETERMINATION (APEX #20-011).
- REGULATORY FEMA MAPPED FLOODPLAIN EXISTS ON SITE PER FIRM MAP #3720073200J (5/2/06).
- THE SUBJECT PROPERTY IS LOCATED WITHIN THE TOWN OF APEX PRIMARY WATERSHED PROTECTION OVERLAY DISTRICT.
- TREE INFORMATION BASED ON SURVEY BY WITHERSRAVENEL DATED 4/13/21.
- ALL EXISTING STRUCTURES ON THE SUBJECT PROPERTY SHALL BE REMOVED PER TOWN OF APEX STANDARDS AND REQUIREMENTS.



CHARLES V. POPE & IRIS ISLEY POPE  
1408 OLIVE CHAPEL ROAD  
DEED BOOK 4202 PAGE 791  
BOOK OF MAPS 1987 PAGE 1869  
PIN 0732443421  
ZONING RR

EX MH  
RIM: 296.79'  
24" INV IN: 280.76'  
24" INV OUT: 280.74'

**PRELIMINARY  
NOT APPROVED FOR  
CONSTRUCTION**



No.	Revision	Date	By	Designer	Scale
1	REVISED PER TOWN COMMENTS	04/11/21	WR	WR	AS NOTED
2	REVISED PER TOWN COMMENTS	07/09/21	WR	WR	04/20/2021
				Checked By	Job No.
				WR	02201034

**CHAPEL RIDGE PUD**

NORTH CAROLINA

**EXISTING CONDITIONS**

**WithersRavenel**  
Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511 | t: 919.469.3340 | license #: C-0832 | www.withersravenel.com

Sheet No.  
**1**

**LEGEND**

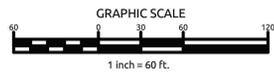
- RESIDENTIAL
- PERIMETER BUFFER
- STREETYARD BUFFER
- STREAM BUFFER
- EXISTING POND
- RIGHT OF WAY DEDICATION
- EXISTING GAS PIPELINE EASEMENT
- EXISTING DRAINAGE EASEMENT
- EXISTING WETLAND
- CONCEPTUAL SCM LOCATION

CURVE TABLE					
CURVE	ARC LEN.	RADIUS	DELTA ANG.	CHORD BRG.	CHORD LEN.
C1	51.52	30.00	098°23'44"	S 48°56'05" E	45.42
C2	140.62	177.00	045°31'10"	S 23°01'22" W	136.95
C3	253.38	244.00	059°29'55"	N 16°01'55" E	242.15
C4	158.98	374.54	024°19'12"	S 01°33'27" E	157.79
C5	39.27	25.00	090°00'00"	S 55°36'09" W	35.36
C6	100.76	234.50	024°37'10"	N 88°17'34" E	99.99
C7	19.18	25.00	043°57'20"	N 82°02'21" W	18.71
C8	36.21	50.00	041°29'40"	S 80°48'31" E	35.42
C9	39.88	50.00	045°42'00"	N 55°35'39" E	38.83
C10	61.86	50.00	070°52'58"	N 02°44'59" W	57.99
C11	108.84	50.00	122°25'28"	S 80°38'59" W	87.64
C12	26.27	25.00	060°12'39"	N 49°32'35" E	25.08
C13	69.30	189.50	020°57'14"	S 89°52'28" E	68.92
C14	39.27	25.00	090°00'00"	S 34°23'51" E	35.36
C16	108.42	400.00	015°31'51"	S 18°11'52" W	108.09

- NOTES:**
- PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY.
  - PER 2.3.4(F)(VI) OF THE UDO, THE PD PLAN FOR PUD-CZ SHALL DEMONSTRATE 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.
  - EXISTING PONDS WILL BE EVALUATED BY A LICENSED ENGINEER. EVALUATION RECOMMENDATIONS MAY REQUIRE A CHANGE TO SIZE, BOUNDARY OR REMOVAL OF EXISTING PONDS.
  - A 30' TYPE B SHALL BE PROVIDED IF HOMES ALONG OLIVE CHAPEL ROAD ARE NOT ALLEY LOADED.
  - THIS PROJECT IS LOCATED WITHIN THE UPPER BEAVER CREEK BASIN AND WILL BE REQUIRED TO ATTENUATE THE 1-YEAR, 10-YEAR, AND 25-YEAR STORMS.



**PRELIMINARY  
NOT APPROVED FOR  
CONSTRUCTION**



No.	Revision	Date	By	Designer	Scale
1				WR	AS NOTED
				WR	12/01/2021
				WR	02201034

**CHAPEL RIDGE PUD**

**CONCEPTUAL LAYOUT PLAN**

NORTH CAROLINA

- Page 211 -

**WithersRavenel**  
Engineers | Planners | Surveyors

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Sheet No.  
**2**

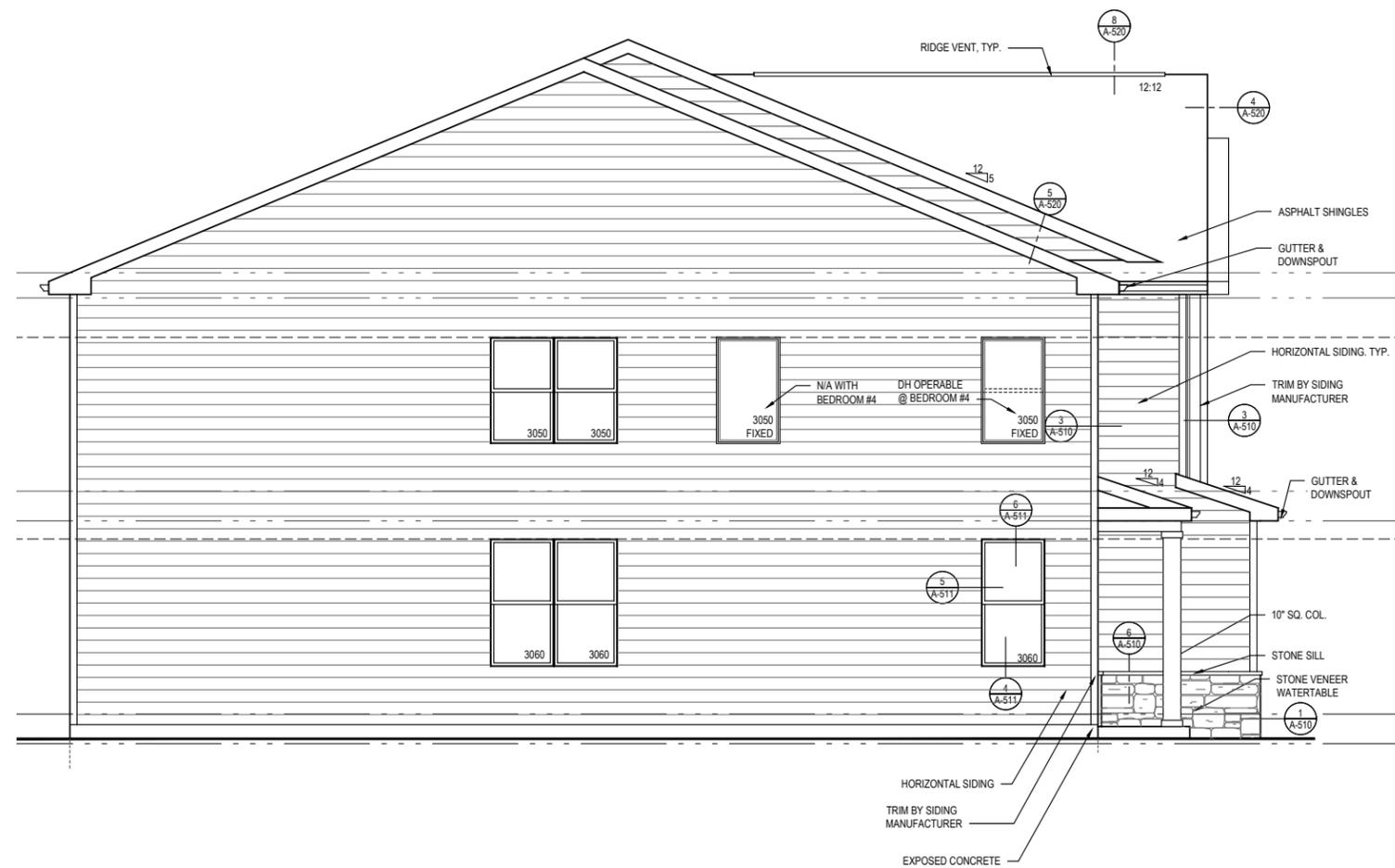






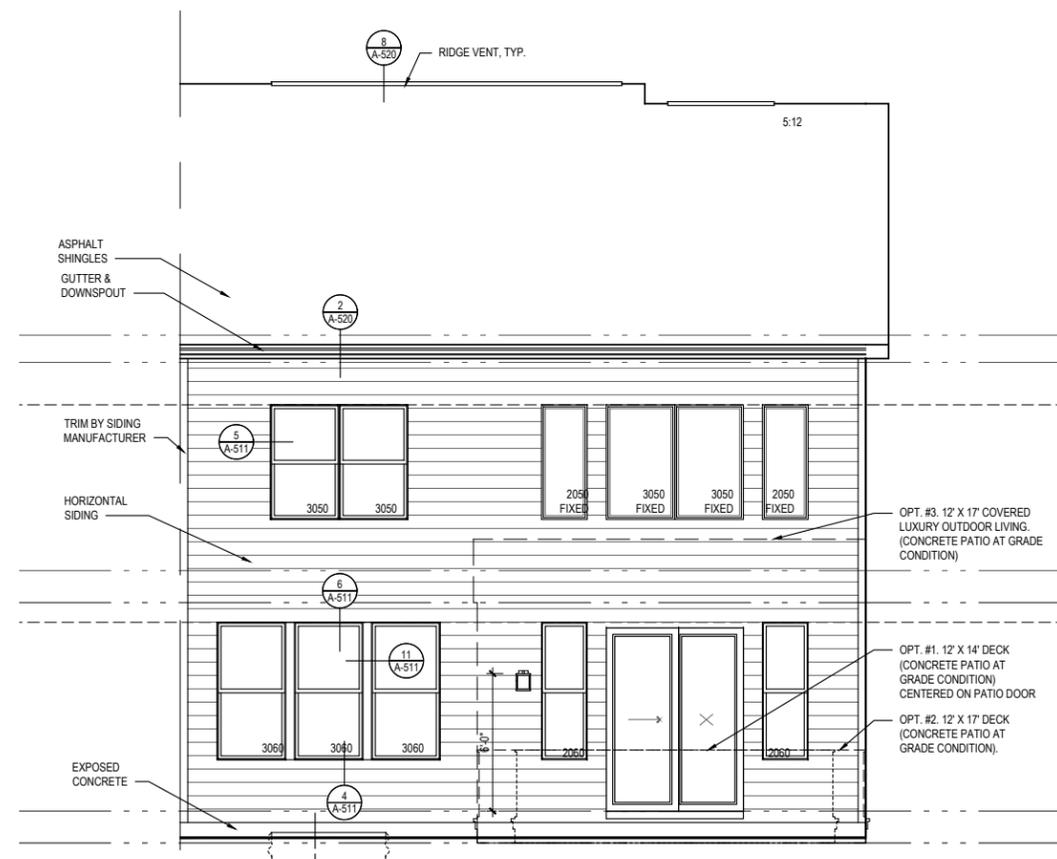
## **CONCEPTUAL FRONT ELEVATION**

**Elevations are for illustrative purposes only; elevations submitted with Subdivision Plans will be consistent with the written architectural standards included in the PUD**



## CONCEPTUAL SIDE ELEVATION

Elevations are for illustrative purposes only; elevations submitted with Subdivision Plans will be consistent with the written architectural standards included in the PUD



## CONCEPTUAL REAR ELEVATION

Elevations are for illustrative purposes only; elevations submitted with Subdivision Plans will be consistent with the written architectural standards included in the PUD



**TECHNICAL MEMORANDUM**

Date: Tuesday, February 1, 2022

To: Russell Dalton, P.E.  
Town of Apex  
Senior Transportation Engineer

From: Lisa Lundeen, P.E.  
Traffic Engineer  
Exult Engineering

Subject: Chapel Ridge Tracts Residential Development  
Trip Generation Comparison Letter

**BACKGROUND**

Exult Engineering completed a Trip Generation Letter for the proposed Chapel Ridge Tracts Residential Development in March 2021. At the time the Trip Generation Letter was prepared, the proposed development consisted of 116 residential townhomes. Following the preparation of the Trip Generation Letter, the proposed site plan was revised. The revised site consists of 100 age-restricted residential townhomes. The proposed access remains as studied in the original March 2021 Trip Generation Letter. This addendum includes a trip generation comparison for the revised site plan.

**TRIP GENERATION**

The proposed development is to consist of 100 age-restricted residential townhomes. The trip generation was based on rates and equations published in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 11<sup>th</sup> Edition. NCDOT Congestion Management Rates vs. Equations spreadsheet was used for guidance. Trip generation comparison is presented below in Table 1 between the revised land use and those presented in the March 2021 Trip Generation Letter.

**Table 1: Trip Generation Comparison**

Land Use			Daily	AM Peak Hour			PM Peak Hour		
				Total	Enter	Exit	Total	Enter	Exit
251: Senior Adult Housing – Single-Family	100	d.u.	594	39	13	26	45	27	18
Trip Generation Submitted in March 2021			838	55	13	42	68	43	25
<b>Change in Trip Generation</b>			<b>-244</b>	<b>-16</b>	<b>0</b>	<b>-16</b>	<b>-23</b>	<b>-16</b>	<b>-7</b>

References: *Trip Generation Manual*, 10<sup>th</sup> Edition, Institute of Transportation Engineers, September 2017 for March 2021 site plan and *Trip Generation Manual*, 11<sup>th</sup> Edition, Institute of Transportation Engineers, September 2021 for updated site plan

As shown in Table 1, the proposed development is expected to generate 594 daily trips, 39 AM peak hour trips (13 entering, 26 exiting), and 45 PM peak hour trips (27 entering, 18 exiting). There is a significant

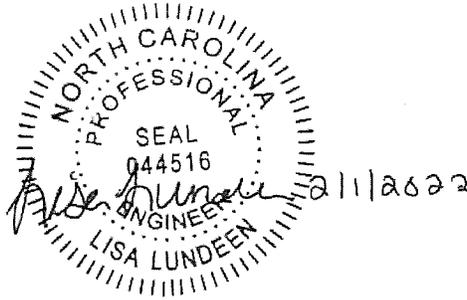
decrease in daily, AM and PM peak hour trips from what was presented in the March 2021 Trip Generation Letter.

The proposed access remains the same as studied in the March 2021 Trip Generation Letter and consists of two full movement driveways on Chapel Ridge Road and one full movement driveway on Olive Chapel Road. Originally, the developer was required to construct an exclusive westbound right-turn lane on Olive Chapel Road at the Proposed Site Driveway due to the estimated trip generation presented in the March 2021 letter. With the revised, lower trip generation, consideration should be given to remove the westbound right-turn lane requirement. Assuming 60% of site traffic will come from the east on Olive Chapel Road based on surrounding land uses and access to primary routes, a maximum of 16 vehicles will utilize the westbound right turn movement during the PM peak hour, which is equivalent to one vehicle every 3.75 minutes. Furthermore, according to NCDOT's *Warrant for Left and Right-Turn Lanes* published in NCDOT's *Policy On Street And Driveway Access to North Carolina Highways* (July 2003), the construction of an exclusive right-turn lane on Olive Chapel Road at the Proposed Site Driveway is not warranted based on the anticipated westbound right-turn volume.

Please let me know if you have any questions or comments.

Sincerely,

Lisa Lundeen, P.E.  
Exult Engineering



cc: Sean Brennan, NCDOT  
Jeff Westmoreland, Toll Brothers  
Brendie Vega, WithersRavenel

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #21CZ32 Chapel Ridge Towns PUD

Planning Board Meeting Date: March 14, 2022



## 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:** ±21.60 acres

**PIN(s):** 0732333570, 0732337537, 0732347080, 0732345135, 0732430661

**Current Zoning:** Rural Residential (RR)

**Proposed Zoning:** Planned Unit Development-Conditional Zoning (PUD-CZ)

**2045 Land Use Map:** Medium Density Residential

**Town Limits:** ETJ & Inside

## 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: \_\_\_\_\_

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# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #21CZ32 Chapel Ridge Towns PUD

Planning Board Meeting Date: March 14, 2022



## 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: \_\_\_\_\_

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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: \_\_\_\_\_

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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: \_\_\_\_\_

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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: \_\_\_\_\_

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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: \_\_\_\_\_

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# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #21CZ32 Chapel Ridge Towns PUD

Planning Board Meeting Date: March 14, 2022



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: \_\_\_\_\_

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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: \_\_\_\_\_

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8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

Consistent                       Inconsistent                      Reason: \_\_\_\_\_

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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: \_\_\_\_\_

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PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #21CZ32 Chapel Ridge Towns PUD

Planning Board Meeting Date: March 14, 2022



Planning Board Recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Mark Steele

Seconded by Planning Board member: Keith Braswell

- 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 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 14th day of March 2022.

Attest:

Reginald Skinner, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin  
Date: 2022.03.14 17:05:32  
-04'00'

Dianne Khin, Director of Planning and  
Community Development



# TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ32 Chapel Ridge 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 and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

**Applicant:** Toll Brothers, Inc.

**Authorized Agents:** Brendie Vega and Ed Tang, WithersRavenel

**Property Addresses:** 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane & Barnside Lane right-of-way

**Acres:** ±21.60 acres

**Property Identification Numbers (PINs):** 0732430661, 0732333570, 0732337537, 0732347080, 0732345135 & Barnside Lane right-of-way

**2045 Land Use Map Designation:** Medium Density Residential

**Existing Zoning of Properties:** Rural Residential (RR)

**Proposed Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ)

**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

*Separate comments must be provided for the two public hearings by the deadlines specified below.*

### **Planning Board Public Hearing Date and Time: March 14, 2022 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](mailto:public.hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

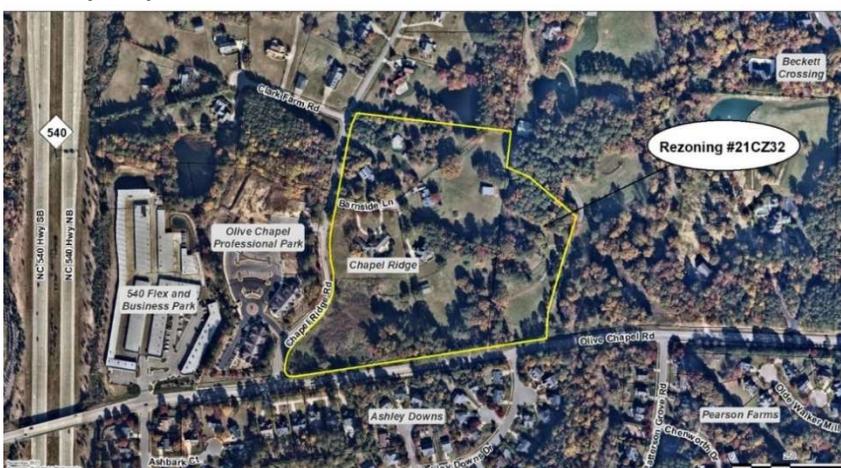
### **Town Council Public Hearing Date and Time: March 22, 2022 6:00 PM**

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](mailto: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 members prior to their vote. Please include the Public Hearing name in the subject line.

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### **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](http://www.apexnc.org/DocumentCenter/View/478). You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information.

To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/37716>.

Dianne F. Khin, AICP  
Director of Planning and Community Development



## TOWN OF APEX

PO BOX 250  
APEX, NORTH CAROLINA 27502  
TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ32  
Chapel Ridge Towns PUD

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 y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

**Solicitante:** Toll Brothers, Inc.

**Agente autorizado:** Brendie Vega and Ed Tang, WithersRavenel

**Dirección de las propiedades:** 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane & Barnside Lane right-of-way

**Superficie:** ±21.60 acres

**Números de identificación de las propiedades:** 0732430661, 0732333570, 0732337537, 0732347080, 0732345135 & Barnside Lane right-of-way

**Designación en el Mapa de Uso Territorial para 2045:** Medium Density Residential

**Ordenamiento territorial existente de las propiedades:** Residencial Rural (RR)

**Ordenamiento territorial propuesto para las propiedades:** Desarrollo de Unidad Planificada-Ordenamiento Territorial Condicional (PUD-CZ)

**Lugar de la audiencia pública:** Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

**Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado en los plazos especificados a continuación.**

### **Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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](mailto:public.hearing@apexnc.org), o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter 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.

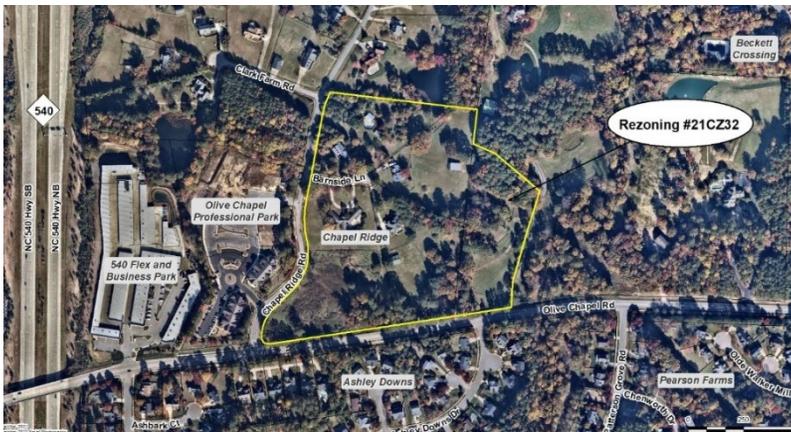
En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

### **Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**

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](mailto:public.hearing@apexnc.org), o presentarla a la secretaria municipal adjunta (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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.



### **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](http://www.apexnc.org/DocumentCenter/View/478). Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-

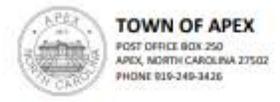
3426.

Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/37716>.

Set Microsoft Edge as the default application for reading PDF files? Set as default

1 of 2

Navigation icons: back, forward, search, zoom, print, etc.



**PUBLIC NOTIFICATION OF PUBLIC HEARINGS**  
CONDITIONAL ZONING #21CZ32  
Chapel Ridge 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 and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

**Applicant:** Toll Brothers, Inc.  
**Authorized Agents:** Brendie Vega and Ed Tang, WithersRavenel  
**Property Addresses:** 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane & Barnside Lane right-of-way  
**Acres:** ±21.60 acres  
**Property Identification Numbers (PINs):** 0732430661, 0732333570, 0732337537, 0732347080, 0732345135 & Barnside Lane right-of-way  
**2045 Land Use Map Designation:** Medium Density Residential  
**Existing Zoning of Properties:** Rural Residential (RR)  
**Proposed Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ)  
**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

Separate comments must be provided for the two public hearings by the deadlines specified below.

**Planning Board Public Hearing Date and Time: March 14, 2022 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](mailto:public_hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

**Town Council Public Hearing Date and Time: March 22, 2022 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>.

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**Vicinity Map:**

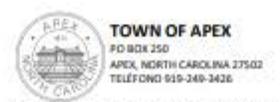


Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://www.apexnc.org/maps>. The 2045 Land Use Map may be viewed online at [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). You may call 919-349-3426, Department of Planning and Community Development, with questions or for further information.

To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/37716>.

Dianna F. Khin, AICP  
Director of Planning and Community Development

Published Dates: February 25-March 22, 2022



**NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS**  
ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ32  
Chapel Ridge Towns PUD

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 notifica las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

**Solicitante:** Toll Brothers, Inc.  
**Agente autorizado:** Brendie Vega and Ed Tang, WithersRavenel  
**Dirección de las propiedades:** 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane & Barnside Lane right-of-way  
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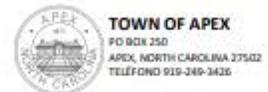


application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.rain@nc.gov/maps>. The 2045 Land Use Map may be viewed online at [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information.

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Dianne F. Rhin, AICP  
Director of Planning and Community Development

Published Dates: February 25-March 22, 2022



### NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ32 Chapel Ridge Towns PUD

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §1600-602 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 y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

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**Superficie:** ±21.60 acres  
**Números de identificación de las propiedades:** 0732430661, 0732333570, 0732337537, 0732347080, 0732345135 & Barnside Lane right-of-way  
**Designación en el Mapa de Uso Territorial para 2045:** Medium Density Residential  
**Ordenamiento territorial existente de las propiedades:** Residencial Rural (RR)  
**Ordenamiento territorial propuesto para las propiedades:** Desarrollo de Unidad Planificada-Ordenamiento Territorial Condicional (PUD-CZ)  
**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2º piso  
73 Hunter Street, Apex, Carolina del Norte

Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado en los plazos especificados a continuación.

**Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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>.

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En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

**Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**  
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>.

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**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.rain@nc.gov/maps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426.

Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/37716>.

Dianne F. Rhin, AICP  
Directora de Planificación y Desarrollo Comunitario

Fecha de publicación: 25 de febrero - 22 de marzo de 2022



Rezoning #21CZ32

Beckett Crossing

Chapel Ridge

Clark Farm Rd

Chapel Ridge Rd

Olive Chapel Professional Park

540 Flex and Business Park

Olive Chapel Rd

Pearson Farms

Ashley Downs

Chenworth Dr

Public Hearing Sign Posted By

*Mark J*  
Signature

12/10/21  
Date



December 2021  
November 2021 Aerial Photography  
Prepared by: Town of Apex Planning Department



**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 #21CZ32  
Chapel Ridge Towns PUD

Project Location: 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane &  
Barnside Lane right-of-way

Applicant or Authorized Agent: Toll Brothers, Inc.  
Brendie Vega and Ed Tang, WithersRavenel

Firm: WithersRavenel

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on February 25, 2022, 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 Wake County Tax Assessor information 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.

2-25-22

Date

Amanda Bunch for Dianne Khin

Director of Planning and Community Development

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 25 day of February, 2022.



SEAL

Jeri Chastain Pederson  
Notary Public

My Commission Expires: 03/10/2024



Student Assignment  
5625 Dillard Drive  
Cary, NC, 27518  
Email: studentassignment@wcpss.net

tel: (919) 431-7333  
fax: (919) 694-7753

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: December 1, 2021
- Name of development: 21CZ32 Chapel Ridge Towns PUD
- Address of rezoning: 1409, 1401, 1408, 1400 Barnside Lane, 1412 Olive Chapel Road
- Total number of proposed residential units: 100
- Type(s) of residential units proposed: 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,

*Glenn Carrozza*

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Joanna Helms, Economic Development Director

Department(s): Economic Development

### Requested Motion

Public Hearing to consider and receive public input on providing an economic development incentive for "Project Real" in accordance with the Town's policy (Development Investment Grant).

### Approval Recommended?

Yes.

### Item Details

Project Real represents a distribution company that is proposing to locate a 150,000 sf facility on approximately 15 acres near the Hwy 751/Hwy. 64 area, creating 200 jobs and investing approximately \$25.5 million. Locating Project Real in Apex would position the Town to achieve one of its economic development goals. The incentive that Project Real qualifies for per the Town's incentive policy is \$268,515 which is a tax grant for taxes to be paid by Project Real. The purpose of the incentive is industrial and/or commercial recruitment and to increase the business prospects for the Town.

### Attachments

- Project Description and Proposed Incentive Scenario
- Development Investment Grant Policy



# PROJECT REAL

## Project Description:

**Type:** Distribution and Office

**Location:** Hwy 64 & Hwy 751, Chatham County, NC

**Acreage:** Approximately 15 acres

**Facility:** 150,000 sf (new construction)

**Jobs:** 200

**Wages** - \$56,000/year average

**Investment:** \$25.5 million

## Proposed Incentive Scenario:

<b>\$25,500,000</b>													
<b>(investment)</b>	<b>=</b>	<b>\$255,000</b>	<b>x .39</b>	<b>=</b>	<b>\$99,450</b>	<b>*</b>	<b>90%</b>	<b>=</b>	<b>\$89,505</b>	<b>*</b>	<b>3</b>	<b>=</b>	<b>\$268,515</b>
<b>\$100 (valuation)</b>			<b>(Apex tax rate)</b>		<b>(annual Apex taxes paid)</b>				<b>(annual incentive)</b>		<b>(years)</b>		<b>(total incentive)</b>

## Notes:

2022 Wake County Average Wages = \$68,317/year

2022 Chatham County Average Wages = \$41,638/year

Average between Wake and Chatham = \$54,977/year

## Town of Apex Development & Investment Grant

### Purpose

The objective of the Development & Investment Grant is to encourage the location, retention and/or expansion of new or existing business and industry that will create jobs and private investment in the Town of Apex. This incentive policy provides information and guidance for the Town when considering assistance. This policy will serve as a baseline for consideration and could be amended and/or expanded. Award is subject to published notice and public hearing prior to approval of an economic development incentive agreement which will establish clear goals, timelines, conditions for receipt, and other project specific terms.

### New Investment Threshold

New investment is defined as “improvements to real estate, machinery, equipment, and other business personal property.” The value of land is not included. Investment information will be gathered from the Wake County Revenue Administrator.

### New Jobs Threshold

New jobs are defined as a new, net increase in the company’s number of full-time employees at the company’s Apex location. Full-time is defined as an employee working at least 35 hours per week and whose wages are subject to withholding. The jobs should also meet a salary minimum of 100% of the average wage for Wake County as defined by NC Commerce Finance Center. Salary and employment documentation will be gathered from NC Employer’s Tax and Wage Reports.

### Eligibility

A business or industry may be eligible for a Development & Investment Grant if they meet both a new investment threshold and a new jobs created threshold. Special consideration may be given for projects that do not meet the thresholds, but have other compelling criteria, such as corporate headquarters, reputation/name of company, etc. This policy pertains to businesses located/locating within the Town of Apex corporate limits. If the business site is outside the corporate limits, they must submit a petition for annexation to the Town Council. In addition, in accordance with State of North Carolina eligibility requirements, the business must produce evidence that but for the assistance from the Town, they would not make the investment within the Town of Apex. The business should also be in the decision making process, and not previously announced and/or decided to make their expansion or location in the Town of Apex.

The following outline depicts the minimum thresholds, award and timeline:

		<b>Investment Minimum</b>	<b>Jobs Minimum</b>	<b>Incentive Percentage</b>	<b>Max Years</b>
<b>Town of Apex Grant</b>		\$3 million	20	90% new tax growth	3

### State Grant – Local Match Requirement

If a company qualifies for a state discretionary incentive grant, it requires local government participation. Wake County will assist in the requirement by providing funds that equal 35% of the new tax growth generated by the company. The Town of Apex would be responsible for the remaining funds to fulfill the match requirement. This local match may be in lieu of the Town of Apex Grant consideration. The following outline depicts the minimum thresholds, award and timeline:

		<b>Investment Minimum</b>	<b>Jobs Minimum</b>	<b>Incentive</b>	<b>Max Years</b>
<b>State Grant – Local Match Requirement</b>		\$5 million	25	Required amount of match, minus the funds provided by Wake County.	5

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

### Requested Motion

Public hearing and possible motion regarding an amendment to the 2045 Land Use Map in the vicinity of NC 751 and US 64.

### Approval Recommended?

Planning staff recommends adoption of the proposed amendment.

The Planning Board heard this item at their March 14, 2022 meeting and unanimously recommended approval.

### Item Details

The purpose of this amendment is to propose the Industrial Employment land use classification on properties in the vicinity of NC 751 and US 64 to correspond with the Employment Center shown on the Chatham County Future Land Use and Conservation Plan that can be viewed here:

<https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293570000>.

### Attachments

- Staff Report



STAFF REPORT  
2045 Land Use Map Amendment

March 22, 2022 Town Council Meeting



The 2045 Land Use Map (2045 LUM) establishes the Town's long range vision for land use. It is not regulatory, but serves as guidance as the Town considers new development. The 2045 LUM was adopted in February 2019 and last amended on March 8, 2022. The 2045 LUM is available for viewing online at: [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). The Town Council will consider the proposed amendment to the 2045 LUM, hear comments from the public, and formulate a decision regarding potential adoption of the amendment.

The proposed amendment is in the vicinity of NC 751 and US 64 intersection. The amendment would revise the vision for land use as shown in Figure 1.

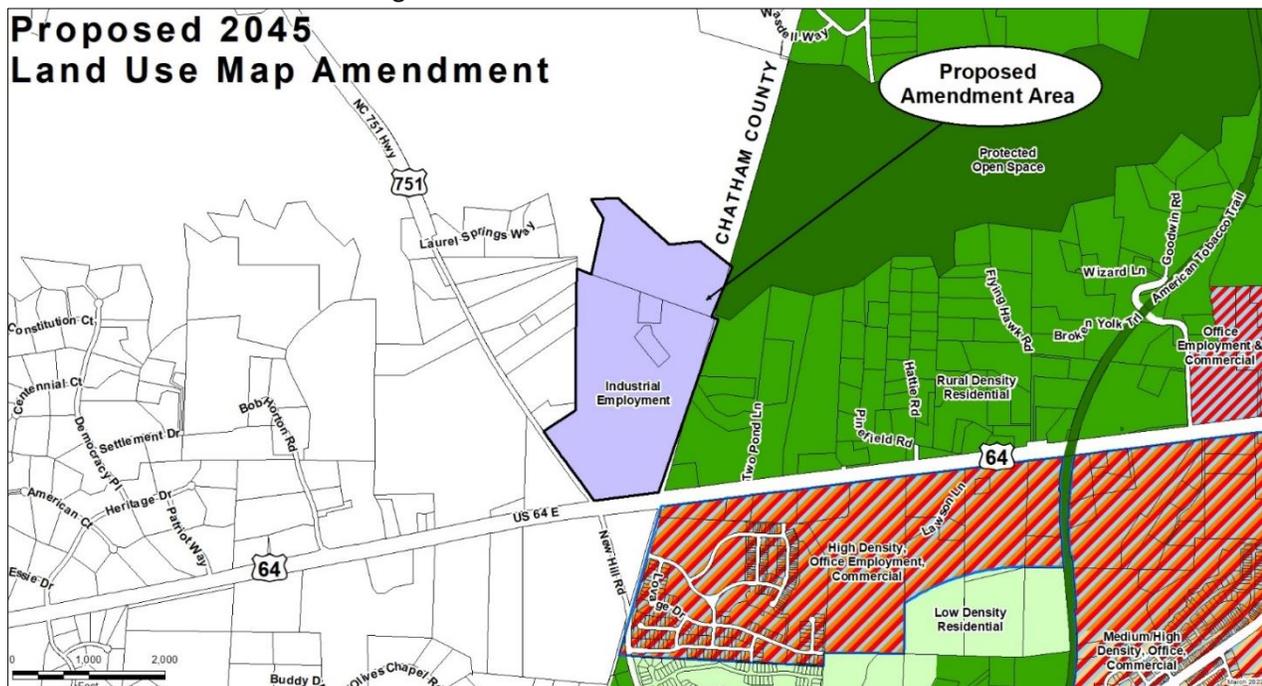


Figure 1. Proposed amendment to the 2045 Land Use Map

This amendment is associated with a request for rezoning and annexation of the same properties. The purpose of this amendment is to propose the Industrial Employment land use classification on properties in the vicinity of NC 751 and US 64 to correspond with the Employment Center currently shown on the Chatham County Future Land Use and Conservation Plan that can be viewed here:

<https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293570000>.

The Employment Center land use category targets areas for future job-generating uses in settings that meet today's workplace expectations. A mix of uses including industrial, office, and supporting retail, restaurant, service, recreation, and other uses are supported. Arterial, collector and local streets and private drives for local and regional accessibility are expected.

**PLANNING STAFF RECOMMENDATION:**

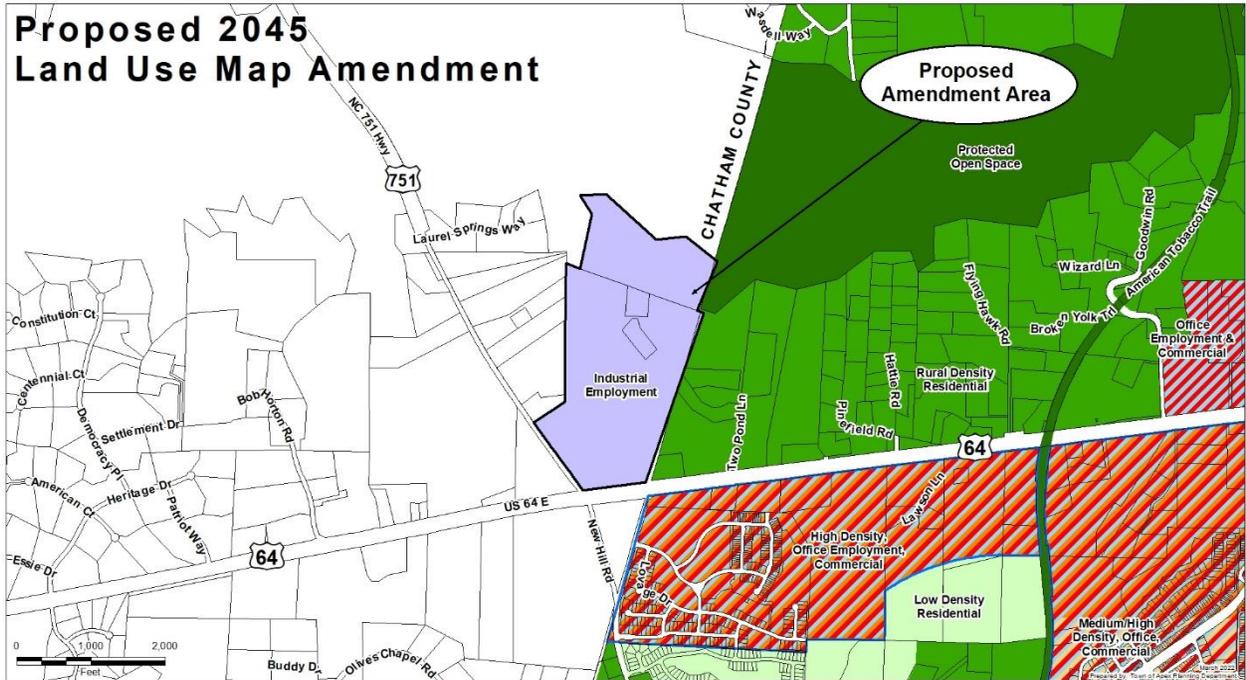
Planning staff recommends adoption of the proposed amendment to the 2045 Land Use Map.

**PLANNING BOARD RECOMMENDATION:**

The Planning Board heard this item at their March 14, 2022 meeting and unanimously recommended approval of the proposed amendment.



Pursuant to the provisions of North Carolina General Statutes §160D-601 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 and Town Council of the Town of Apex. **The purpose of these hearings is to solicit and consider comments relative to a proposed amendment to the 2045 Land Use Map.** The proposed amendment is shown in Figure 1. The proposed amendment corresponds with the Employment Center shown on the Chatham County Future Land Use and Conservation Plan that can be viewed here: <https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293570000>.



**Figure 1. Proposed Amendment to the 2045 Land Use Map**

**Public Hearing Location:** Apex Town Hall  
 Council Chamber, 2nd Floor  
 73 Hunter Street, Apex, North Carolina

***Separate comments must be provided for the two public hearings by the deadlines specified below.***

**Planning Board Public Hearing Date and Time: March 14, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town’s YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

**Town Council Public Hearing Date and Time: March 22, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto: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 members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town’s YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

All interested parties may be heard with respect to these amendments. Call 919-249-3426, Department of Planning and Community Development, with questions or for further information. The current 2045 Land Use Map is available for viewing at: <https://www.apexnc.org/DocumentCenter/View/478>.

Dianne F. Khin, AICP  
 Director of Planning and Community Development



## PUEBLO DE APEX

Casilla de correo: PO BOX 250  
APEX, NORTH CAROLINA 27502  
TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS MODIFICACIONES AL MAPA DE USO TERRITORIAL PARA 2045

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del pueblo de Apex. **El propósito de estas audiencias es solicitar y considerar los comentarios relativos a una modificación propuesta al Mapa de uso territorial para 2045.** La enmienda propuesta se muestra en la figura 1. La enmienda propuesta corresponde con el Centro de Empleo que aparece en el Plan de Conservación y Uso Futuro del Territorio del condado de Chatham, que se puede ver aquí:

<https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293570000>

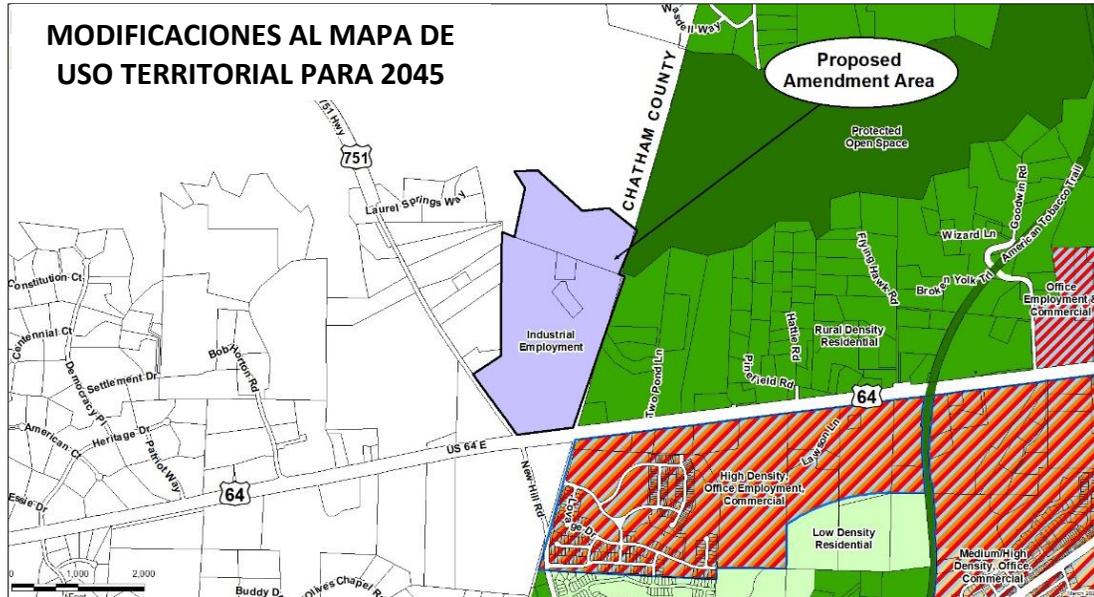


Figura 1. Modificaciones propuestas al Mapa de uso territorial para 2045

**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2° piso  
73 Hunter Street, Apex, North Carolina

**Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado dentro de los plazos especificados a continuación.**

### **Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter 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.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

### **Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**

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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria municipal adjunta (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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Todas las partes interesadas pueden opinar sobre estas modificaciones. Si tiene preguntas o desea obtener más información, sírvase comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. El actual Mapa de uso territorial para 2045 puede consultarse aquí: <https://www.apexnc.org/DocumentCenter/View/478>.

Dianne F. Khin, AICP  
Directora de Planificación y Desarrollo Comunitario



**TOWN OF APEX**  
POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

**PUBLIC NOTIFICATION  
OF PUBLIC HEARINGS  
2045 LAND USE MAP AMENDMENT**

Pursuant to the provisions of North Carolina General Statutes §160D-601 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 and Town Council of the Town of Apex. **The purpose of these hearings is to solicit and consider comments relative to a proposed amendment to the 2045 Land Use Map.** The proposed amendment is shown in Figure 1. The proposed amendment corresponds with the Employment Center shown on the Chatham County Future Land Use and Conservation Plan that can be viewed here: <https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293570000>.



Figure 1. Proposed Amendment to the 2045 Land Use Map

**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2nd Floor  
73 Hunter Street, Apex, North Carolina

*Separate comments must be provided for the two public hearings by the deadlines specified below.*

**Planning Board Public Hearing Date and Time: March 14, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

**Town Council Public Hearing Date and Time: March 22, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

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All interested parties may be heard with respect to these amendments. Call 919-249-3426, Department of Planning and Community Development, with questions or for further information. The current 2045 Land Use Map is available for viewing at: <https://www.apexnc.org/DocumentCenter/View/478>.

Dianne F. Khin, AICP  
Director of Planning and Community Development

Published Dates: March 4, 2022 – March 22, 2022

Published Dates: March 4, 2022 – March 22, 2022



## PUEBLO DE APEX

Casilla de correo: PO BOX 250  
APEX, NORTH CAROLINA 27502  
TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS MODIFICACIONES AL MAPA DE USO TERRITORIAL PARA 2045

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §1600-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del pueblo de Apex. El propósito de estas audiencias es solicitar y considerar los comentarios relativos a una modificación propuesta al Mapa de uso territorial para 2045. La enmienda propuesta se muestra en la figura 1. La enmienda propuesta corresponde con el Centro de Empleo que aparece en el Plan de Conservación y Uso Futuro del Territorio del condado de Chatham, que se puede ver aquí:

<https://www.chathamcountync.gov/home/showpublisheddocument/31151/636583471293520000>



Figura 1. Modificaciones propuestas al Mapa de uso territorial para 2045

**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2° piso  
73 Hunter Street, Apex, North Carolina

Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado dentro de los plazos especificados a continuación.

### **Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter 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.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

### **Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**

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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria municipal adjunta (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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Todas las partes interesadas pueden opinar sobre estas modificaciones. Si tiene preguntas o desea obtener más información, sírvase comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. El actual Mapa de uso territorial para 2045 puede consultarse aquí: <https://www.apexnc.org/DocumentCenter/View/478>.

Darlene F. Kline, AICP  
Directora de Planificación y Desarrollo Comunitario

Fechas de publicación: 4 de marzo de 2022 – 22 de marzo de 2022



PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

RICHARD MILLS JR  
Please Print

[Signature]  
Signature

William S Mills  
Please Print

[Signature]  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

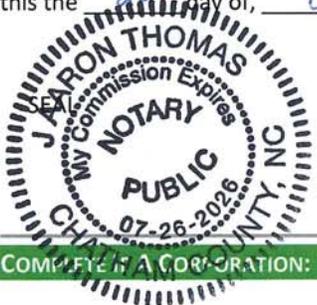
\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE Chatham

Sworn and subscribed before me, J. Aaron Thomas, a Notary Public for the above State and County,  
this the 28 day of, December, 2021.

[Signature]  
Notary Public



My Commission Expires: 07/26/2026

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

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\_\_\_\_.

[Signature]  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

# ADCOCK LAW FIRM, P.A.

TELEPHONE: (919) 552-6600  
FACSIMILE: (919) 552-4227  
john@adcocklawfirm.com

John B. Adcock, Esq.  
Board Certified Specialist in Commercial Real Property Law  
202 E. Academy Street  
FUQUAY-VARINA, NORTH CAROLINA 27526

MAILING ADDRESS:  
Post Office Box 1478  
Fuquay-Varina, NC 27526

January 3, 2022  
Via Hand Delivery

Dianne Khin  
Director of Planning and Community Development  
Town of Apex  
73 Hunter Street, 2<sup>nd</sup> Floor  
Apex, NC 27502

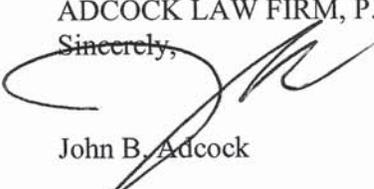
RE: Petition for Voluntary Annexation – Peggy G. Gray, Trustee Signature Page  
“Project Real” Rezoning and Annexation - Off NC Hwy 751 (Chatham Co.)  
Beacon Acquisition, LLC (“Applicant”)

Dear Ms. Khin,

I represent Peggy G. Gray, Trustee of the Gray Family Trust and owner Chatham County Parcel ID 0060523. Ms. Gray’s property is part of the Project Real rezoning and annexation application. Please find enclosed Ms. Gray’s signature page for the Petition for Voluntary Annexation, which is to be included with the application submitted by Beacon Acquisition, LLC. Please do not hesitate to let me know if you need any additional information or have any questions. Thank you.

ADCOCK LAW FIRM, P.A.

Sincerely,

  
John B. Adcock

Cc: Peggy G. Gray, c/o Lisa Bateman (via email)  
Maggie Houston, Beacon Acquisition, LLC (via email)



**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

**COMPLETE IF SIGNED BY INDIVIDUALS:**

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

Peggy G. Gray, Trustee  
Please Print

*Peggy G. Gray*  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

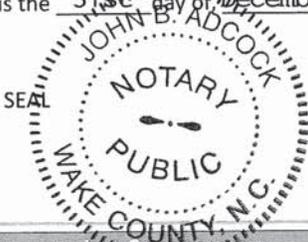
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, John B. Adcock, a Notary Public for the above State and County,  
this the 31<sup>st</sup> day of December, 20 21.



*John B. Adcock*  
Notary Public

My Commission Expires: 01/25/2026

**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: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
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 \_\_\_\_.

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, \_\_\_\_\_ a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Limited Liability Company \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Member/Manager

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\_\_\_\_.

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

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\_\_\_\_.

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING BOUNDED ON THE NORTH BY US GOVERNMENT LAND, ON THE SOUTH BY THE ROADS NC 751 AND US 64, ON THE WEST BY BARBOUR KATHLEEN B PARCEL (BM 92 PG 43), LONG JOHN W AND LONG FAYE C PARCEL (BM 92 PG 43), ALUCINO WILLIAM J AND ALUCINO BARBARA J PARCEL (BM 11 PG 9), DROEGE BRENT MICHAEL PARCEL (BM 2014 PG 0320) AND DROGE INVESTMENTS LLC PARCEL (DB 1949 PG 612), AND ON THE EAST BY TRAN HUNG AND NGUYEN LIEN PARCEL (BM 1993 PG 603), ABBOT O WAYNE PARCEL (BM 2009 PG 216), DIACUMSKI JASON PARCEL (BM 2009 PG 216), BISHOP HELEN A AND BISHOP WILLIAM H PARCEL (BM 2009 PG 216), ABBOTT O WAYNE PARCEL (BM 2009 PG 216) AND US GOVERNMENT LAND (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE), SAID 1/2 INCH IRON PIPE BEING SOUTH 0 DEGREES 24 MINUTES 11 SECONDS EAST A DISTANCE OF 141.41 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727829.13' EASTING: 2014636.46'), SAID POINT OF BEGINNING BEING NORTH 3 DEGREES 22 MINUTES 52 SECONDS A DISTANCE OF 2,685.98 FEET FROM AN EXISTING NGS MONUMENT STAMPED "FIN" (PID AB2852).

THENCE RUNNING IN A CLOCKWISE DIRECTION SOUTH 71 DEGREES 07 MINUTES 23 SECONDS EAST A DISTANCE OF 169.65 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE NORTH 10 DEGREES 18 MINUTES 21 SECONDS EAST A DISTANCE OF 749.23 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE NORTH 33 DEGREES 58 MINUTES 49 SECONDS WEST A DISTANCE OF 289.54 FEET TO A 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5554); THENCE NORTH 86 DEGREES 14 MINUTES 51 SECONDS EAST A DISTANCE OF 357.10 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5555); THENCE SOUTH 49 DEGREES 31 MINUTES 1 SECOND EAST A DISTANCE OF 901.76 FEET TO A CALCULATED POINT; THENCE NORTH 83 DEGREES 19 MINUTES 1 SECOND EAST A DISTANCE OF 405.10 TO AN EXISTING 1/2 INCH IRON PIPE; SOUTH 53 DEGREES 24 MINUTES 19 SECONDS EAST A DISTANCE OF 530.32 FEET TO A CALCULATED POINT ON THE CHATHAM-WAKE COUNTY LINE; THENCE LEAVING CHATHAM-WAKE COUNTY LINE, SOUTH 20 DEGREES 29 MINUTES 52 SECONDS WEST A DISTANCE OF 733.29 FEET TO A CALCULATED POINT ON THE TRACT 1 NORTHERN LINE; THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 27 MINUTES 2 SECONDS EAST A DISTANCE OF 59.40 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE WITH THE COUNTY LINE BETWEEN CHATHAM COUNTY AND WAKE COUNTY, DESCRIBED AS LINE "F" IN BOOK OF MAPS 61 PAGE 68 THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 15 DEGREES 53 MINUTES 52 SECONDS WEST A DISTANCE OF 823.61 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 56 MINUTES 17 SECONDS WEST A DISTANCE OF 66.32

FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 50 MINUTES 58 SECONDS WEST A DISTANCE OF 241.91 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 52 MINUTES 53 SECONDS WEST A DISTANCE OF 911.62 FEET TO AN EXISTING 1 INCH IRON PIPE; THENCE SOUTH 15 DEGREES 46 MINUTES 19 SECONDS WEST A DISTANCE OF 343.72 FEET TO A CALCULATED POINT IN THE NORTHERN LINE OF US 64 HIGHWAY 200 FOOT RIGHT OF WAY; THENCE WITH THE NORTHERN LINE OF US 64 HIGHWAY AND LEAVING CHATHAM-WAKE COUNTY LINE SOUTH 82 DEGREES 51 MINUTES 36 SECONDS WEST A DISTANCE OF 837.66 FEET TO A CALCULATED POINT; THENCE NORTH 71 DEGREES 52 MINUTES 46 SECONDS WEST A DISTANCE OF 161.00 FEET TO AN EXISTING 5/8" IRON ROD ON THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY; THENCE WITH THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY NORTH 38 DEGREES 43 MINUTES 21 SECONDS WEST A DISTANCE OF 157.84 FEET TO A CALCULATED; THENCE A CURVE HAVING A RADIUS OF 6,670 FEET, A LONG CHORD BEARING OF NORTH 38 DEGREES 34 MINUTES 29 SECONDS WEST A DISTANCE OF 245.92 FEET TO A CALCULATED POINT; THENCE A CURVE HAVING A RADIUS OF 6,270 FEET, A LONG CHORD BEARING OF NORTH 35 DEGREES 35 MINUTES 11 SECONDS WEST A DISTANCE OF 249.29 FEET TO A CALCULATED POINT; THENCE NORTH 34 DEGREES 15 MINUTES 32 SECONDS WEST A DISTANCE OF 374.51 FEET TO A CALCULATED POINT; THENCE LEAVING THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY AND WITH THE SOUTHERN LINE OF BARBOUR TRACT (BB 92 PAGE 43) NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 2.24 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP; THENCE CONTINUING WITH THE SOUTHERN LINE OF BARBOUR TRACT NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 505.51 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP; THENCE WITH THE EASTERN LINE OF BARBOUR TRACT NORTH 0 DEGREES 25 MINUTES 8 SECONDS EAST A DISTANCE OF 99.99 FEET TO AN EXISTING 1 INCH IRON PIPE; THENCE WITH THE EASTERN LINE OF LONG TRACT (BM 92 PG 43) AND TRACT B-1 (BM 11 PG 9) NORTH 0 DEGREES 41 MINUTES 44 SECONDS EAST A DISTANCE OF 1298.14 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE WITH THE EASTERN LINE OF LOT 1 (BM 2014 PG 0320) NORTH 0 DEGREES 42 MINUTES 32 SECONDS EAST A DISTANCE OF 280.64 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE WITH TRACT C EASTERN LINE (DB 1949 PG 612) NORTH 1 DEGREE 3 MINUTES 8 SECONDS EAST A DISTANCE OF 171.91 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,754,539 SQUARE FEET OR 132.11 ACRES, MORE OR LESS.

AND BEING A PORTION OF THE LAND CONVEYED TO JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235, AND BEING ALL OF THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1. AND BEING ALL OF THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 97 AT PAGE 471, DESCRIBED AS LOT 2, AND BEING ALL OF THE LAND CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED BOOK 1919 PAGE 1134.



**Annexation #726**

Chatham County

751

Flying Hawk Rd

Two Pond Ln

Pinefield Rd

Hattie Rd

64

US 64 Hwy W

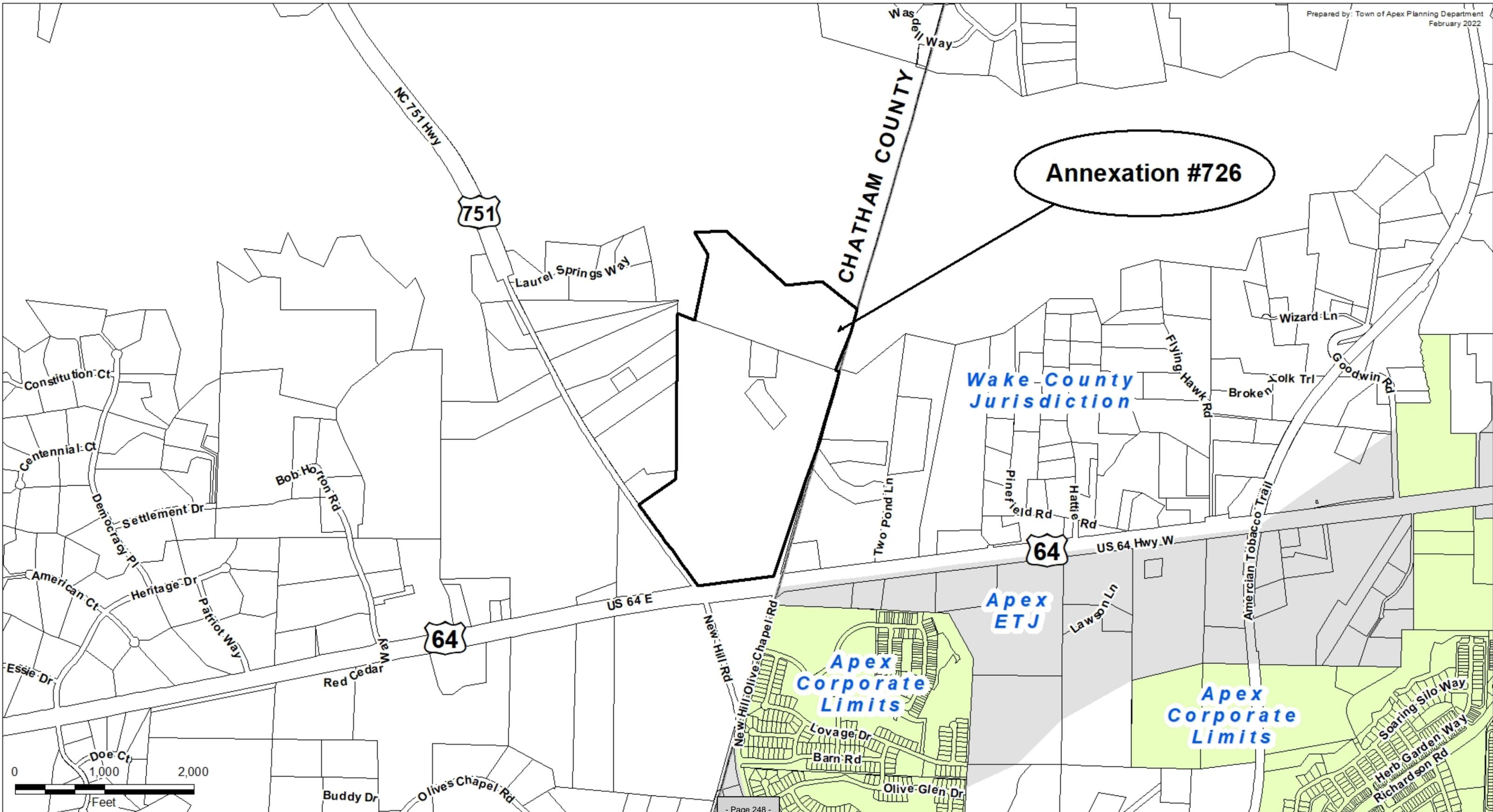
Lawson Ln

New Hill Rd

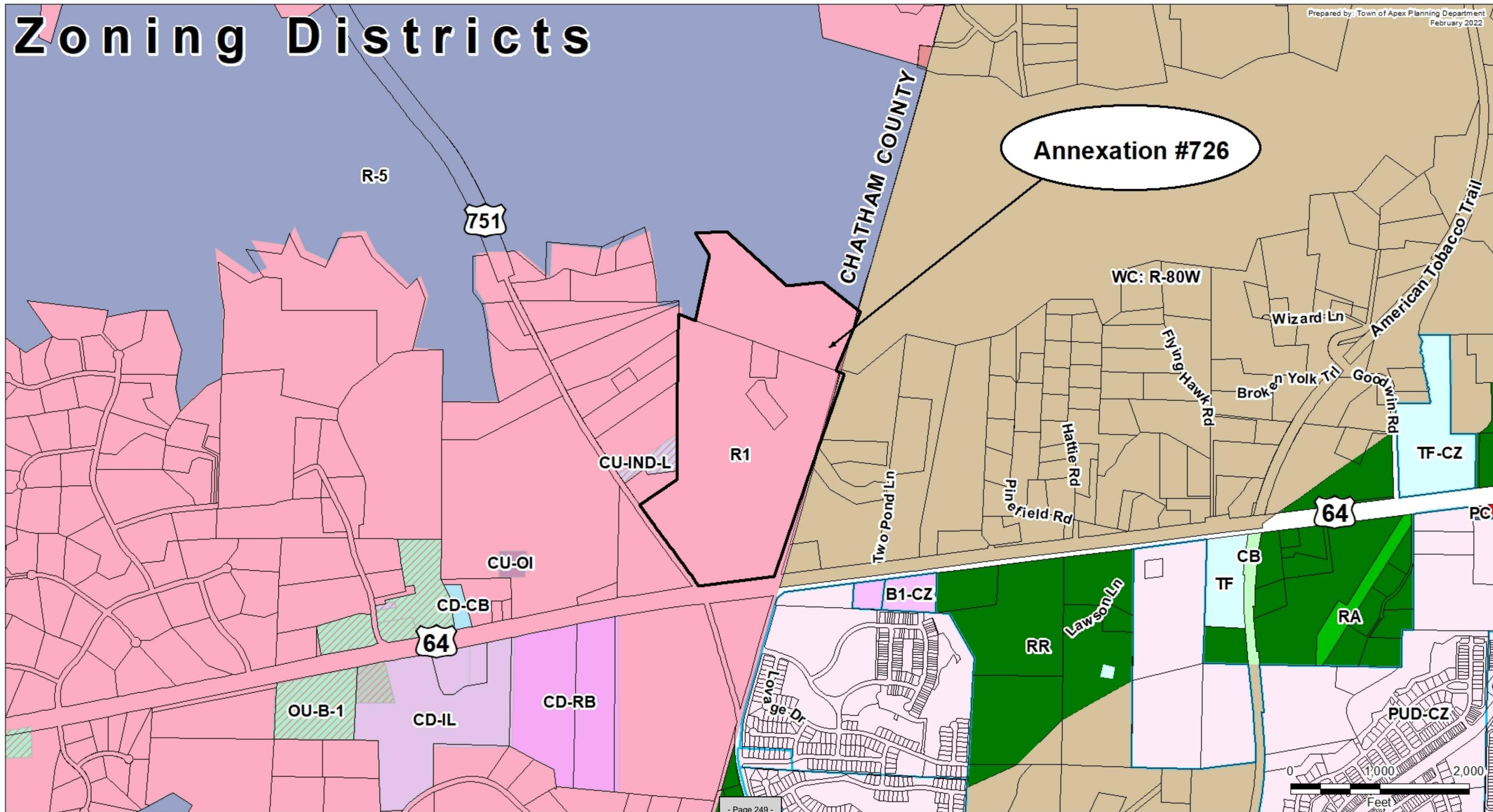
Deer Creek

Smith Farm PUD

0 1,000 2,000  
Feet



# Zoning Districts





**SURVEY NOTES:**

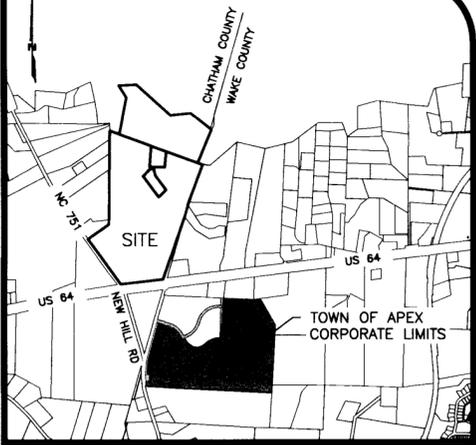
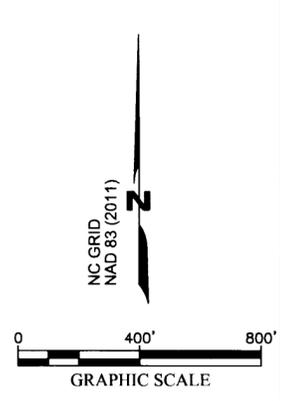
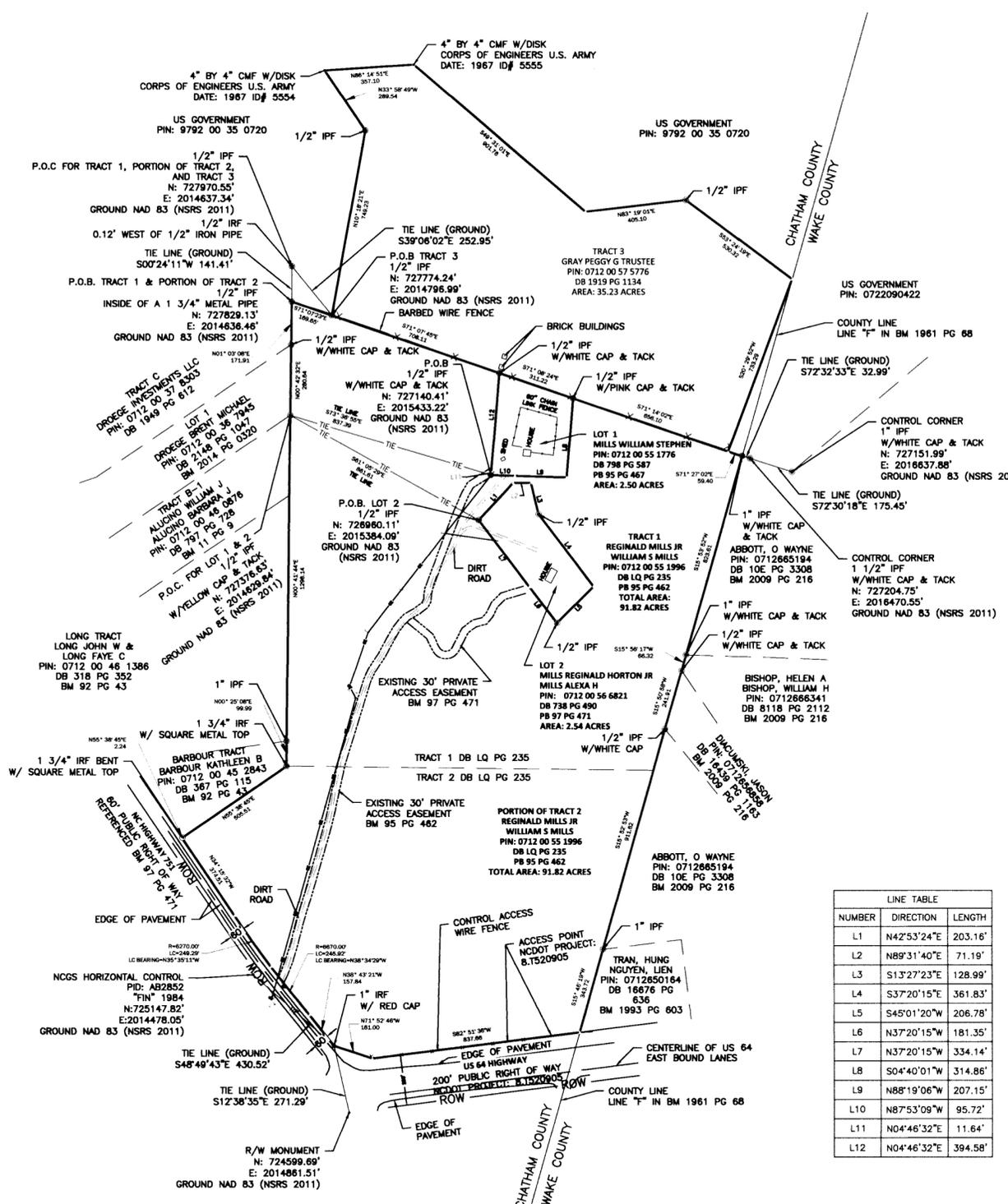
- ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND AND EXPRESSED IN FEET AND HUNDRETH OF FEET.
- AREA CALCULATED BY COORDINATE GEOMETRY.
- ZONING: R-1  
ZONING SOURCE: <https://chathamncgis.maps.arcgis.com/>
- THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.
- ADJOINER'S INFORMATION OBTAINED FROM WAKE COUNTY AND CHATHAM COUNTY GIS WEBSITE.
- EXCEPT AS SHOWN, THERE ARE NO OTHER VISIBLE OR RECORDED EASEMENTS OR RIGHTS OF WAY ACROSS THE SURVEYED PROPERTY THAT HAVE BEEN PROVIDED TO THE SURVEYOR.
- ALL PROPOSED PARCEL AREAS MATHEMATICALLY CLOSE GREATER THAN 1:10,000.
- ROADS, STREETS AND HIGHWAYS SHOWN HEREIN SHOW EVIDENCE OF BEING COMPLETED, DEDICATED AND ACCEPTED FOR PUBLIC MAINTENANCE.

**LEGEND AND ABBREVIATIONS:**

- UTILITY POLE
- ⊙ GUY ANCHOR
- ⊖ SIGN
- ⊕ FIBER OPTIC PEDESTAL
- ⊗ GAS MARKER
- IRON PIPE FOUND (IPF)
- ⊙ 5/8" REBAR WITH CAP SET (RBWC)
- ⊙ IRON ROD FOUND (IRF)
- DISK MONUMENT FOUND (AS NOTED)
- ⊙ MAG NAIL FOUND (MNF)
- ⊙ RAILROAD SPIKE FOUND (RRSF)
- PIN PARCEL IDENTIFICATION
- BK BOOK
- PG. PAGE
- Ex. EXISTING
- ESMT. EASEMENT
- SQ.FT. SQUARE FEET
- D.B. DEED BOOK
- B.M. BOOK MAP
- PG. PAGE
- AC. ACRES
- CONC. CONCRETE
- P.O.C POINT OF COMMENCING
- P.O.B POINT OF BEGINNING
- SUBJECT PROPERTY LINE
- - - EASEMENT (AS NOTED)
- - - ADJOINER PROPERTY LINE
- - - EXISTING APPARENT RIGHT-OF-WAY
- - - TIE LINE
- - - CHAIN LINK FENCE
- - - WIRE FENCE (AS NOTED)
- - - CENTER LINE ROAD (AS NOTED)
- - - OVERHEAD ELECTRIC

**REFERENCES**

- DEED FOR J. B. MILLS AND WIFE, DATED JANUARY 9TH, 1954 AND RECORDED IN DB LQ PG 235 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- DEED FOR PEGGY G. GRAY, TRUSTEE, DATED APRIL 12TH, 2017 AND RECORDED IN DB 1919 PG 1134 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- PLAT FOR WILLIAM STEPHEN MILLS, DATED NOVEMBER 16TH, 1996 AND RECORDED IN BM 95 PG 462 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- PLAT FOR REGINALD HORTON MILLS JR. AND ALEXA H. MILLS, DATED OCTOBER 22ND, 1997 AND RECORDED IN BM 97 PG 471 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- SUBDIVISION PLAT FOR MARION C. PENNY, DATED OCTOBER 18TH, 1966 AND RECORDED IN BM 11 PG 9 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- RECOMBINATION SURVEY FOR ALLEN B. BARBOUR AND WIFE, DATED JANUARY 14TH, 1992 AND RECORDED IN BM 92 PG 43 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- RECOMBINATION PLAT FOR WILLIAM J. GRECZYN, DATED DECEMBER 1ST, 2014 AND RECORDED IN BM 2014 PG 320 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- DEED FOR JAMES MARCUS MALOCH WIFE, DATED SEPTEMBER 29TH, 2017 AND RECORDED IN DB 1949 PG 0612 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- DEED FOR PHILIP MICHAEL MCLAIN AND WIFE, DATED APRIL 4TH, 2008 AND RECORDED IN DB 1395 PG 247 IN THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE.
- SUBDIVISION AND RECOMBINATION PLAT FOR JOHN B. MILLS, JR., DATED DECEMBER 31ST, 2008 AND RECORDED IN BM 2009 PG 216 IN THE WAKE COUNTY REGISTER OF DEEDS OFFICE.
- RECOMBINATION PLAT FOR JANICE M. MILLS, DATED MAY 11TH, 1993 AND RECORDED IN BM 1993 PG 603 IN THE WAKE COUNTY REGISTER OF DEEDS OFFICE.
- MAP OF BOUNDARY LINE BETWEEN WAKE COUNTY AND CHATHAM COUNTY NORTH CAROLINA, DATED JUNE-DEC. 1960 AND RECORDED IN BM 1961 PG 68 IN THE WAKE COUNTY REGISTER OF DEEDS OFFICE.
- NCDOT US 64 HIGHWAY PROJECT 8.T520905, SHEETS 42 AND 43



**VICINITY MAP**  
(NOT TO SCALE)

Annexation # \_\_\_\_\_

I, \_\_\_\_\_, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Town Council. I set my hand and seal of the Town of Apex,

\_\_\_\_\_, Town Clerk

Day/Month/Year \_\_\_\_\_

**OWNERS INFORMATION**

LOT 1: MILLS WILLIAM STEPHEN  
ADDRESS: 106 751 HWY, APEX 27523

LOT 2: MILLS REGINALD HORTON JR  
ADDRESS: 104 751 HWY, APEX 27523

TRACT 1 AND PORTION OF TRACT 2: REGINALD MILLS JR & WILLIAM S MILLS  
ADDRESS: NOT ASSIGNED

TRACT 3: GRAY PEGGY G TRUSTEE  
ADDRESS: NOT ASSIGNED

**PARCEL AREA**

TRACT 1 AND PORTION OF TRACT 2 - 91.82 ACRES

TRACT 3 - 35.23 ACRES

LOT 1 - 2.50 ACRES

LOT 2 - 2.56 ACRES

**TOTAL AREA TO BE ANNEXED: 132.11 ACRES**

NUMBER	DIRECTION	LENGTH
L1	N42°53'24"E	203.16'
L2	N89°31'40"E	71.19'
L3	S13°27'23"E	128.99'
L4	S37°20'15"E	361.83'
L5	S45°01'20"W	206.78'
L6	N37°20'15"W	181.35'
L7	N37°20'15"W	334.14'
L8	S04°40'01"W	314.86'
L9	N88°19'06"W	207.15'
L10	N87°53'08"W	95.72'
L11	N04°46'32"E	11.64'
L12	N04°46'32"E	394.58'

**CERTIFICATION:**

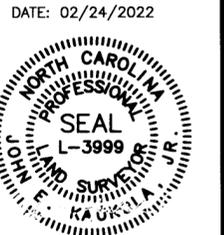
THIS PLAT WAS PREPARED FOR RECORDING IN ACCORDANCE WITH GS 47-30, AS AMENDED

GS 47-30 F(11)C(1). THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

I, JOHN E. KAUKOLA, JR. DO HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE 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 BY LATITUDES AND DEPARTURES IS 1:10,000 OR GREATER; THAT THIS SURVEY WAS PERFORMED USING GNSS AND CONVENTIONAL SURVEY, THAT THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GNSS SURVEY:

CLASS OF SURVEY: A  
POSITIONAL ACCURACY: 3CM + 50PPM  
TYPE OF GPS FIELD PROCEDURE: VRS RTK  
DATES OF SURVEY: NOVEMBER 24TH TO DEC 15TH OF 2021  
DATUM/EPOCH: NAD 83 (2011)  
PUBLISHED/FIXED-CONTROL USE: DURH, NCRD AND SNFD CORS ARP  
GEOID MODEL: 12B  
UNITS: US SURVEY FEET  
COMBINED GRID FACTOR: 0.999898256

John E. Kaukola, Jr.  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-3999  
john.kaukola@sam.biz  
(919) 752-8765



2641-116 Sumner Blvd.  
Raleigh, NC 27616  
Ofc: 919.878.7466  
Email: info@sam.biz

PROJECT:	BEACON PARTNERS US64-NC751 SURVEY
JOB NUMBER:	1021066922
DATE:	2022/02/24
SCALE:	1"=400'
SURVEYOR:	JOHN KAUKOLA
TECHNICIAN:	JOEL ALVARADO
DRAWING:	US 64-751 -ANNEX
TRACT ID:	AS SHOWN ON PLAT
PARTYCHIEF:	MITCHELL WELLS
FIELDBOOKS:	

**SATELLITE ANNEXATION MAP**  
FOR THE TOWN OF APEX  
NEW HOPE TOWNSHIP, CHATHAM COUNTY  
STATE OF NORTH CAROLINA

SHEET 1  
OF 1

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

### Requested Motion

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation- Apex Town Council's intent to annex the William Stephen Mills, Ronald Horton Mills, Jr and Peggy Gray, Trustee property containing 132.11 acres located at 104, 106 and Unassigned Off NC Hwy 751, Chatham County, Annexation 726 into the Town's corporate limits.

### AND

### Approval Recommended?

Yes, by the Planning and Community Development Department.

### Item Details

The Town Clerk certifies to the investigation of said annexation.

### Attachments

- Annexation Ordinance
- Annexation Petition
- Legal Description
- Map





TOWN OF APEX, NORTH CAROLINA  
Municipality No. 333

After recording, please return to:  
Town Clerk  
Town of Apex  
P.O. Box 250  
Apex, NC 27502

ORDINANCE NO. 2022-0322-08  
ANNEXATION PETITION NO. #726  
William Stephen Mills , Reginald Horton Mills, Jr., and Peggy G Gray Trustee

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS  
OF THE TOWN OF APEX, NORTH CAROLINA  
P.O. Box 250, Apex, North Carolina 27502

WHEREAS, the Apex Town Council has been petitioned under G.S. §160A-31, as amended, to annex the area described herein; and

WHEREAS, the Apex Town Council has by Resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Apex Town Hall at 6:00 p.m. on March 22, 2022, after due notice by posting to the Town of Apex website, <http://www.apexnc.org/news/public-notices-legal-ads>; and

WHEREAS, the Apex Town Council does hereby find as a fact that said petition meets the requirements of G.S. §160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S.§160A-31, as amended, the territory described in the attached property description and also shown as "Annexation Area" on the below identified survey plat is hereby annexed and made part of the Town of Apex, North Carolina, as of the date of adoption of this Ordinance on March 22, 2022. The survey plat that describes the annexed territory is that certain survey plat entitled "Satellite Annexation Map for the Town of Apex, dated 02/24-2022" and recorded in Plat Book number [REDACTED] and page number [REDACTED], Chatham County Registry.

Section 2. Upon and after the adoption of this ordinance, the territory described herein and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Apex, North Carolina, and shall be entitled to the same privileges and benefits as other parts of the Town of Apex. Said territory shall be subject to municipal taxes according to G.S.§160A-58.10, as amended.

Section 3. The Clerk of the Town of Apex, North Carolina shall cause to be recorded in the Office of the Register of Deeds of Chatham County and in the Office of the Secretary of State at Raleigh, North Carolina and in the Office of the Chatham County Board of Elections an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this Ordinance.

Adopted this the 22nd day of March 2022.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

\_\_\_\_\_  
Julie A. Reid  
Interim Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney

Legal Description:

William Stephen Mills , Reginald Horton Mills, Jr., and Peggy G Gray Trustee  
Chatham County PIN 071200551776, 071200566821 and 071200551996,  
Plat Book 95, page 467 and Plat Book 95, page 462 and Plat Book 97, page 471

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING BOUNDED ON THE NORTH BY US GOVERNMENT LAND, ON THE SOUTH BY THE ROADS NC 751 AND US 64, ON THE WEST BY BARBOUR KATHLEEN B PARCEL (BM 92 PG 43L LONG JOHN WAND LONG FAYE C PARCEL (BM 92 PG 43L ALUCINO WILLIAM J AND ALUCINO BARBARA J PARCEL (BM 11 PG 9L DROEGE BRENT MICHAEL PARCEL (BM 2014 PG 0320) AND DROGE INVESTMENTS LLC PARCEL (DB 1949 PG 612), AND ON THE EAST BY TRAN HUNG AND NGUYEN LIEN PARCEL (BM 1993 PG 603L ABBOT O WAYNE PARCEL (BM 2009 PG 216L DIACUMSKI JASON PARCEL (BM 2009 PG 216L BISHOP HELENA A AND BISHOP WILLIAM H PARCEL (BM 2009 PG 216L ABBOTT O WAYNE PARCEL (BM 2009 PG 216) AND US GOVERNMENT LAND (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE SAID 1/2 INCH IRON PIPE BEING SOUTH 0 DEGREES 24 MINUTES 11 SECONDS EAST A DISTANCE OF 141.41 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727829.13' EASTING: 2014636.46' SAID POINT OF BEGINNING BEING NORTH 3 DEGREES 22 MINUTES 52 SECONDS A DISTANCE OF 2,685.98 FEET FROM AN EXISTING NGS MONUMENT STAMPED "FIN" (PID AB2852).

THENCE RUNNING IN A CLOCKWISE DIRECTION SOUTH 71 DEGREES 07 MINUTES 23 SECONDS EAST A DISTANCE OF 169.65 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE NORTH 10 DEGREES 18 MINUTES 21 SECONDS EAST A DISTANCE OF 749.23 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE NORTH 33 DEGREES 58 MINUTES 49 SECONDS WEST A DISTANCE OF 289.54 FEET TO A 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5554); THENCE NORTH 86 DEGREES 14 MINUTES 51 SECONDS EAST A DISTANCE OF 357.10 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5555); THENCE SOUTH 49 DEGREES 31 MINUTES 1 SECOND EAST A DISTANCE OF 901.76 FEET TO A CALCULATED POINT; THENCE NORTH 83 DEGREES 19 MINUTES 1 SECOND EAST A DISTANCE OF 405.10 TO AN EXISTING 1/2 INCH IRON PIPE; SOUTH 53 DEGREES 24 MINUTES 19 SECONDS EAST A DISTANCE OF 530.32 FEET TO A CALCULATED POINT ON THE CHATHAM-WAKE COUNTY LINE; THENCE LEAVING CHATHAM-WAKE

COUNTY LINE, SOUTH 20 DEGREES 29 MINUTES 52 SECONDS WEST A DISTANCE OF 733.29 FEET TO A CALCULATED POINT ON THE TRACT 1 NORTHERN LINE; THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 27 MINUTES 2 SECONDS EAST A DISTANCE OF 59.40 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE WITH THE COUNTY LINE BETWEEN CHATHAM COUNTY AND WAKE COUNTY, DESCRIBED AS LINE "F" IN BOOK OF MAPS 61 PAGE 68 THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 15 DEGREES 53 MINUTES 52 SECONDS WEST A DISTANCE OF 823.61 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 56 MINUTES 17 SECONDS WEST A DISTANCE OF 66.32 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 50 MINUTES 58 SECONDS WEST A DISTANCE OF 241.91 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE SOUTH 15 DEGREES 52 MINUTES 53 SECONDS WEST A DISTANCE OF 911.62 FEET TO AN EXISTING 1 INCH IRON PIPE; THENCE SOUTH 15 DEGREES 46 MINUTES 19 SECONDS WEST A DISTANCE OF 343.72 FEET TO A CALCULATED POINT IN THE NORTHERN LINE OF US 64 HIGHWAY 200 FOOT RIGHT OF WAY; THENCE WITH THE NORTHERN LINE OF US 64 HIGHWAY AND LEAVING CHATHAM-WAKE COUNTY LINE SOUTH 82 DEGREES 51 MINUTES 36 SECONDS WEST A DISTANCE OF 837.66 FEET TO A CALCULATED POINT; THENCE NORTH 71 DEGREES 52 MINUTES 46 SECONDS WEST A DISTANCE OF 161.00 FEET TO AN EXISTING 5/8" IRON ROD ON THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY; THENCE WITH THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY NORTH 38 DEGREES 43 MINUTES 21 SECONDS WEST A DISTANCE OF 157.84 FEET TO A CALCULATED; THENCE A CURVE HAVING A RADIUS OF 6,670 FEET, A LONG CHORD BEARING OF NORTH 38 DEGREES 34 MINUTES 29 SECONDS WEST A DISTANCE OF 245.92 FEET TO A CALCULATED POINT; THENCE A CURVE HAVING A RADIUS OF 6,270 FEET, A LONG CHORD BEARING OF NORTH 35 DEGREES 35 MINUTES 11 SECONDS WEST A DISTANCE OF 249.29 FEET TO A CALCULATED POINT; THENCE NORTH 34 DEGREES 15 MINUTES 32 SECONDS WEST A DISTANCE OF 374.51 FEET TO A CALCULATED POINT; THENCE LEAVING THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY AND WITH THE SOUTHERN LINE OF BARBOUR TRACT (BB 92 PAGE 43) NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 2.24 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP; THENCE CONTINUING WITH THE SOUTHERN LINE OF BARBOUR TRACT NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 505.51 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP; THENCE WITH THE EASTERN LINE OF BARBOUR TRACT NORTH 0 DEGREES 25 MINUTES 8 SECONDS EAST A DISTANCE OF 99.99 FEET TO AN EXISTING 1 INCH IRON PIPE; THENCE WITH THE EASTERN LINE OF LONG TRACT (BM 92 PG 43) AND TRACT B-1 (BM 11 PG 9) NORTH 0 DEGREES 41 MINUTES 44 SECONDS EAST A DISTANCE OF 1298.14 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE WITH THE EASTERN LINE OF LOT 1 (BM 2014 PG 0320) NORTH 0 DEGREES 42 MINUTES 32 SECONDS EAST A DISTANCE OF 280.64 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK; THENCE WITH TRACT C EASTERN LINE (DB 1949 PG 612) NORTH 1 DEGREE 3 MINUTES 8 SECONDS EAST A DISTANCE OF 171.91 FEET TO THE POINT OF BEGINNING. CONTAINING 5,754,539 SQUARE FEET OR 132.11 ACRES, MORE OR LESS.

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AND BEING A PORTION OF THE LAND CONVEYED TO JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235, AND BEING ALL OF THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1. AND BEING ALL OF THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 97 AT PAGE 471, DESCRIBED AS LOT 2, AND BEING ALL OF THE LAND CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED BOOK 1919 PAGE 1134.

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #22CZ02 Project Real and Ordinance. The applicant, Maggie Houston, Beacon Development, seeks to rezone approximately 132.11 acres from R1 (Chatham County) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board held a public hearing on March 14, 2022 and unanimously recommended approval with consideration by the applicant the add additional conditions related to 1) applying draft Jordan Lake nutrient removal regulations and 2) increased fee-in-lieu to be agreed upon by developer and staff prior to Town Council meeting.

### Item Details

The properties to be rezoned are identified as PINs 0712566821, 0712551996, 0712575776.

### Attachments

- Staff Report
- Vicinity Map
- Application



## STAFF REPORT

Rezoning #22CZ02 Project Real

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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:** 104 NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751  
**Applicant:** Maggie Houston, Beacon Development  
**Owners:** Reginald Horton Mills, Jr & Alexa H Mills; Reginald Horton Mills & William Stephen Mills; Peggy G Gray Trust

### **PROJECT DESCRIPTION:**

**Acreage:** +132.11  
**PINs:** 0712566821, 0712551996, 0712575776  
**Current Zoning:** Chatham County Residential District 1 (R-1)  
**Proposed Zoning:** Light Industrial-Conditional Zoning (LI-CZ)  
**Current Land Use Map:** Employment Center (Chatham County)  
**Proposed 2045 Land Use Map:** Industrial Employment  
**Town Limits:** Annexation required with rezoning

### **Adjacent Zoning & Land Uses:**

	<b>Zoning</b>	<b>Land Use</b>
<b>North:</b>	Chatham County Residential District 5 (R-5); Chatham County Residential District 1 (R-1)	Vacant (Army Corps land)
<b>South:</b>	Chatham County Residential District 1 (R-1)	US Hwy 64; Vacant
<b>East:</b>	Wake County Residential (R-80W)	Single-family Residential; Vacant
<b>West:</b>	Chatham County Residential District 1 (R-1); Chatham County Light Industrial-Conditional Use (CU-IND-L)	NC Hwy 751; Single-family Residential; Metal shop buildings

### **Existing Conditions:**

The subject properties total +/-132.11 acres and are located in the northeast quadrant of US Hwy 64 and NC Hwy 751. There are two (2) single-family dwellings and related structures on the site. A majority of the site is wooded. There is a small pond at the northern end of the site and a buffered stream that runs along the eastern side of the property.

### **Neighborhood Meeting:**

The applicant conducted a neighborhood meeting on December 22, 2021. The neighborhood meeting report is attached.

### **2045 LAND USE MAP:**

The area to be rezoned is currently shown on the Chatham County Land Use Plan as an Employment Center. This land use category targets areas for future job-generating uses in settings that meet today's workplace expectations. A mix of uses including industrial, office, and supporting retail, restaurant, service, recreation, and other uses are supported. Arterial, collector and local streets and private drives for local and regional

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accessibility are expected. With this proposed rezoning and the associated annexation, the subject area must be included on our 2045 Future Land Use Map prior to action on the rezoning. Staff has proposed an amendment to the 2045 Land Use Map to classify these properties as Industrial Employment which is similar to the current Employment Center classification. The proposed rezoning to Light Industrial-Conditional Zoning (LI-CZ) is consistent with the proposed Industrial Employment land use classification.

### PROPOSED ZONING CONDITIONS:

#### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately 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.

#### Permitted Uses and Limitations:

- |  |   |
|--|---|
| 1. Government Service                        | 18. Parking Lot, Commercial             |
| 2. Communication Tower, Commercial (S)       | 19. Glass Sales                         |
| 3. Communication Tower, Public Safety (S)    | 20. Health/Fitness Center or Spa        |
| 4. Utility, Minor                            | 21. Truck Terminal                      |
| 5. Wireless Support Structure                | 22. Building Supplies, Wholesale        |
| 6. Wireless Communication Facility           | 23. Laboratory, Industrial Research     |
| 7. Broadcasting Station (radio & television) | 24. Machine or Welding Shop             |
| 8. Radio and Television Recording Studio     | 25. Warehousing                         |
| 9. Commissary                                | 26. Woodworking or Cabinetmaking        |
| 10. Restaurant, General                      | 27. Wholesaling, General                |
| 11. Dispatching Office                       | 28. Brewery                             |
| 12. Medical or Dental Office or Clinic       | 29. Distillery                          |
| 13. Medical or Dental Laboratory             | 30. Manufacturing and Processing        |
| 14. Office, Business or Professional         | 31. Manufacturing and Processing, Minor |
| 15. Pilot Plant                              | 32. Microbrewery                        |
| 16. Research Facility                        | 33. Microdistillery                     |
| 17. Parking Garage, Commercial               |   |

#### Use Conditions:

1. Machine or welding shop: This use is allowed with the exception of welding associated with automobiles.
2. Building supplies, wholesale: This use shall not exceed 200,000 square feet and shall not include more than 15% of the building's square footage as outdoor storage.
3. The use Glass Sales shall be all indoors except what is stored on trucks. Outdoor truck parking must be fully screened from any public right-of-way.

#### Environmental Conditions:

1. Existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.

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2. Post-development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, and 25-year storm events in accordance with the Unified Development Ordinance.
3. The project shall install at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
4. The project shall preserve a minimum of 15% of the existing tree canopy. Preserved areas may include, but are not limited to, RCA, perimeter buffers, riparian buffers, and/or common area in the development.
5. To improve energy efficiency, the project shall plant evergreen trees on the northern side of all buildings to act as a windbreak. This shall not apply where loading docks are proposed along a building facade.
6. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. This shall not apply where loading docks are proposed along a building facade.
7. The project shall plant only drought tolerant native plants. Landscaping shall be coordinated with and approved by the Planning Department at the time of Site Plan or Master Subdivision Plan review.
8. At least (1) information sign or other marking shall be provided at the boundary of an area dedicated as Resource Conservation Area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.
9. The project shall install light timers or other smart lighting technology on at least 50% of the fixtures in the parking lot so they are automatically turned off or reduced in level of lighting when the business is closed.
10. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.

### **Architectural Conditions - Industrial**

1. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
2. The building shall have more than one parapet height.
3. Windows and glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
4. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.

### **Architectural Conditions - Commercial**

1. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades. This would also include reveals in concrete tilt construction with integrated thin brick and contrasting paint colors, which add visual interest. The percentage of

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brick required on the facades will be 65 percent for a single story building, 50 percent for a two story building, and only the first floor for a three story building.

2. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.
3. Buildings on corners are to be treated as gateways with quality design.
4. Corner buildings shall match or exceed the height of adjacent buildings.
5. Corner buildings shall have two facades which maintain a relationship to each other although they do not need to be identical.
6. The orientation of drive-thru lanes, pick-up windows, and other utilitarian building functions should not be oriented toward or located adjacent the street. If drive-thru lanes must be located adjacent to a street, they shall be screened through the use of low walls and/or landscaping. Pick-up windows shall be de-emphasized through screening and/or architectural elements.
7. Each façade shall have a rhythm that is repeated through the pattern of wall and openings. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of 50% of the total building height. Buildings shall not have blank side walls creating a false front appearance.
8. The street level of the facades shall provide human scaled entries including, but not limited to, recessed entries, sheltering elements and adjacent storefront windows. Facades shall incorporate a minimum of two (2) continuous details refined to the scale of twelve (12) inches or less within the first ten (10) feet of the building wall, measured vertically at street level. Recessed arcades, entries flush with the building face, and small entries without adjacent windows shall be avoided.
9. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
10. Simple parapet roof edges with varying coping shall be used on most buildings. The roofline height shall vary from building to building as well as within buildings with wide street frontage.
11. The building shall have more than one parapet height.
12. Roof features may include hip roofs or awnings with metal or shingle roofs.
13. Buildings shall be architecturally compatible by way of colors and use of materials. The building exterior shall have more than one material color.
14. The exterior materials shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
  - a. Brick masonry
  - b. Decorative concrete block (either integrally colored or textured)
  - c. Stone accents
  - d. Aluminum storefronts with anodized or pre-finished colors.
  - e. EIFS cornices and parapet trim.
  - f. Precast concrete
  - g. Concrete tilt with a base wall paint color in conjunction with varying complimentary accent paint colors and integral thin brick, with associative percentages as outlined in item 1 above.
15. Exterior materials that shall not be allowed are as follows:
  - a. Vinyl siding
  - b. Painted, smooth faced concrete block (decorative blocks are acceptable)
  - c. Metal walls

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16. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
17. Soffit and fascia materials shall be EIFS, architectural metal panels (ACM), or tongue and groove wood.

### Transportation Conditions

1. Development shall dedicate public right-of-way for the future interchange at US 64 and NC 751 consistent with the area shown in Exhibit 1. This area is based on the outermost limit of interchange concepts evaluated by the North Carolina Department of Transportation at the time of rezoning. This dedication shall be included in development plans and occur at the time of Subdivision Final Plat or Site Plan Final Plat, whichever occurs first, for any parcel(s) adjacent to US 64 and NC 751 as applicable. If NCDOT has approved an interchange design prior to the first Subdivision Final Plat or Site Plan Final Plat that is less than shown on Exhibit 1, the development shall only be required to dedicate the right-of-way shown in the approved interchange design.
2. Development shall dedicate a 60 foot right-of-way with 30' Public Road Construction Easement on each side for a public roadway extending from NC 751 to the eastern boundary of the rezoned parcels. The location of the connection to NC 751 is subject to NCDOT and Town review and approval. The terminus at the eastern edge of the rezoned parcels is subject to Town review and approval. The right-of-way and Public Road Construction Easement shall be directly adjacent to the highway buffer of the right-of-way dedicated accommodating the future interchange at US 64 and NC 751. The development shall contribute a \$1,000,000 payment-in-lieu for the future construction of the collector road.
3. All lots within the development shall have frontage on a public street. The development shall construct a minimum of two stub street connections to adjacent parcels that have no frontage along public streets or only have frontage along NC 751. The location of the stub streets shall be subject to Town review and approval.

### TRANSPORTATION PLANNING CONCERNS:

Staff requested that the applicant provide a condition requiring the construction of a Minor Collector Street from NC 751 to the eastern boundary of the site. For context, the US 64 Corridor Study includes a collector in the long-term solution for the future interchange at US Hwy 64 and NC 751. That collector street is intended to provide connectivity from Wake County to NC 751 as access to US Hwy 64 is restricted. As of today, the applicant has only committed to dedicating a 60-foot right-of-way and construction easements for that road along with a \$1,000,000 payment-in-lieu.

The need to provide connectivity from NC 751 to the east into Wake County is critical and transportation staff in both Planning and Public Works and Transportation still strongly support a condition that requires construction of the road. If the road is not constructed with development of this site, it pushes the burden of building the road onto the Town or a future developer to the east. It also increases the difficulty of roadway construction once site development has occurred and increases the likely disruption to existing businesses. Without a roadway design it is also difficult to determine the width needed for construction easements beyond the right-of-way offered, and the appropriate payment-in-lieu. Staff believes that the proposed \$1,000,000 fee-in-lieu amount may be much less than what it will cost to build the collector street and recommends following the UDO standard of requiring an engineer's estimate to determine the fee-in-lieu amount.

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## EAB RECOMMENDATIONS:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on November 18, 2021. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Install solar PV systems on each of the buildings that provide 100% of the expected electrical energy usage, or 500 kilowatt systems, whichever is less.	Rejected
Consider leasing the remaining rooftop open areas to the Town of Apex for solar PV installations.	Rejected
Existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.	Added
Remove Manufacturing and Processing as well as Laboratory, Industrial Research from the list of proposed uses.	Rejected
<b>Water Quantity</b> <ul style="list-style-type: none"> <li>Increase design storm for retention basins in flood-prone areas.</li> <li>Increase design storm pre- and post-attenuation requirement to the 25-year storm.</li> </ul>	Second suggestion added
<b>Water Quality</b> <ul style="list-style-type: none"> <li>Increase riparian buffer widths from surface waters in environmentally sensitive areas.</li> </ul>	Rejected
Add a zoning condition which minimizes tree clearing, SCM, or infrastructure in either zone of the riparian buffer, except as necessary for the installation of Town of Apex utilities.	Rejected
<ul style="list-style-type: none"> <li>Install signage near environmental sensitive areas in order to eliminate fertilizer near SCM drainage areas.</li> <li>Implement low impact development (LID) techniques as defined by the NC Department of Environmental Quality.</li> <li>Increase pervious surface: Install pervious pavements where practicable (e.g. when parking maximums are exceeded).</li> </ul>	First suggestion added
<b>Planting &amp; Landscaping</b> <ul style="list-style-type: none"> <li>Preserve tree canopy where possible and replace with native trees where unable to preserve.</li> <li>Plant trees designed for efficiency.</li> <li>Include landscaping that requires less irrigation.</li> <li>Install signage near RCA.</li> </ul>	All suggestions added
<b>Lighting Efficiency</b> <ul style="list-style-type: none"> <li>Include energy efficient lighting in building design                             <ul style="list-style-type: none"> <li>A) Lower maximum foot-candles outside of buildings.</li> </ul> </li> <li>Install timers or light sensors or smart lighting technology.</li> <li>Incorporate natural lighting techniques into building design.</li> </ul>	1A and 4A suggestion added

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## EAB Suggested Condition

## Applicant's Response

- Include International Dark Sky Association compliance standards.
  - A) Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
  - B) Lighting that minimizes the emission of blue light to reduce glare shall be used.
  - C) Lighting with a color temperature of 3000K or less shall be used for outside installations.

### PLANNING STAFF RECOMMENDATION:

Planning staff can only recommend approval of Rezoning #22CZ02 Project Real if Transportation Condition #2 is offered, as requested by staff:

“Development shall construct and dedicate right-of-way for a public roadway extending from NC 751 to the eastern boundary of the rezoned parcels. The location of the connection to NC 751 is subject to NCDOT and Town review and approval. The terminus at the eastern edge of the rezoned parcels is subject to Town review and approval. The roadway shall be outside of the right-of-way dedicated to accommodate the future interchange at US 64 and NC 751 and outside of the required highway buffer. The roadway shall be built to the Town’s Minor Collector street standard except that sidewalk shall only be constructed along the northern side of the new roadway and the roadway section right-of-way may be reduced to 50 feet (instead of 60 feet). The roadway shall be aligned to minimize stream impacts to the extent feasible both within the rezoned parcels and for projected future extension into adjacent parcels. For any portion of the collector street that is denied permits by USACE or other state or federal regulatory agency preventing completion, the developer shall dedicate all right of way and easements necessary for future construction and pay a fee in lieu for the remaining portion to the property line.”

### PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on March 14, 2022 and unanimously recommended approval with consideration by the applicant the add additional conditions related to 1) applying draft Jordan Lake nutrient removal regulations and 2) increased fee-in-lieu to be agreed upon by developer and staff prior to Town Council meeting.

### 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:

If amended as proposed by staff, the 2045 Land Use Map designates the subject properties as Industrial Employment. The proposed rezoning is consistent with that Land Use Classification and is also consistent with Chatham County’s Comprehensive Plan which designates the area around US Hwy 64 and NC 751 as an Employment Center.

From a land use perspective, approval of the rezoning is reasonable and in the public interest because the proposed Light Industrial-Conditional Zoning (LI-CZ) district will allow for non-residential development in an area that anticipates non-residential uses, provides a dedication of right-of-way for

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the future interchange planned for US Hwy 64 and NC 751, and will allow development that will generate jobs and increase the tax base. However, from a transportation perspective, the rezoning is not reasonable in the public interest in that it does not meet the needs for the transportation network in this area. Since this area is not within our planning jurisdiction and not addressed in the Comprehensive Transportation Plan, we are relying on recommendations from the US 64 Corridor Study, working concepts for the future interchange at US 64 and NC 751, understanding of the need to control access to both US 64 and NC 751, review of environmental features, and need for future access and connectivity from Wake County parcels to NC 751 as the basis of the recommended transportation conditions. Based on this assessment, it is recommended to require construction of the proposed Minor Collector Street as a condition of the rezoning. Allowing this site to move forward without constructing the roadway will only make it more difficult to construct in the future and is inconsistent with recommendations for the roadway network. Furthermore, staff believes that the proposed \$1,000,000 fee-in-lieu amount may be much less than what it will cost to build the collector street. The UDO requires an engineer's estimate for fee-in-lieu of constructing public improvements to justify the amount of the fee. Approval of a fee-in-lieu amount without an engineer's estimate is not in the public interest.

### CONDITIONAL ZONING STANDARDS:

The Town Council shall find the LI-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 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 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 District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning 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.

## STAFF REPORT

Rezoning #22CZ02 Project Real

104 NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751

March 22, 2022 Town Council Meeting



- 6) *Impact on public facilities.* The proposed Conditional Zoning 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 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 District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning 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 District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



## PETITION TO AMEND THE OFFICIAL ZONING MAP

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 #: 22CZ02

Submittal Date: 1-3-22

Fee Paid: \$1000

### Project Information

Project Name: Project Real

Address(es): 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751

PIN(s): 0712 00 56 6821, 0712 00 55 1996, 0712 00 55 1996, 0712 00 57 5776

Acreage: 132.11

Current Zoning: R1 (Chatham County) Proposed Zoning: LI-CZ

Current 2045 LUM Classification(s): Employment Center (Chatham County)

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>0</u>
Area proposed as non-residential development:	Acreage:	<u>132.11</u>
Percent of mixed use area proposed as non-residential:	Percent:	<u>0</u>

### Applicant Information

Name: Maggie Houston

Address: 500 East Morehead Street, Suite 200

City: Charlotte State: NC Zip: 28202

Phone: (704) 926-1403 E-mail: maggie@beacondevelopment.com

### Owner Information

Name: SEE ATTACHED FOR ALL OWNER INFORMATION

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

### Agent Information

Name: Walker Gorham

Address: 500 East Morehead Street, Suite 200

City: Charlotte State: NC Zip: 28202

Phone: (704) 926-1403 E-mail: walker@beacondevelopment.com

Other contacts: Maggie Houston (maggie@beacondevelopment.com)

**PETITION INFORMATION**

Application #: 22CZ02 Submittal Date: 1-3-22

An application has been duly filed requesting that the property described in this application be rezoned from R1 (Chatham Co) to LI-CZ. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

**PROPOSED USES:**

The Rezoned Lands may be used for, and only for, the uses listed immediately 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.

1	<u>Government Service</u>	21	<u>Truck Terminal</u>
2	<u>Communication Tower, Commercial (S)</u>	22	<u>Building Supplies, Wholesale</u>
3	<u>Communication Tower, Public Safety (S)</u>	23	<u>Laboratory, Industrial Research</u>
4	<u>Utility, Minor</u>	24	<u>Machine or Welding Shop</u>
5	<u>Wireless Support Structure</u>	25	<u>Warehousing</u>
6	<u>Wireless Communication Facility</u>	26	<u>Woodworking or Cabinetmaking</u>
7	<u>Broadcasting Station (radio &amp; television)</u>	27	<u>Wholesaling, General</u>
8	<u>Radio and Television Recording Studio</u>	28	<u>Brewery</u>
9	<u>Commissary</u>	29	<u>Distillery</u>
10	<u>Restaurant, General</u>	30	<u>Manufacturing and Processing</u>
11	<u>Dispatching Office</u>	31	<u>Manufacturing and Processing, Minor</u>
12	<u>Medical or Dental Office or Clinic</u>	32	<u>Microbrewery</u>
13	<u>Medical or Dental Laboratory</u>	33	<u>Microdistillery</u>
14	<u>Office, Business or Professional</u>	34	<u></u>
15	<u>Pilot Plant</u>	35	<u></u>
16	<u>Research Facility</u>	36	<u></u>
17	<u>Parking Garage, Commercial</u>	37	<u></u>
18	<u>Parking Lot, Commercial</u>	38	<u></u>
19	<u>Glass Sales</u>	39	<u></u>
20	<u>Health/Fitness Center or Spa</u>	40	<u></u>

## PETITION INFORMATION

Application #:

22CZ02

Submittal Date:

1-3-22

## PROPOSED CONDITIONS:

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

Please refer to the attached page(s) following Page 7 of this package for all proposed Zoning Conditions.

## 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 proposed LI-CZ District is consistent with the Chatham County Land Use Map. The Land Use Map identifies this area of the County as a Future Employment Center (751 Employment Center). The objective of the Employment Center is to act as a targeted area to provide a job-generating setting. The proposed CZ District will bring employment opportunities upon development; including employment opportunities as a regional headquarters beverage distribution company.

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 LI-CZ District is compatible with the surrounding area. The land is located at the north east quadrant of US 64 and NC 751, both of which are major arterials. Additionally, the area of Chatham County proposed to be rezoned and annexed in to the Town of Apex has been identified as a Future Employment Center; which rezoning the land to the proposed LI-CZ District will help provide employment opportunities over the existing zoning.

## PETITION INFORMATION

Application #:

22CZ02

Submittal Date:

1-3-22

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

Supplemental standards in Section 4.4 exist for several of the allowed uses (listed below). Depending on the uses proposed at the time of Site Plan review, the supplemental standards will be met.

Uses with Supplemental Standards: Government Service, Communication Tower (commercial and public safety), Utility (minor), Wireless Support Structure, Wireless Communication Facility, Commissary, Restaurant (general), Medical or Dental Laboratory, Office/Business or Professional, Pilot Plant, Parking Garage (commercial), Parking Lot (commercial), Machine or Welding Shop, Brewery, Distillery, Microbrewery, Microdistillery.

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.

Design with the proposed LI-CZ District's use will minimize adverse effects onto the adjacent lands and will meet the Town's Design Ordinance accordingly to ensure impacts are minimized. A traffic impact analysis will be performed and submitted at the time of site plan review to confirm no adverse impacts or mitigate adverse impacts of traffic. Furthermore, there are several conditions associated with this rezoning request that will aide in minimizing noise, lighting, and visual impacts to adjacent lands.

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 LI-CZ District proposes the following environmental based conditions:

Existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements, Increase design storm pre- and post-attenuation requirement to the 25-year storm, Install signage near environmental sensitive areas in order to eliminate fertilizer near SCM drainage area, Preserve tree canopy where possible and replace with native trees where unable to preserve, Plant trees designed for efficiency, Include landscaping that requires less irrigation, Install signage near Resource Conservation Area (RCA), Install timers or light sensors or smart lighting technology, Outdoor lighting shall be shielded in a way that focuses lighting to the ground.

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 LI-CZ District use intends to avoid adverse impacts on public facilities. The proposed development will positively benefit the the potable water and wastewater facilities (utility mains proposed to be extended). There will be no negative impacts to the road system (Traffic Impact Analysis will be prepared during development plan review phase) or the police, fire, and EMS facilities. There will be no impact on the park and school facilities as the CZ District will not allow for residential use.

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.

Health, safety, or welfare of the Town of Apex residents will not be affected, the LI-CZ District proposes several Rezoning Conditions to ensure such. At the time of Site Plan review, any proposed development will comply with all Town of Apex standards.

## PETITION INFORMATION

Application #:

22CZ02

Submittal Date:

1-3-22

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

The proposed LI-CZ District is not detrimental to adjacent properties, but will benefit the adjacent properties. The development of this LI-CZ District will include extension of the potable water and wastewater mains to serve this vicinity of the Town, which will provide adjacent properties an opportunity to connect to the public services.

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 LI-CZ District will not constitute nuisance or hazard due to traffic impact or noise. A traffic impact analysis will be conducted at the time of Site Plan review based on the proposed zoning to ensure there will be no traffic concerns or mitigate traffic concerns on the surrounding roadway infrastructure. The LI-CZ District will comply with landscape buffering requirements set forth in the Town of Apex Code of Ordinances to minimize noise nuisance.

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 proposed LI-CZ District will contain a development that will comply with all Town of Apex requirements from site planning, utility, stormwater, erosion control, and traffic standards.

## PETITION INFORMATION

Application #:

22CZ02

Submittal Date:

### PROPOSED CONDITIONS:

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

#### USE CONDITIONS

1. Machine or welding shop: This use is allowed with the exception of welding associated with automobiles.
2. Building supplies, wholesale: This use shall not exceed 200,000 square feet and shall not include more than 15% of the building's square footage as outdoor storage.
3. The use Glass Sales shall be all indoors except what is stored on trucks. Outdoor truck parking must be fully screened from any public right-of-way.

#### ENVIRONMENTAL CONDITIONS

1. Existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.
2. Post development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, and 25-year storm events in accordance with the Unified Development Ordinance.
3. The project shall install at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
4. The project shall preserve a minimum of 15% of the existing tree canopy. Preserved areas may include, but are not limited to, RCA, perimeter buffers, riparian buffers, and/or common area in the development.
5. To improve energy efficiency, the project shall plant evergreen trees on the northern side of all buildings to act as a windbreak. This shall not apply where loading docks are proposed along a building facade.
6. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. This shall not apply where loading docks are proposed along a building facade.
7. The project shall plant only drought tolerant native plants. Landscaping shall be coordinated with and approved by the Planning Department at the time of Site Plan or Master Subdivision Plan review.
8. At least (1) information sign or other marking shall be provided at the boundary of an area dedicated as Resource Conservation Area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.
9. The project shall install light timers or other smart lighting technology on at least 50% of the fixtures in the parking lot so they are automatically turned off or reduced in level of lighting when the business is closed.
10. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.

#### ARCHITECTURAL CONDITIONS - INDUSTRIAL

1. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
2. The building shall have more than one parapet height.
3. Windows and glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
4. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.

#### ARCHITECTURAL CONDITIONS - COMMERCIAL

1. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades. This would also include reveals in concrete tilt construction with integrated thin brick and contrasting paint colors, which add visual interest. The percentage of brick required on the facades will be 65 percent for a single story building, 50 percent for a two story building, and only the first floor for a three story building.
2. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.
3. Buildings on corners are to be treated as gateways with quality design.
4. Corner buildings shall match or exceed the height of adjacent buildings.
5. Corner buildings shall have two facades which maintain a relationship to each other although they do not need to be identical.
6. The orientation of drive-thru lanes, pick-up windows, and other utilitarian building functions should not be oriented toward or located adjacent the street. If drive-thru lanes must be located adjacent to a street, they shall be screened through the use of low walls and/or landscaping. Pick-up windows shall be de-emphasized through screening and/or architectural elements.
7. Each façade shall have a rhythm that is repeated through the pattern of wall and openings. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of 50% of the total building height. Buildings shall not have blank side walls creating

## PETITION INFORMATION

Application #:

22CZ02

Submittal Date:

### PROPOSED CONDITIONS:

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

#### ARCHITECTURAL CONDITIONS - COMMERCIAL (CONTINUED)

8. The street level of the facades shall provide human scaled entries including, but not limited to, recessed entries, sheltering elements and adjacent storefront windows. Facades shall incorporate a minimum of two (2) continuous details refined to the scale of twelve (12) inches or less within the first ten (10) feet of the building wall, measured vertically at street level. Recessed arcades, entries flush with the building face, and small entries without adjacent windows shall be avoided.
9. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
10. Simple parapet roof edges with varying coping shall be used on most buildings. The roofline height shall vary from building to building as well as within buildings with wide street frontage.
11. The building shall have more than one parapet height.
12. Roof features may include hip roofs or awnings with metal or shingle roofs.
13. Buildings shall be architecturally compatible by way of colors and use of materials. The building exterior shall have more than one material color.
14. The exterior materials shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
  - a. Brick masonry
  - b. Decorative concrete block (either integrally colored or textured)
  - c. Stone accents
  - d. Aluminum storefronts with anodized or pre-finished colors.
  - e. EIFS cornices and parapet trim.
  - f. Precast concrete
  - g. Concrete tilt with a base wall paint color in conjunction with varying complimentary accent paint colors and integral thin brick, with associative percentages as outlined in item 1 above.
15. Exterior materials that shall not be allowed are as follows:
  - a. Vinyl siding
  - b. Painted, smooth faced concrete block (decorative blocks are acceptable)
  - c. Metal walls
16. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
17. Soffit and fascia materials shall be EIFS, architectural metal panels (ACM), or tongue and groove wood.

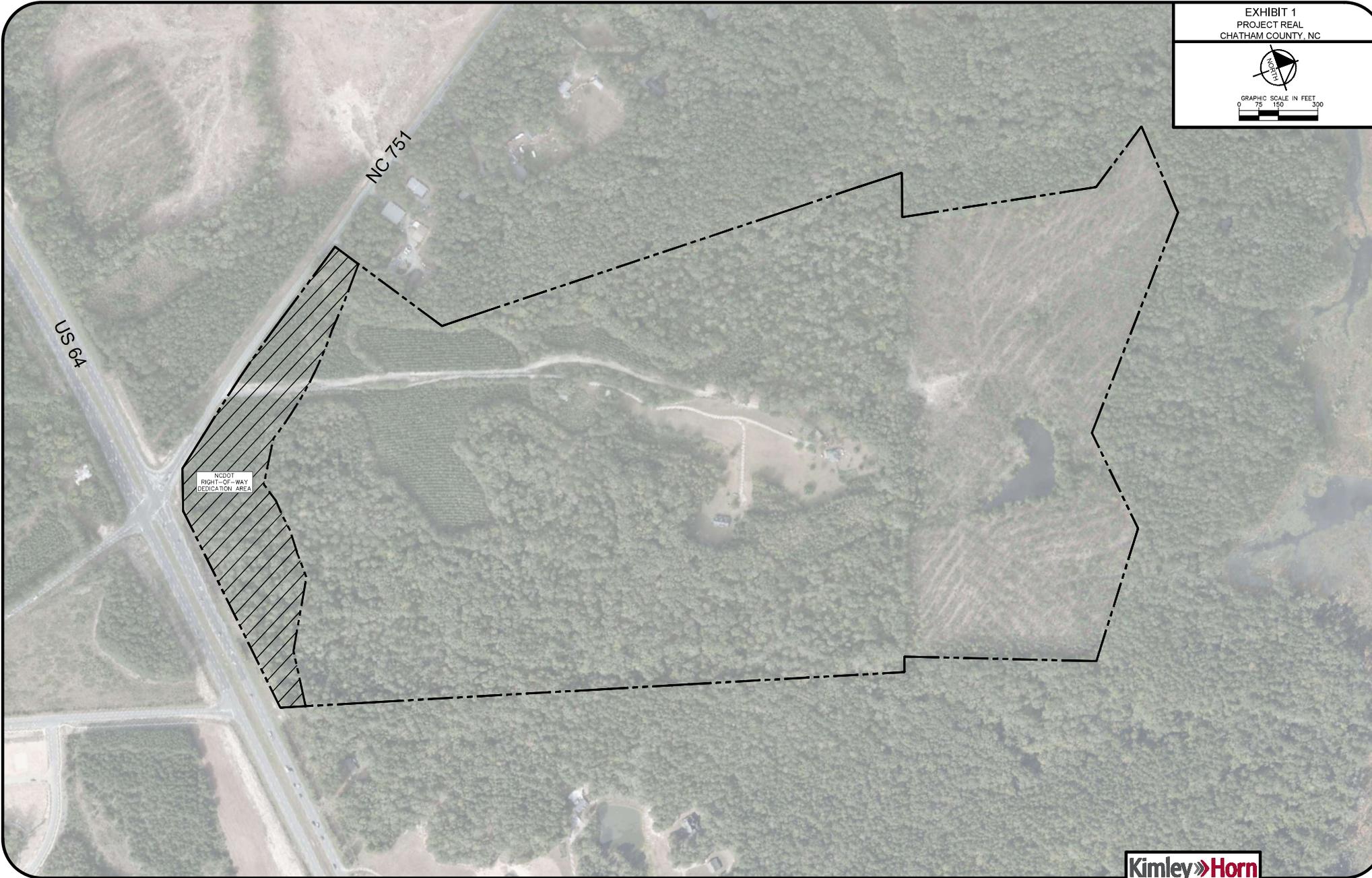
#### TRANSPORTATION CONDITIONS

1. Development shall dedicate public right-of-way for the future interchange at US 64 and NC 751 consistent with the area shown in Exhibit 1. This area is based on the outermost limit of interchange concepts evaluated by the North Carolina Department of Transportation at the time of rezoning. This dedication shall be included in development plans and occur at the time of Subdivision Final Plat or Site Plan Final Plat, whichever occurs first, for any parcel(s) adjacent to US 64 and NC 751 as applicable. If NCDOT has approved an interchange design prior to the first Subdivision Final Plat or Site Plan Final Plat that is less than shown on Exhibit 1, the development shall only be required to dedicate the right-of-way shown in the approved interchange design.
2. Development shall dedicate a 60 foot right-of-way with 30' Public Road Construction Easement on each side for a public roadway extending from NC 751 to the eastern boundary of the rezoned parcels. The location of the connection to NC 751 is subject to NCDOT and Town review and approval. The terminus at the eastern edge of the rezoned parcels is subject to Town review and approval. The right-of-way and Public Road Construction Easement shall be directly adjacent to the highway buffer of the right-of-way dedicated accommodating the future interchange at US 64 and NC 751. The development shall contribute a \$1,000,000 payment-in-lieu for the future construction of the collector road.
3. All lots within the development shall have frontage on a public street. The development shall construct a minimum of two stub street connections to adjacent parcels that have no frontage along public streets or only have frontage along NC 751. The location of the stub streets shall be subject to Town review and approval.

EXHIBIT 1  
PROJECT REAL  
CHATHAM COUNTY, NC



GRAPHIC SCALE IN FEET  
0 75 150 300



This document, together with the concepts and designs presented herein, is an "incomplete" or "preliminary" plan, and is not intended to be used for construction or other purposes without the written consent of Kimley-Horn and Associates, Inc. Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc. if this plan is used for any purpose other than that intended by Kimley-Horn and Associates, Inc. without the written consent of Kimley-Horn and Associates, Inc.

NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND HAS BEEN PRODUCED WITHOUT THE BENEFIT OF A SURVEY, CODE RESEARCH, OR CONTACT WITH THE CITY, COUNTY, ETC.

**Kimley-Horn**  
© 2022 KIMLEY-HORN AND ASSOCIATES, INC.  
421 FAYETTEVILLE STREET, SUITE 600, RALEIGH, NC 27601  
PHONE: 919-677-2000 FAX: 919-677-2050  
WWW.KIMLEY-HORN.COM

**AGENT AUTHORIZATION FORM**

Application #: 22CZ02

Submittal Date: 1/3/2022

WILLIAM STEPHEN MILLS is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 106 Off NC Highway 751 Apex, NC 27523

The agent for this project is: Beacon Development Company

I am the owner of the property and will be acting as my own agent

Agent Name: Walker Gorham

Address: 500 E Morehead St, Suite 200

Telephone Number: 704-597-7757

E-Mail Address: walker@beacondevelopment.com

Signature(s) of Owner(s)\*

William Stephen Mills

William Stephen Mills Type or print name

12-27-21 Date

\_\_\_\_\_

\_\_\_\_\_ Type or print name

\_\_\_\_\_ Date

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.

**AGENT AUTHORIZATION FORM**

Application #: 22C702

Submittal Date: \_\_\_\_\_

REGINALD HORTON MILLS JR is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 104 NC Highway 751 Apex, NC 27523

The agent for this project is: Beacon Development Company

I am the owner of the property and will be acting as my own agent

Agent Name: Walker Gorham

Address: 500 E Morehead St, Suite 200

Telephone Number: 704-597-7757

E-Mail Address: walker@beacondevelopment.com

Signature(s) of Owner(s)\*

REGINALD HORTON MILLS, JR  
Reginald H. Mills, Jr Type or print name

12/27/2021  
Date

\_\_\_\_\_  
 \_\_\_\_\_ Type or print name Date

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.

**AGENT AUTHORIZATION FORM**

Application #: 22CZ02

Submittal Date: \_\_\_\_\_

REGINALD MILLS JR AND WILLIAM S MILLS is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: 106 NC Highway 751 Apex, NC 27523

The agent for this project is: Beacon Development Company

I am the owner of the property and will be acting as my own agent

Agent Name: Walker Gorham

Address: 500 E Morehead St, Suite 200

Telephone Number: 704-597-7757

E-Mail Address: walker@beacondevelopment.com

Signature(s) of Owner(s)\*

*Reginald Mills Jr*  
Reginald Mills, Jr Type or print name

12-28-2021  
Date

*William S Mills*  
William S Mills Type or print name

12-28-2021  
Date

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.

**AGENT AUTHORIZATION FORM**

Application #: 22CZ02

Submittal Date: \_\_\_\_\_

PEGGY G GRAY TRUSTEE is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- 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: Off NC Highway 751 Apex, NC 27523

The agent for this project is: Beacon Development Company

I am the owner of the property and will be acting as my own agent

Agent Name: Walker Gorham

Address: 500 E Morehead St, Suite 200

Telephone Number: 704-597-7757

E-Mail Address: walker@beacondevelopment.com

Signature(s) of Owner(s)\*

*Peggy Gray*  
Peggy G. Gray, Trustee  
Type or print name

12/22/2021  
Date

\_\_\_\_\_  
\_\_\_\_\_  
Type or print name

\_\_\_\_\_  
\_\_\_\_\_  
Date

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.

**AFFIDAVIT OF OWNERSHIP**

Application #: 22CZ02

Submittal Date: \_\_\_\_\_

The undersigned, Reginald Horton Mills Jr (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 104 NC Highway 751 Apex, NC 27523 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 10/22/1997, and recorded in the Wake County Register of Deeds Office on 12/19/1997, in Book 738 Page 490, 97, 471.
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 2013, 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 2013, 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 12 day of 27, 2021.

Reginald Horton Mills Jr (seal)  
Reginald H Mills Jr  
 \_\_\_\_\_  
 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 Reginald H Mills Jr, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's NC Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Brianne S. Bearman  
 Notary Public  
 State of North Carolina  
 My Commission Expires: 08/23/2023

Application #: 22CZ02

Submittal Date:

## Insert legal description below.

**TRACT 1 AND PORTION OF TRACT 2 (PIN: 0712 00 55 1996)**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING A PORTION OF THE LAND CONVEYED TO JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, AND DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE), SAID 1/2 INCH IRON PIPE BEING SOUTH 0 DEGREES 24 MINUTES 11 SECONDS EAST A DISTANCE OF 141.41 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727829.13' EASTING: 2014636.46').

THENCE RUNNING IN A CLOCKWISE DIRECTION SOUTH 71 DEGREES 07 MINUTES 23 SECONDS EAST A DISTANCE OF 169.65 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE WITH THE SOUTHERN LINE OF THAT PARCEL CONVEYED TO PEGGY G TRUSTEE BY DEED 1919 PAGE 1134, SOUTH 71 DEGREES 07 MINUTES 45 SECONDS EAST A DISTANCE OF 708.11 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE CONTINUING WITH THE SOUTHERN LINE OF PEGGY G TRUSTEE AND WITH THE NORTHERN LINE OF THAT PARCEL CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1, SOUTH 71 DEGREES 08 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING LOT 1 NORTHERN LINE AND CONTINUING WITH PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 14 MINUTES 02 SECONDS EAST A DISTANCE OF 656.10 FEET TO A CALCULATED POINT, THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 27 MINUTES 2 SECONDS EAST A DISTANCE OF 59.40 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE WITH THE COUNTY LINE BETWEEN CHATHAM COUNTY AND WAKE COUNTY, DESCRIBED AS LINE "F" IN BOOK OF MAPS 61 PAGE 68 THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 15 DEGREES 53 MINUTES 52 SECONDS WEST A DISTANCE OF 823.61 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 56 MINUTES 17 SECONDS WEST A DISTANCE OF 66.32 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 50 MINUTES 58 SECONDS WEST A DISTANCE OF 241.91 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 52 MINUTES 53 SECONDS WEST A DISTANCE OF 911.62 FEET TO AN EXISTING 1 INCH IRON PIPE, SOUTH 15 DEGREES 46 MINUTES 19 SECONDS WEST A DISTANCE OF 343.72 FEET TO A CALCULATED POINT IN THE NORTHERN LINE OF US 64 HIGHWAY 200 FOOT RIGHT OF WAY, THENCE WITH THE NORTHERN LINE OF US 64 HIGHWAY AND LEAVING CHATHAM-WAKE COUNTY LINE SOUTH 82 DEGREES 51 MINUTES 36 SECONDS WEST A DISTANCE OF 837.66 FEET TO A CALCULATED POINT, THENCE NORTH 71 DEGREES 52 MINUTES 46 SECONDS WEST A DISTANCE OF 161.00 FEET TO AN EXISTING 5/8" IRON ROD ON THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY, THENCE WITH THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY NORTH 38 DEGREES 43 MINUTES 21 SECONDS WEST A DISTANCE OF 157.84 FEET TO A CALCULATED, THENCE A CURVE HAVING A RADIUS OF 6,670 FEET, A LONG CHORD BEARING OF NORTH 38 DEGREES 34 MINUTES 29 SECONDS WEST A DISTANCE OF 245.92 FEET TO A CALCULATED POINT, THENCE A CURVE HAVING A RADIUS OF 6,270 FEET, A LONG CHORD BEARING OF NORTH 35 DEGREES 35 MINUTES 11 SECONDS WEST A DISTANCE OF 249.29 FEET TO A CALCULATED POINT, THENCE NORTH 34 DEGREES 15 MINUTES 32 SECONDS WEST A DISTANCE OF 374.49 FEET TO A CALCULATED POINT, THENCE LEAVING THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY AND WITH THE SOUTHERN LINE OF BARBOUR TRACT (BB 92 PAGE 43) NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 2.24 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP, THENCE CONTINUING WITH THE SOUTHERN LINE OF BARBOUR TRACT NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 505.51 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP, THENCE WITH THE EASTERN LINE OF BARBOUR TRACT NORTH 0 DEGREES 25 MINUTES 8 SECONDS EAST A DISTANCE OF 99.99 FEET TO AN EXISTING 1 INCH IRON PIPE, THENCE WITH THE EASTERN LINE OF LONG TRACT (BM 92 PG 43) AND TRACT B-1 (BM 11 PG 9) NORTH 0 DEGREES 41 MINUTES 44 SECONDS EAST A DISTANCE OF 1298.14 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE WITH THE EASTERN LINE OF LOT 1 (BM 2014 PG 0320) NORTH 0 DEGREES 42 MINUTES 32 SECONDS EAST A DISTANCE OF 280.64 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE WITH TRACT C EASTERN LINE (DB 1949 PG 612) NORTH 1 DEGREE 3 MINUTES 8 SECONDS EAST A DISTANCE OF 171.91 FEET TO THE POINT OF BEGINNING.

CONTAINING 4219907.6 SQUARE FEET OR 96.88 ACRES, MORE OR LESS.

**AFFIDAVIT OF OWNERSHIP**

Application #: 22C702

Submittal Date: \_\_\_\_\_

The undersigned, William Stephen Mills (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 106 Off NC Highway 751 Apex, NC 27523 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 11/20/1995, and recorded in the Wake County Register of Deeds Office on 6/8/1998, in Book 798 Page 587, 95, 467.
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 2013, 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 2013, 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 12 day of 27, 2021.

William Stephen Mills (seal)  
William Stephen Mills  
 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 William S Mills, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's NC Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Brianna S. Bearman  
 Notary Public  
 State of North Carolina  
 My Commission Expires: 08/23/2023

**Insert legal description below.**

**LOT 1 (PIN: 0712 00 55 1996)**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID 1/2 INCH IRON PIPE BEING SOUTH 73 DEGREES 36 MINUTES 55 SECONDS EAST A DISTANCE OF 837.39 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727376.63' EASTING: 2014629.84'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO WILLIAM J. ALUCINO AND WIFE BY DEED 797 PAGE 728, DESCRIBED AS TRACT B-1, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727140.41 EASTING: 2015433.22).

THENCE RUNNING IN A CLOCKWISE DIRECTION NORTH 4 DEGREES 46 MINUTES 32 SECONDS EAST A DISTANCE OF 11.64 FEET TO A CALCULATED POINT, THENCE NORTH 4 DEGREES 46 MINUTES 32 SECONDS EAST A DISTANCE OF 394.58 FEET TO AND EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE RUNNING WITH THE SOUTHERN LINE OF THAT TRACT CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED 1919 PAGE 1134 SOUTH 71 DEGREES 8 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AND EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 4 DEGREES 40 MINUTES 1 SECOND WEST A DISTANCE OF 314.86 FEET TO A CALCULATED POINT, THENCE NORTH 88 DEGREES 19 MINUTES 6 SECONDS WEST A DISTANCE OF 207.15 FEET TO A CALCULATED POINT, THENCE NORTH 87 DEGREES 53 MINUTES 9 SECONDS WEST A DISTANCE OF 95.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 109006.2 SQUARE FEET OR 2.50 ACRES, MORE OR LESS.

**AFFIDAVIT OF OWNERSHIP**

Application #: 22CZ02

Submittal Date: \_\_\_\_\_

The undersigned, Reginald Mills Jr and William S Mills (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

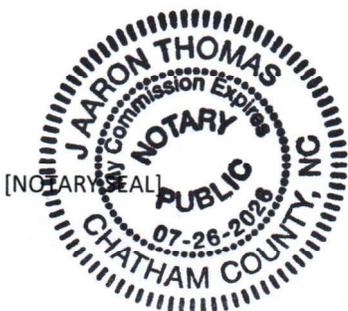
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 106 NC Highway 751 Apex, NC 27523 and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "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 1/9/1954, and recorded in the Wake County Register of Deeds Office on 1/14/1954, in Book LQ Page 235, 95, 462.
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 2013, 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 2013, 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 28 day of DEC, 2021.

Reginald Mills, Jr. William S. Mills (seal)  
Reginald Mills, Jr. William S. Mills  
 Type or print name

STATE OF NORTH CAROLINA  
 COUNTY OF Chatham

I, the undersigned, a Notary Public in and for the County of Chatham, hereby certify that Reginald Mills Jr, William S Mills Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Driver License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[Signature]  
 Notary Public  
 State of North Carolina  
 My Commission Expires: 07/26/2028

**Insert legal description below.**

**LOT 2 (PIN: 0712 00 56 6821)**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 97 AT PAGE 471, DESCRIBED AS LOT 2 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID 1/2 INCH IRON PIPE BEING SOUTH 61 DEGREES 5 MINUTES 29 SECONDS EAST A DISTANCE OF 861.61 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727376.63' EASTING: 2014629.84'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO WILLIAM J. ALUCINO AND WIFE BY DEED 797 PAGE 728, DESCRIBED AS TRACT B-1, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726960.11 EASTING: 2015384.09).

THENCE RUNNING IN A CLOCKWISE DIRECTION NORTH 42 DEGREES 53 MINUTES 24 SECONDS EAST A DISTANCE OF 203.16 FEET TO A CALCULATED POINT, THENCE NORTH 89 DEGREES 31 MINUTES 40 SECONDS EAST A DISTANCE OF 71.19 FEET TO A CALCULATED POINT, THENCE SOUTH 13 DEGREES 27 MINUTES 23 SECONDS EAST A DISTANCE OF 128.99 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE SOUTH 37 DEGREES 20 MINUTES 15 SECONDS EAST A DISTANCE OF 361.83 FEET TO A CALCULATED POINT, THENCE SOUTH 45 DEGREES 1 MINUTE 20 SECONDS WEST A DISTANCE OF 206.78 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE NORTH 37 DEGREES 20 MINUTES 15 SECONDS WEST A DISTANCE OF 181.35 FEET TO A CALCULATED POINT, THENCE NORTH 37 DEGREES 20 MINUTES 15 SECONDS WEST A DISTANCE OF 334.14 FEET TO THE POINT OF BEGINNING.

CONTAINING 110541.0 SQUARE FEET OR 2.54 ACRES, MORE OR LESS.

**AFFIDAVIT OF OWNERSHIP**

Application #: 22CZ02

Submittal Date: \_\_\_\_\_

The undersigned, PEGGY G GRAY TRUSEE (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- 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 Off NC Highway 751 Apex, NC 27523 and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
- This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 4/12/2017, and recorded in the Wake County Register of Deeds Office on 5/1/2017, in Book 1919 Page 1134.
- 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).
- If Affiant is the owner of the Property, from the time Affiant was deeded the Property on \_\_\_\_\_, 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 \_\_\_\_\_, 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.

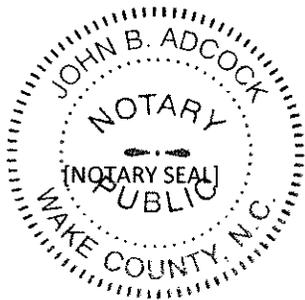
This the 22nd day of December, 2021.

Peggy Gray (seal)  
Peggy G. Gray, Trustee

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 Pegg G. Gray, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's n/a, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



John B. Adcock  
Notary Public  
State of North Carolina  
My Commission Expires: 25 JAN 2026

Application #: 22CZ02

Submittal Date:

Insert legal description below.

**TRACT 3 (PIN: 0712 00 57 1134)**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED BOOK 1919 PAGE 1134, (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE), SAID 1/2 INCH IRON PIPE BEING SOUTH 39 DEGREES 6 MINUTES 2 SECONDS EAST A DISTANCE OF 252.95 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727774.24' EASTING: 2014796.99').

THENCE RUNNING IN A COUNTER-CLOCKWISE DIRECTION AND WITH THE NORTHERN LINE OF THE PORTION OF THAT PARCEL CONVEYED JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, AND DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235, SOUTH 71 DEGREES 07 MINUTES 45 SECONDS EAST A DISTANCE OF 708.11 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE CONTINUING WITH THE NORTHERN LINE OF TRACT 1 BEING ALSO THE NORTHERN LINE OF THAT PARCEL CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1, SOUTH 71 DEGREES 08 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING LOT 1 NORTHERN LINE AND CONTINUING WITH TRACT 1 NORTHERN LINE SOUTH 71 DEGREES 14 MINUTES 02 SECONDS EAST A DISTANCE OF 656.10 FEET TO A CALCULATED POINT, THENCE LEAVING TRACT 1 NORTHERN LINE NORTH 20 DEGREES 29 MINUTES 52 SECONDS EAST A DISTANCE OF 733.29 FEET TO A CALCULATED POINT ON THE CHATHAM-WAKE COUNTY LINE, THENCE LEAVING CHATHAM-WAKE COUNTY LINE NORTH 53 DEGREES 24 MINUTES 19 SECONDS WEST A DISTANCE OF 530.32 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE SOUTH 83 DEGREES 19 MINUTES 1 SECOND WEST A DISTANCE OF 405.10 TO A CALCULATED POINT, THENCE NORTH 49 DEGREES 31 MINUTES 1 SECOND WEST A DISTANCE OF 901.76 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5555), THENCE SOUTH 86 DEGREES 14 MINUTES 51 SECONDS WEST A DISTANCE OF 357.10 FEET TO A 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5554), THENCE SOUTH 33 DEGREES 58 MINUTES 49 SECONDS EAST A DISTANCE OF 289.54 FEET TO AN EXISTING 1/2 INCH IRON PIPE THENCE SOUTH 10 DEGREES 18 MINUTES 21 SECONDS WEST A DISTANCE OF 749.23 FEET TO THE POINT OF BEGINNING.

CONTAINING 4219907.6 SQUARE FEET OR 96.88 ACRES, MORE OR LESS.

**OWNER INFORMATION**

**Reginald Horton Mills JR & Alexa H Mills**

Owner Name (Please Print)

Phone

**Reginald Horton Mills & William Stephen Mills**

Owner Name (Please Print)

Phone

**William Stephen Mills**

Owner Name (Please Print)

Phone

**Gray Peggy G Trust**

Owner Name (Please Print)

Phone

**0712 00 56 6821**

Property PIN or Deed Book & Page #

E-mail Address

**0712 00 55 1996**

Property PIN or Deed Book & Page #

E-mail Address

**0712 00 55 1996**

Property PIN or Deed Book & Page #

E-mail Address

**0712 00 57 5776**

Property PIN or Deed Book & Page #

E-mail Address

## LEGAL DESCRIPTION: TRACT 1 AND PORTION OF TRACT 2 (PIN: 0712 00 55 1996)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING A PORTION OF THE LAND CONVEYED TO JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, AND DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE), SAID 1/2 INCH IRON PIPE BEING SOUTH 0 DEGREES 24 MINUTES 11 SECONDS EAST A DISTANCE OF 141.41 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727829.13' EASTING: 2014636.46').

THENCE RUNNING IN A CLOCKWISE DIRECTION SOUTH 71 DEGREES 07 MINUTES 23 SECONDS EAST A DISTANCE OF 169.65 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE WITH THE SOUTHERN LINE OF THAT PARCEL CONVEYED TO PEGGY G TRUSTEE BY DEED 1919 PAGE 1134, SOUTH 71 DEGREES 07 MINUTES 45 SECONDS EAST A DISTANCE OF 708.11 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE CONTINUING WITH THE SOUTHERN LINE OF PEGGY G TRUSTEE AND WITH THE NORTHERN LINE OF THAT PARCEL CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1, SOUTH 71 DEGREES 08 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING LOT 1 NORTHERN LINE AND CONTINUING WITH PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 14 MINUTES 02 SECONDS EAST A DISTANCE OF 656.10 FEET TO A CALCULATED POINT, THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 71 DEGREES 27 MINUTES 2 SECONDS EAST A DISTANCE OF 59.40 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE WITH THE COUNTY LINE BETWEEN CHATHAM COUNTY AND WAKE COUNTY, DESCRIBED AS LINE "F" IN BOOK OF MAPS 61 PAGE 68 THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 15 DEGREES 53 MINUTES 52 SECONDS WEST A DISTANCE OF 823.61 FEET TO AN EXISTING 1 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 56 MINUTES 17 SECONDS WEST A DISTANCE OF 66.32 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 50 MINUTES 58 SECONDS WEST A DISTANCE OF 241.91 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, SOUTH 15 DEGREES 52 MINUTES 53 SECONDS WEST A DISTANCE OF 911.62 FEET TO AN EXISTING 1 INCH IRON PIPE, SOUTH 15 DEGREES 46 MINUTES 19 SECONDS WEST A DISTANCE OF 343.72 FEET TO A CALCULATED POINT IN THE NORTHERN LINE OF US 64 HIGHWAY 200 FOOT RIGHT OF WAY, THENCE WITH THE NORTHERN LINE OF US 64 HIGHWAY AND LEAVING CHATHAM-WAKE COUNTY LINE SOUTH 82 DEGREES 51 MINUTES 36 SECONDS WEST A DISTANCE OF 837.66 FEET TO A CALCULATED POINT, THENCE NORTH 71 DEGREES 52 MINUTES 46 SECONDS WEST A DISTANCE OF 161.00 FEET TO AN EXISTING 5/8" IRON ROD ON THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY, THENCE

WITH THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY NORTH 38 DEGREES 43 MINUTES 21 SECONDS WEST A DISTANCE OF 157.84 FEET TO A CALCULATED, THENCE A CURVE HAVING A RADIUS OF 6,670 FEET, A LONG CHORD BEARING OF NORTH 38 DEGREES 34 MINUTES 29 SECONDS WEST A DISTANCE OF 245.92 FEET TO A CALCULATED POINT, THENCE A CURVE HAVING A RADIUS OF 6,270 FEET, A LONG CHORD BEARING OF NORTH 35 DEGREES 35 MINUTES 11 SECONDS WEST A DISTANCE OF 249.29 FEET TO A CALCULATED POINT, THENCE NORTH 34 DEGREES 15 MINUTES 32 SECONDS WEST A DISTANCE OF 374.49 FEET TO A CALCULATED POINT, THENCE LEAVING THE EASTERN LINE OF NC HIGHWAY 751 60 FOOT RIGHT OF WAY AND WITH THE SOUTHERN LINE OF BARBOUR TRACT (BB 92 PAGE 43) NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 2.24 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP, THENCE CONTINUING WITH THE SOUTHERN LINE OF BARBOUR TRACT NORTH 55 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 505.51 FEET TO AN EXISTING 1 3/4 INCH IRON ROD WITH SQUARE METAL TOP, THENCE WITH THE EASTERN LINE OF BARBOUR TRACT NORTH 0 DEGREES 25 MINUTES 8 SECONDS EAST A DISTANCE OF 99.99 FEET TO AN EXISTING 1 INCH IRON PIPE, THENCE WITH THE EASTERN LINE OF LONG TRACT (BM 92 PG 43) AND TRACT B-1 (BM 11 PG 9) NORTH 0 DEGREES 41 MINUTES 44 SECONDS EAST A DISTANCE OF 1298.14 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE WITH THE EASTERN LINE OF LOT 1 (BM 2014 PG 0320) NORTH 0 DEGREES 42 MINUTES 32 SECONDS EAST A DISTANCE OF 280.64 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE WITH TRACT C EASTERN LINE (DB 1949 PG 612) NORTH 1 DEGREE 3 MINUTES 8 SECONDS EAST A DISTANCE OF 171.91 FEET TO THE POINT OF BEGINNING.

CONTAINING 4219907.6 SQUARE FEET OR 96.88 ACRES, MORE OR LESS.

## LEGAL DESCRIPTION: LOT 1 (PIN: 0712 00 55 1996)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID 1/2 INCH IRON PIPE BEING SOUTH 73 DEGREES 36 MINUTES 55 SECONDS EAST A DISTANCE OF 837.39 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727376.63' EASTING: 2014629.84'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO WILLIAM J. ALUCINO AND WIFE BY DEED 797 PAGE 728, DESCRIBED AS TRACT B-1, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727140.41 EASTING: 2015433.22).

THENCE RUNNING IN A CLOCKWISE DIRECTION NORTH 4 DEGREES 46 MINUTES 32 SECONDS EAST A DISTANCE OF 11.64 FEET TO A CALCULATED POINT, THENCE NORTH 4 DEGREES 46 MINUTES 32 SECONDS EAST A DISTANCE OF 394.58 FEET TO AND EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE RUNNING WITH THE SOUTHERN LINE OF THAT TRACT CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED 1919 PAGE 1134 SOUTH 71 DEGREES 8 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AND EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING PEGGY G TRUSTEE SOUTHERN LINE SOUTH 4 DEGREES 40 MINUTES 1 SECOND WEST A DISTANCE OF 314.86 FEET TO A CALCULATED POINT, THENCE NORTH 88 DEGREES 19 MINUTES 6 SECONDS WEST A DISTANCE OF 207.15 FEET TO A CALCULATED POINT, THENCE NORTH 87 DEGREES 53 MINUTES 9 SECONDS WEST A DISTANCE OF 95.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 109006.2 SQUARE FEET OR 2.50 ACRES, MORE OR LESS.

## LEGAL DESCRIPTION: LOT 2 (PIN: 0712 00 56 6821)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 97 AT PAGE 471, DESCRIBED AS LOT 2 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID 1/2 INCH IRON PIPE BEING SOUTH 61 DEGREES 5 MINUTES 29 SECONDS EAST A DISTANCE OF 861.61 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727376.63' EASTING: 2014629.84'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO WILLIAM J. ALUCINO AND WIFE BY DEED 797 PAGE 728, DESCRIBED AS TRACT B-1, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726960.11 EASTING: 2015384.09).

THENCE RUNNING IN A CLOCKWISE DIRECTION NORTH 42 DEGREES 53 MINUTES 24 SECONDS EAST A DISTANCE OF 203.16 FEET TO A CALCULATED POINT, THENCE NORTH 89 DEGREES 31 MINUTES 40 SECONDS EAST A DISTANCE OF 71.19 FEET TO A CALCULATED POINT, THENCE SOUTH 13 DEGREES 27 MINUTES 23 SECONDS EAST A DISTANCE OF 128.99 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE SOUTH 37 DEGREES 20 MINUTES 15 SECONDS EAST A DISTANCE OF 361.83 FEET TO A CALCULATED POINT, THENCE SOUTH 45 DEGREES 1 MINUTE 20 SECONDS WEST A DISTANCE OF 206.78 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE NORTH 37 DEGREES 20 MINUTES 15 SECONDS WEST A DISTANCE OF 181.35 FEET TO A CALCULATED POINT, THENCE NORTH 37 DEGREES 20 MINUTES 15 SECONDS WEST A DISTANCE OF 334.14 FEET TO THE POINT OF BEGINNING.

CONTAINING 110541.0 SQUARE FEET OR 2.54 ACRES, MORE OR LESS.

## LEGAL DESCRIPTION: TRACT 3 (PIN: 0712 00 57 1134)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO GRAY PEGGY G TRUSTEE BY DEED BOOK 1919 PAGE 1134, (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE (SAID PIPE BEING INSIDE OF A 1 3/4 INCH IRON PIPE), SAID 1/2 INCH IRON PIPE BEING SOUTH 39 DEGREES 6 MINUTES 2 SECONDS EAST A DISTANCE OF 252.95 FEET FROM AN EXISTING 1/2 INCH IRON PIPE, THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727970.55' EASTING: 2014637.34'), SAID POINT OF COMMENCING BEING THE NORTHEAST CORNER OF THAT PARCEL CONVEYED TO PHILIP MICHAEL MCLAIN AND WIFE BY DEED 1395 PAGE 247, DESCRIBED AS TRACT D, SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727774.24' EASTING: 2014796.99').

THENCE RUNNING IN A COUNTER-CLOCKWISE DIRECTION AND WITH THE NORTHERN LINE OF THE PORTION OF THAT PARCEL CONVEYED JEAN CARROL MILLS GOODWING, MARGARET KING MILLS, REGINALD HORTON MILLS, JR. AND WILLIAM STEPHEN MILLS BY DEED BOOK 657 PAGE 863, AND DESCRIBED AS TRACT 1 AND TRACT 2 IN DEED BOOK LQ PAGE 235, SOUTH 71 DEGREES 07 MINUTES 45 SECONDS EAST A DISTANCE OF 708.11 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH WHITE CAP AND TACK, THENCE CONTINUING WITH THE NORTHERN LINE OF TRACT 1 BEING ALSO THE NORTHERN LINE OF THAT PARCEL CONVEYED TO WILLIAM STEPHEN MILLS BY PLAT RECORDED IN BOOK OF MAPS 95 PAGE 462, DESCRIBED AS LOT 1, SOUTH 71 DEGREES 08 MINUTES 24 SECONDS EAST A DISTANCE OF 311.22 FEET TO AN EXISTING 1/2 INCH IRON PIPE WITH PINK CAP AND TACK, THENCE LEAVING LOT 1 NORTHERN LINE AND CONTINUING WITH TRACT 1 NORTHERN LINE SOUTH 71 DEGREES 14 MINUTES 02 SECONDS EAST A DISTANCE OF 656.10 FEET TO A CALCULATED POINT, THENCE LEAVING TRACT 1 NORTHERN LINE NORTH 20 DEGREES 29 MINUTES 52 SECONDS EAST A DISTANCE OF 733.29 FEET TO A CALCULATED POINT ON THE CHATHAM-WAKE COUNTY LINE, THENCE LEAVING CHATHAM-WAKE COUNTY LINE NORTH 53 DEGREES 24 MINUTES 19 SECONDS WEST A DISTANCE OF 530.32 FEET TO AN EXISTING 1/2 INCH IRON PIPE, THENCE SOUTH 83 DEGREES 19 MINUTES 1 SECOND WEST A DISTANCE OF 405.10 TO A CALCULATED POINT, THENCE NORTH 49 DEGREES 31 MINUTES 1 SECOND WEST A DISTANCE OF 901.76 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5555), THENCE SOUTH 86 DEGREES 14 MINUTES 51 SECONDS WEST A DISTANCE OF 357.10 FEET TO A 4 INCH CONCRETE MONUMENT WITH DISK (STAMPED CORPS OF ENGINEERS US ARMY, DATE: 1967, ID# 5554), THENCE SOUTH 33 DEGREES 58 MINUTES 49 SECONDS EAST A DISTANCE OF 289.54 FEET TO AN EXISTING 1/2 INCH IRON PIPE THENCE SOUTH 10 DEGREES 18 MINUTES 21 SECONDS WEST A DISTANCE OF 749.23 FEET TO THE POINT OF BEGINNING.

CONTAINING 4219907.6 SQUARE FEET OR 96.88 ACRES, MORE OR LESS.

# PROJECT REAL REZONNG NEIGHBORHOOD MEETING

**DATE:** DECEMBER 22, 2021

**TIME:** 5:00PM – 7:00PM

**LOCATION:** MICROSOFT TEAMS

**OPTION 1A:** Join with a video conferencing device

*Type following link in to web browser:*

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MzA4ZTRkNDItN2Y4NC00NmUzLTkyNTItY2E5NTBkMW RmMzY5%40thread.v2/0?context=%7b%22Tid%22%3a%227e220d30-0b59-47e5-8a81-a4a9d9afbdc4%22%2c%22Oid%22%3a%22227e6c70-507c-49bb-866d-4cc698138667%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzA4ZTRkNDItN2Y4NC00NmUzLTkyNTItY2E5NTBkMW RmMzY5%40thread.v2/0?context=%7b%22Tid%22%3a%227e220d30-0b59-47e5-8a81-a4a9d9afbdc4%22%2c%22Oid%22%3a%22227e6c70-507c-49bb-866d-4cc698138667%22%7d)

**OPTION 1B:** Join with a video conferencing device

*Email [danielle.hammond@kimley-horn.com](mailto:danielle.hammond@kimley-horn.com) for direct meeting invite with hyperlink to access the Microsoft Teams Meeting*

**OPTION 2:** Join via call in number (audio capabilities only)

+ 1 (984) 204-1608

Phone Conference ID: 841 087 865#

# 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.

12/3/2021

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at  
 104 NC Hwy 751, NC Hwy 751 0712 00 56 6821, 0712 00 55 1996

106 Off NC Hwy 751, Off NC Hwy 751

0712 00 55 1996, 0712 00 57 5776

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/Planning-Community-Development>.

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	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council 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)):

THIS PROPOSAL IS FOR THE REZONING OF 134.03 ACRES FROM R-1 (CHATHAM COUNTY) TO LI-CZ(TOWN OF APEX). THE LAND WILL BE PETITIONED TO BE ANNEXED IN TO THE TOWN OF APEX LIMITS.

Estimated submittal date: 1/3/2022

MEETING INFORMATION:	
Property Owner(s) name(s):	Reginald Horton Mills JR; Alexa H Mills; Reginald Horton Mills; William Stephen Mills; Gray Peggy G Trust
Applicant(s):	
Contact information (email/phone):	
Meeting Address:	
Date/Time of meeting**:	12/22/2021 AT 5:00PM

MEETING AGENDA TIMES:		
Welcome:	5:00PM-5:15PM	Project Presentation: 5:15PM-5:30PM
		Question & Answer: 5:30PM-7:00PM

\*\*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 and Community Development 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/Planning-Community-Development>.

# 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: \_\_\_\_\_ Zoning: R-1

Location: 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751

Property PIN(s): 0712 00 56 6821, 0712 00 55 1996, 0712 00 55 1996, 0712 00 57 5776 Acreage/Square Feet: 134.03 AC / 5,838,347 SF

Property Owner: Reginald Horton Mills JR & Alexa H Mills (0712 00 56 6821), Reginald Horton Mills & William Stephen Mills (0712 00 55 1996), William Stephen Mills (0712 00 55 1996), Gray Peggy G Trust (0712 00 57 5776)

Address: 106 NC Hwy 751, Apex, NC 27523 (0712 00 56 6821; 0712 00 55 1996; 0712 00 55 1996) 1221 Broad St, Apt 215, Fuquay Varina, NC 27526 (0712 00 57 5776)

City: - \_\_\_\_\_ State: - \_\_\_\_\_ Zip: - \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Developer: Beacon Partners

Address: 500 East Morehead St., Ste 200

City: Charlotte State: NC Zip: 28202

Phone: 704.926.1403 Fax: \_\_\_\_\_ Email: maggie@beacondevelopment.com

Engineer: Kimley-Horn and Associates, Inc.

Address: 421 Fayetteville Street, Ste 600

City: Raleigh State: NC Zip: 27601

Phone: 919.653.2959 Fax: \_\_\_\_\_ Email: danielle.hammond@kimley-horn.com

Builder (if known): N/A

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 and Community Development 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 and Greenways Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
James Gregg, Utility Engineering Manager (Water & Sewer)	(919) 249-3324
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

### Providing Input to Town Council:

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at [AllCouncil@apexnc.org](mailto:AllCouncil@apexnc.org).

### Private Agreements and Easement Negotiation:

The Town of Apex cannot enforce private agreements between developers and neighbors and is not a party to the easement and right-of-way negotiation that occurs between developers and neighboring property owners for easements or rights-of-way that are necessary to build the project.

It is recommended that all private agreements be made in writing and that if a property owner feels it necessary, they should obtain private legal counsel in order to protect their interests in both private agreements and during easement negotiations. The only conditions that the Town of Apex can enforce are those conditions that are made a part of the conditional zoning of the property by agreement of the developer and the Town.

As an example, if a developer offers to build a fence for a neighbor to mitigate some impact, the Town can only enforce the construction of the fence if the fence becomes a condition of the rezoning. This would occur by the developer offering the condition as part of their conditional zoning application package or at the Town Council public hearing on the conditional zoning and the Town accepting it as a condition. Private agreements regarding a fence being constructed will not be enforced by the Town.

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

### Documentation:

Neighbors to a requested new development and/or rezoning are strongly encouraged to fully document (such as through dated photographs) the condition of their property before any work is initiated for the new development. Stormwater controls installed on developed property are not designed to and will likely not remove 100% of the soil particles transported by stormwater runoff. As a result, creeks and ponds could become cloudy for a period of time after rain events.

# COMMON CONSTRUCTION ISSUES & WHO TO CALL

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.

**Noise & Hours of Construction: Non-Emergency Police 919-362-8661**

Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

**Construction Traffic: James Misciagno 919-372-7470**

Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

**Road Damage & Traffic Control: Water Resources – Infrastructure Inspections 919-362-8166**

There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

**Parking Violations: Non-Emergency Police 919-362-8661**

Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

**Dirt in the Road: James Misciagno 919-372-7470**

Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

**Dirt on Properties or in Streams: James Misciagno 919-372-7470  
Danny Smith [Danny.Smith@ncdenr.gov](mailto:Danny.Smith@ncdenr.gov)**

Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith ([danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov)) with the State.

**Dust: James Misciagno 919-372-7470**

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

**Trash: James Misciagno 919-372-7470**

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

**Temporary Sediment Basins: James Misciagno 919-372-7470**

Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

**Stormwater Control Measures: Jessica Bolin 919-249-3537**

Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

**Electric Utility Installation: Rodney Smith 919-249-3342**

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 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: \_\_\_\_\_

Date of meeting: \_\_\_\_\_ Time of meeting: \_\_\_\_\_

Property Owner(s) name(s): \_\_\_\_\_

Applicant(s): \_\_\_\_\_

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.	Helen Bishop	1504 Two Pond Lane	919-346-8835	████████████████████	X
2.	Michael McLain	696 NC Highway 751		████████████████████	X
3.	Bill Allecino	450 NC Highway 751	919-796-4913	████████████████████	X
4.	Wayne Abbott	1412 Two Pond Lane	919-218-0554	████████████████████	X
5.	Parm Sandhar	208 Laurel Springs Way		████████████████████	X
6.	Paul Champagne			████████████████████	X
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

# SUMMARY OF DISCUSSION FROM THE ELECTRONIC 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): Reginald Horton Mills JR; Alexa H Mills; Reginald Horton Mills; William Stephen Mills; Gray Peggy G Trust

Applicant(s): \_\_\_\_\_

Contact information (email/phone): MAGGIE@BEACONDEVELOPMENT.COM / 704.926.1403

Meeting Format: \_\_\_\_\_

Date of meeting: \_\_\_\_\_ Time of meeting: \_\_\_\_\_

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting 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:

Concern about existing traffic conditions at NC751 & US64 intersection and future impacts due to proposed development.

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### Applicant's Response:

The developer will be conducting a full traffic impact analysis and will do all it can to prevent increased traffic congestion in the area. The town is aware of congestion issues and supports the proposed development plans. NCDOT has identified the area as a traffic issue and has planned improvements of the roadways to help alleviate these issues. Developer also plans to propose short-term solutions with development of site. No change to project.

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### Question/Concern #2:

Concern about impacts of development near the wetlands and drainage to Jordan Lake.

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### Applicant's Response:

The developer has met with the Environmental Advisory Board, which is unanimously in support of the development. Stormwater measures will be included in the site development to treat and detain stormwater runoff on-site, and runoff will not flow directly into Jordan Lake. No change to project.

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### Question/Concern #3:

Will any proposed utilities be run along NC Highway 751?

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### Applicant's Response:

Yes, the development plans to extend water and sewer lines along NC 751. Homeowners in the area will have the option to connect their service to this proposed extension. No change to project.

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### Question/Concern #4:

Is the development going to be strictly industrial or is there a mixed-use/commercial aspect proposed as well?

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### Applicant's Response:

Yes, the developer is pursuing a special use for the site on behalf of the beverage partner to allow service retail (ex: food and beverage, coffee shops). No change to project.

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# SUMMARY OF DISCUSSION FROM THE ELECTRONIC 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): Reginald Horton Mills JR; Alexa H Mills; Reginald Horton Mills; William Stephen Mills; Gray Peggy G Trust

Applicant(s): \_\_\_\_\_

Contact information (email/phone): MAGGIE@BEACONDEVELOPMENT.COM / 704.926.1403

Meeting Format: \_\_\_\_\_

Date of meeting: \_\_\_\_\_ Time of meeting: \_\_\_\_\_

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting 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:

Concern about type of development and general impact on neighbors.

### Applicant's Response:

The proposed development is industrial. The developer intends to minimize effects on neighboring properties as best as feasible. No change to project.

### Question/Concern #2:

Who is the proposed beverage partner ?

### Applicant's Response:

The beverage partner is to remain anonymous at this time but will be announced. The company has an existing presence across North Carolina, the development is a proposed relocation of headquarters. No change to project.

### Question/Concern #3:

Will a notification be sent to the neighbors with date and time of the Planning Board Meeting?

### Applicant's Response:

Yes, there will be a notification to neighbors when Planning Board Meeting is scheduled. No change to project.

### Question/Concern #4:

### Applicant's Response:

# 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, Maggie Houston, do hereby declare as follows:  
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Department of Planning and Community Development, 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 Online (Microsoft Teams) (location/address) on 12/22/2021 (date) from 5:00 (start time) to 7:00 (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.

12/28/2021  
Date

By: Maggie Houston

STATE OF NORTH CAROLINA  
COUNTY OF ~~WAKE~~ Mecklenburg

Sworn and subscribed before me, Michele L. Tate, a Notary Public for the above State and County, on this the 28<sup>th</sup> day of December, 2021.

SEAL

Michele L. Tate  
Notary Public  
Michele L. Tate  
Print Name



My Commission Expires: 6/24/2023

## PROJECT REAL NEIGHBOR NOTIFICATION LIST

SITE ADDRESS	PIN NUM	OWNER	MAILING ADDRESS	
1412 TWO POND LN	0712665194	ABBOTT, O WAYNE	3917 US 64 HWY W	APEX NC 27523-8454
1504 TWO POND LN	0712666341	BISHOP, HELEN A BISHOP, WILLIAM H	1504 TWO POND LN	APEX NC 27523-8464
1500 TWO POND LN	0712656858	DIACUMSKI, JASON	1500 TWO POND LN	APEX NC 27523-8464
3952 US 64 HWY W	0712650164	TRAN, HUNG NGUYEN, LIEN	101 WINDWICK CT	CARY NC 27518-2240
1017 WIMBERLY RD	0722090422	UNITED STATES OF AMERICA	310 NEW BERN AVE	RALEIGH NC 27601-1441
450 NC HWY 751	0712-46-1825.000	AULICINO WILLIAM J	450 NC HWY 751	APEX NC 27502
244 NC HWY 751	0712-45-2839.000	BARBOUR ALLEN B	244 NC HWY 751	APEX NC 27523
13406 US 64 E	0712-43-4820.000	BECK NANCY BERKUT	PO BOX 445	STEDMAN NC 28391
OFF NC HWY 751	0712-57-3983.000	GRAY PEGGY G TRUSTEE	647 AIKEN PARKWAY	FUQUAY VARINA NC 27526
482 NC HWY 751	0712-36-5871.000	HUTCHENS BRADLEY W	482 NC HWY 751	APEX NC 27523
314 NC HWY 751	0712-46-2386.000	LONG JOHN W	314 NC HWY 751	APEX NC 27523
546 NC HWY 751	0712-47-0417.000	MALOCH JAMES MARCUS	610 NC HWY 751	APEX NC 27523
696 NC HWY 751	0712-37-6805.000	MCLAIN PHILIP MICHAEL	PO BOX 2427	ELIZABETH CITY NC 27906
NC HWY 751	0712-56-5530.000	MILLS REGINALD HORTON	106 NC HWY 751	APEX NC 27523
104 NC HWY 751	0712-56-6821.000	MILLS REGINALD HORTON JR	104 HWY 751	APEX NC 27502
106 OFF NC HWY 751	0712-57-5385.000	MILLS WILLIAM STEPHEN	106 NC HWY 751	APEX NC 27502
200 LAUREL SPRINGS WAY	0712-38-9096.000	SEAGROVES TIMOTHY	200 LAUREL SPRINGS WAY	APEX NC 27523-5486
US 64 E	0712-35-5132.000	STEWART KATHRYN B	8785 NC HWY 751	DURHAM NC 27713
600 MARTHAS CHAPEL RD	9795-18-6724.000	UNITED STATES OF AMERICA	C/O US ARMY CORPS OF ENGINEERS	PO BOX 144 MONCURE NC 27559
		Current Tenant	3952 US 64 HWY W	APEX NC 27523
		Current Tenant	13406 US 64 E	APEX NC 27523
		Current Tenant	546 NC HWY 751	APEX NC 27523
		Current Tenant	696 NC HWY 751	APEX NC 27523

# NC HIGHWAY 751 & US HIGHWAY 64



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A DEVELOPMENT BY BEACON PARTNERS



# WHO WE ARE

Technically speaking, Beacon Partners is a full-service commercial real estate firm focused on developing, acquiring, leasing and managing quality industrial and office properties.

But at our core, Beacon Partners is a company of servant leaders. We're empathetic listeners, critical thinkers, and agile doers. We understand that our livelihood comes from leading extraordinary teams and clearing the way to make big dreams happen.

Our common values are at the heart of what we do and how we behave. At Beacon, we are:

**BEACON'S CORE VALUES**

**ACCOUNTABLE**  
We are honest and forthright. We do what we say we are going to do and we do it the right way...for our clients, each other, the community.  
**We're true to our word.**

**COLLABORATIVE**  
We partner. We listen. We craft ideas and creative solutions together. Our work is not about us; it's about the people who count on us.  
**We build trusting relationships.**

**PURPOSEFUL**  
We work with a clear purpose in mind. We take care of each other. We reinvest our resources to have a meaningful impact today and tomorrow.  
**We intentionally create legacies.**

## Meet the Industrial Team



# WHAT WE DO

**WE DEVELOP.  
WE ACQUIRE.  
WE MANAGE.  
WE LEASE.**

We are purposeful. We must make an impact in each other's lives; in the lives of our families, friends, and our community. We try to make Beacon a rewarding place to work, where we put our priorities in the proper order.

At Beacon Partners, we've been doing what we love for over 30 years. During that time, we've expanded our "boots on the ground" presence from Charlotte to Raleigh, as well as met some great people, learned a lot, and grown smarter and stronger. Here are a few fast-facts to give you an idea of just how busy we've been:

 <b>\$1.73B+</b> Invested in real estate projects	 <b>10M+ SF</b> Currently leased, owned or managed	 <b>24.5M+</b> SF developed and acquired
 <b>345+</b> Tenants Cared For	 <b>\$4M+</b> Contributed to non-profits	



# PROJECT SUMMARIES



TOTAL SF ± 615,000

PROJECT DURATION – ONGOING

51 ACRES AT JONES SAUSAGE  
± ½ MILE FROM I-40

**BEACON COMMERCE PARK – GARNER, NC**

## EMPIRE DISTRIBUTORS – APEX, NC

TOTAL SF ± 300,600

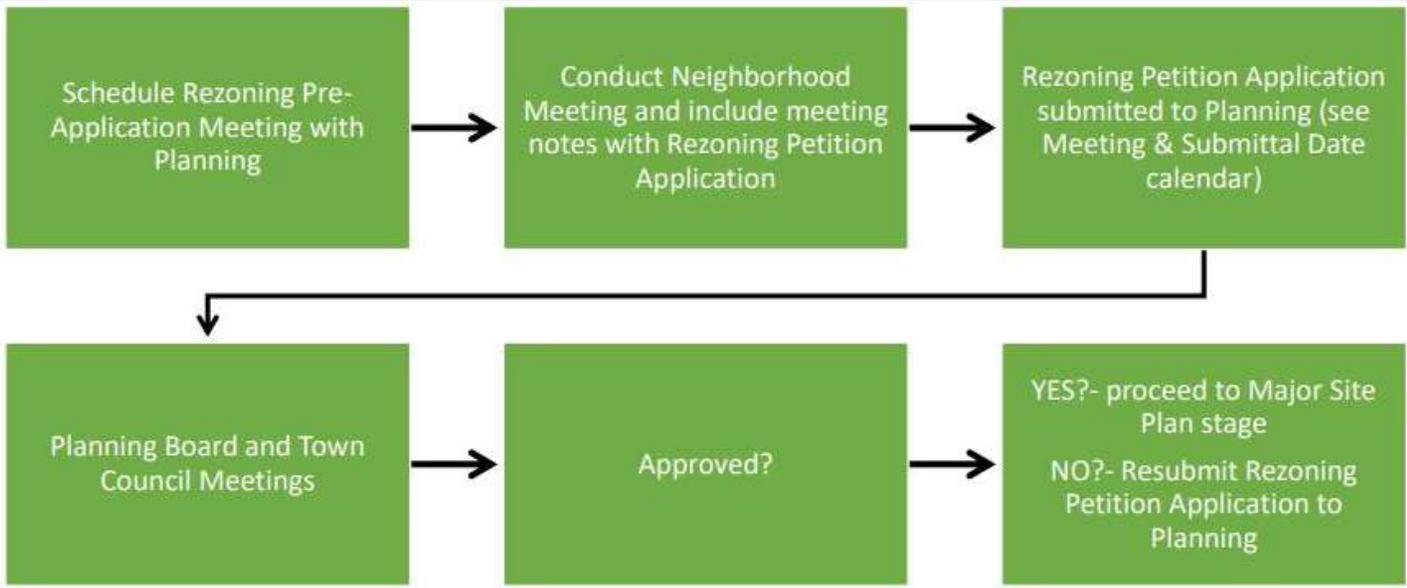
PROJECT DURATION – 11 MONTHS

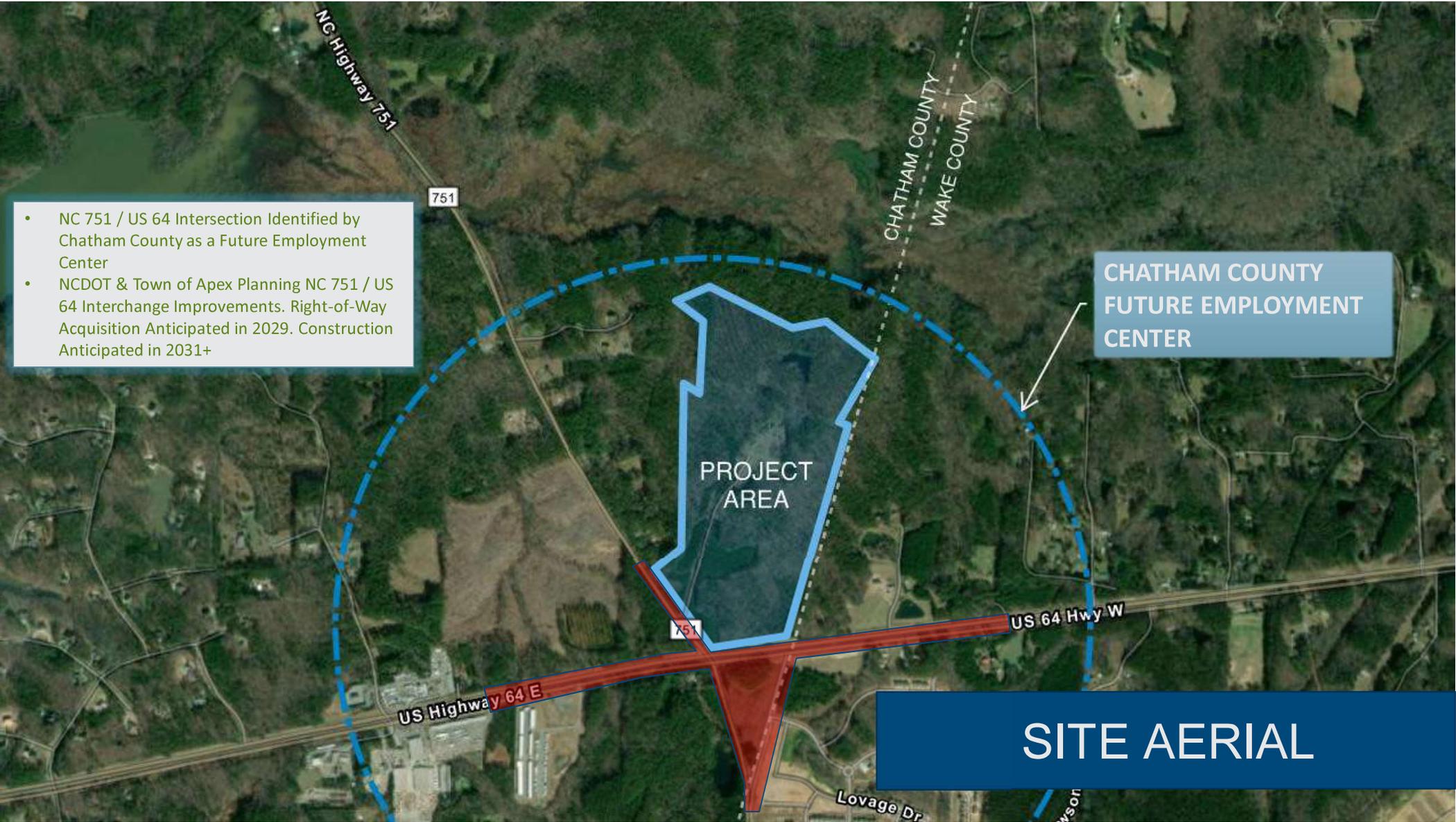
*\*PROJECTED COMPLETION 6/2022*

1201 BURMA DRIVE  
APEX, NC 27539



# REZONING PROCESS



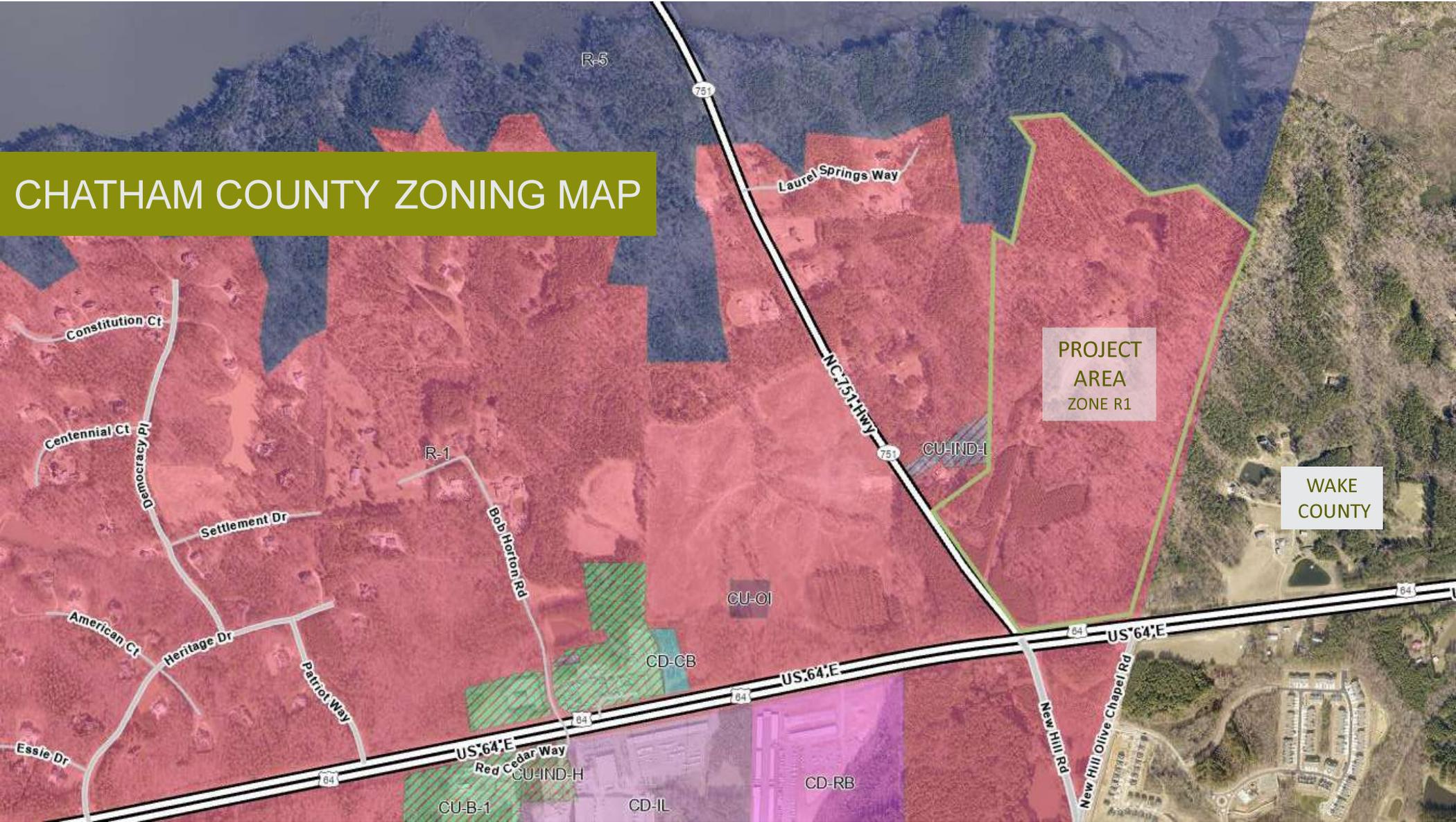


- NC 751 / US 64 Intersection Identified by Chatham County as a Future Employment Center
- NCDOT & Town of Apex Planning NC 751 / US 64 Interchange Improvements. Right-of-Way Acquisition Anticipated in 2029. Construction Anticipated in 2031+

CHATHAM COUNTY  
FUTURE EMPLOYMENT  
CENTER

**SITE AERIAL**

# CHATHAM COUNTY ZONING MAP



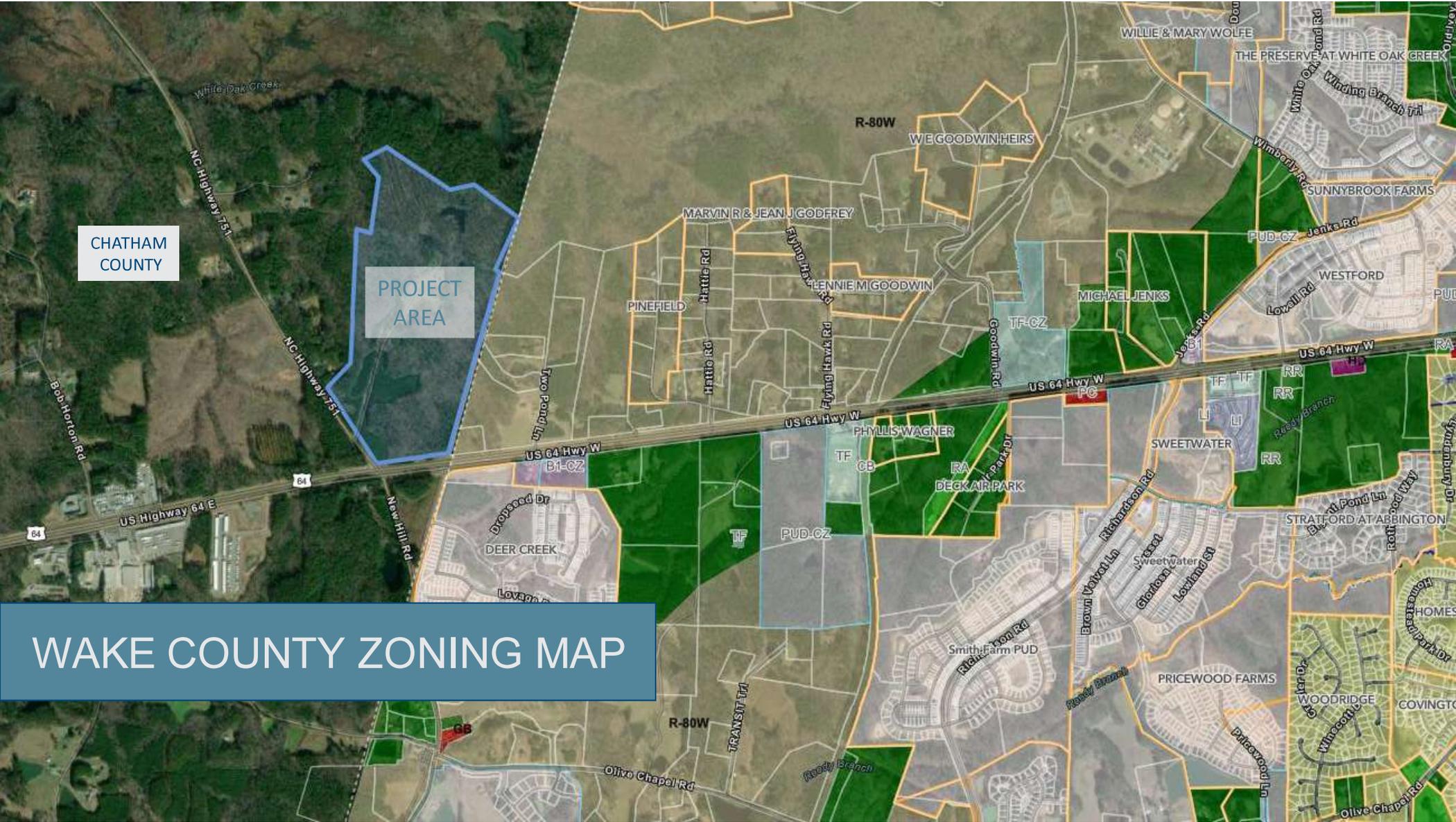
PROJECT  
AREA  
ZONE R1

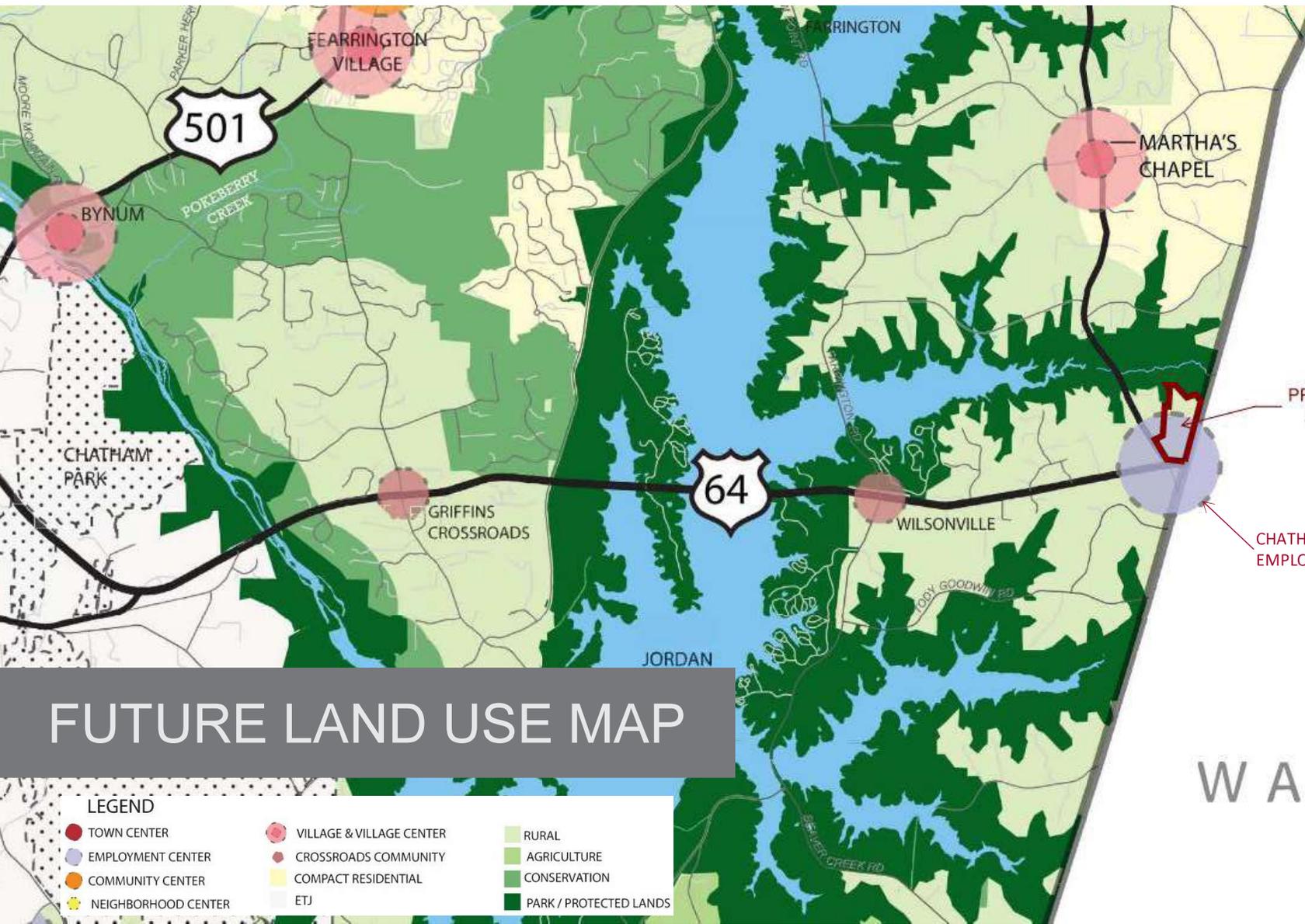
WAKE  
COUNTY

CHATHAM  
COUNTY

PROJECT  
AREA

# WAKE COUNTY ZONING MAP

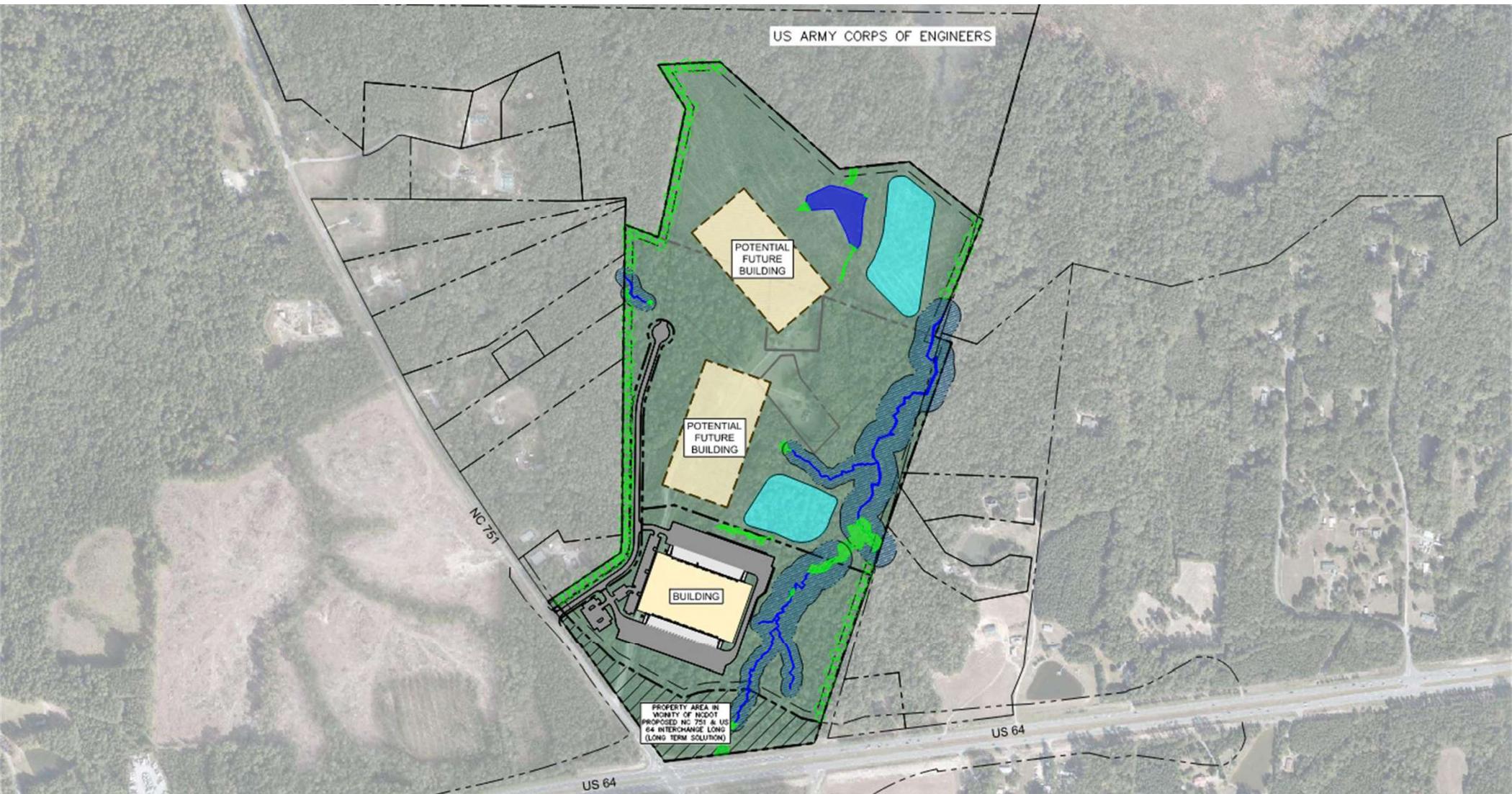




# FUTURE LAND USE MAP

WAKE CO.

LEGEND		
<span style="color: red;">●</span> TOWN CENTER	<span style="color: red;">●</span> VILLAGE & VILLAGE CENTER	<span style="color: lightgreen;">■</span> RURAL
<span style="color: blue;">●</span> EMPLOYMENT CENTER	<span style="color: red;">●</span> CROSSROADS COMMUNITY	<span style="color: lightgreen;">■</span> AGRICULTURE
<span style="color: orange;">●</span> COMMUNITY CENTER	<span style="color: yellow;">■</span> COMPACT RESIDENTIAL	<span style="color: green;">■</span> CONSERVATION
<span style="color: yellow;">●</span> NEIGHBORHOOD CENTER	<span style="color: lightgrey;">■</span> ETJ	<span style="color: darkgreen;">■</span> PARK / PROTECTED LANDS



# PROPOSED SITE PLAN



# BUILDING ELEVATIONS

# QUESTIONS & COMMENTS



## CONTACT INFORMATION

WALKER GORHAM – DIRECTOR OF INVESTMENTS

PHONE: 984.200.3186

EMAIL: [WALKER@BEACONDEVELOPMENT.COM](mailto:WALKER@BEACONDEVELOPMENT.COM)

MAGGIE HOUSTON – PROJECT MANAGER

PHONE: 704.926.1403

EMAIL: [MAGGIE@BEACONDEVELOPMENT.COM](mailto:MAGGIE@BEACONDEVELOPMENT.COM)

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ02 Project Real

Planning Board Meeting Date: March 14, 2022



## 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:** 132.11  
**PIN(s):** 0712566821, 0712551996, 0712575776  
**Current Zoning:** Chatham County Residential District 1 (R-1)  
**Proposed Zoning:** Light Industrial-Conditional Zoning (LI-CZ)  
**2045 Land Use Map:** Industrial Employment  
**Town Limits:** Annexation required with rezoning

## 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: With amendment to the 2045

Land Use Map to Industrial Employment.

Apex Transportation Plan  
 Consistent       Inconsistent      Reason: \_\_\_\_\_

Parks, Recreation, Open Space, and Greenways Plan  
 Consistent       Inconsistent      Reason: \_\_\_\_\_

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ02 Project Real

Planning Board Meeting Date: March 14, 2022



## 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: With amendment to the 2045

Land Use Map to Industrial Employment.

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: 22CZ02 Project Real

Planning Board Meeting Date: March 14, 2022



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: \_\_\_\_\_

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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: \_\_\_\_\_

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8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

Consistent                       Inconsistent                      Reason: \_\_\_\_\_

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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: \_\_\_\_\_

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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: \_\_\_\_\_

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PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ02 Project Real

Planning Board Meeting Date: March 14, 2022



Planning Board Recommendation:

Motion: To recommend approval with additional consideration by applicant to consider additional conditions (enumerated below)

Introduced by Planning Board member: Tina Sherman

Seconded by Planning Board member: Mark Steele

- 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:

Applicant consider additional conditions related to 1) applying draft Jordan Lake nutrient removal regulations and 2) increased fee-in-lieu to be agreed upon by developer and staff prior to Town Council meeting.

- 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 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 14th day of March 2022.

Attest:

Reginald Skinner, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin  
Date: 2022.03.14 18:18:17  
-04'00'

Dianne Khin, Director of Planning and  
Community Development



**TOWN OF APEX**  
 POST OFFICE BOX 250  
 APEX, NORTH CAROLINA 27502  
 PHONE 919-249-3426

**PUBLIC NOTIFICATION  
 OF PUBLIC HEARINGS  
 CONDITIONAL ZONING #22CZ02  
 Project Real**

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 and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

- Applicant:** Maggie Houston, Beacon Development
- Authorized Agent:** Walker Gorham, Beacon Development
- Property Addresses:** 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751
- Acreage:** ±132.11 acres
- Property Identification Numbers (PINs):** 071200566821, 071200551996, 071200575776
- Current Land Use Map Designation:** Employment Center (Chatham County)
- Existing Zoning of Properties:** R1 (Chatham County)
- Proposed Zoning of Properties:** Light Industrial-Conditional Zoning (LI-CZ)

**Public Hearing Location:** Apex Town Hall  
 Council Chamber, 2<sup>nd</sup> Floor  
 73 Hunter Street, Apex, North Carolina

*Separate comments must be provided for the two public hearings in the time frames specified below.*

**Planning Board Public Hearing Date and Time: March 14, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town’s YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

**Town Council Public Hearing Date and Time: March 22, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto: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 members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town’s YouTube livestream at <https://www.youtube.com/c/townofapexgov>.



**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. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/37928>. In addition to the this map, the location of the property may be viewed online at <https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=65367d5f69774726828390a90e5cde1c>.

The 2045 Land Use Map for Apex may be viewed online at [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). The Chatham County Comprehensive Plan may be viewed online at <https://www.chathamcountync.gov/government/departments-programs-i-z/planning/adopted-plans/comprehensive-plan>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information.



## TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ02

Project Real

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 y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

**Solicitante:** Maggie Houston, Beacon Development

**Agente autorizado:** Walker Gorham, Beacon Development

**Dirección de las propiedades:** 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751

**Superficie:** ±132.11 acres

**Números de identificación de las propiedades:** 071200566821, 071200551996, 071200575776

**Designación en el Mapa de Uso Territorial para Chatham County:** Employment Center (Chatham County)

**Ordenamiento territorial existente de las propiedades:** R1 (Chatham County)

**Ordenamiento territorial propuesto para las propiedades:** Light Industrial-Conditional Zoning (LI-CZ)

**Lugar de la audiencia pública:** Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

***Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado en los plazos especificados a continuación.***

### **Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter 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.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

### **Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**

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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria municipal adjunta (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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.



#### **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. Puede ver la solicitud y otros documentos relacionados aquí:

<https://www.apexnc.org/DocumentCenter/View/37928>.

La ubicación de la propiedad también puede verse aquí:

[https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=](https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=65367d5f69774726828390a90e5cde1c)

[65367d5f69774726828390a90e5cde1c](https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=65367d5f69774726828390a90e5cde1c).

Puede ver el Mapa de Uso Territorial para 2045 aquí: [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). Puede ver el Plan Integral del Condado de Chatham aquí: <https://www.chathamcountync.gov/government/departments-programs-i-z/planning/adopted-plans/comprehensive-plan>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426.



## TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #22CZ02 Project Real

Pursuant to the provisions of North Carolina General Statutes §1600-602 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 and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

**Applicant:** Maggie Houston, Beacon Development  
**Authorized Agent:** Walker Gorham, Beacon Development  
**Property Addresses:** 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751  
**Acreage:** ±132.11 acres  
**Property Identification Numbers (PINs):** 071200566821, 071200551996, 071200575776  
**Current Land Use Map Designation:** Employment Center (Chatham County)  
**Existing Zoning of Properties:** R1 (Chatham County)  
**Proposed Zoning of Properties:** Light Industrial-Conditional Zoning (LI-CZ)

**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

*Separate comments must be provided for the two public hearings in the time frames specified below.*

### **Planning Board Public Hearing Date and Time: March 14, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public\\_hearing@apexnc.org](mailto:public_hearing@apexnc.org), or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter 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.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

### **Town Council Public Hearing Date and Time: March 22, 2022 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>. Please visit [www.apexnc.org](http://www.apexnc.org) on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to [public\\_hearing@apexnc.org](mailto: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 members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.



#### **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. To view the petition and related documents on-line:

<https://www.apexnc.org/DocumentCenter/View/37928>  
In addition to this map, the location of the property may be viewed online at <https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=65367d5f69774726828390a90e5cde1c>

The 2045 Land Use Map for Apex may be viewed online at [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). The Chatham County Comprehensive Plan may be viewed online at <https://www.chathamcountync.gov/government/departments-programs-cz/planning/adopted-plans/comprehensive-plan>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information.

Dianne F. Khin, AICP

Published Dates: March 1 - March 22, 2022

Planning and Community Development



**TOWN OF APEX**  
POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
TELÉFONO 919-249-3426

**NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS**  
**ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ02**  
Project Real

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 y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

- Solicitante:** Maggie Houston, Beacon Development
- Agente autorizado:** Walker Gorham, Beacon Development
- Dirección de las propiedades:** 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751
- Superficie:** ±132.11 acres
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- Designación en el Mapa de Uso Territorial para Chatham County:** Employment Center (Chatham County)
- Ordenamiento territorial existente de las propiedades:** R1 (Chatham County)
- Ordenamiento territorial propuesto para las propiedades:** Light Industrial-Conditional Zoning (LI-CZ)
- Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2º piso  
73 Hunter Street, Apex, Carolina del Norte

*Los comentarios para cada una de las dos audiencias públicas deben presentarse por separado en los plazos especificados a continuación.*

**Fecha y hora de la audiencia pública de la Junta de Planificación: 14 de marzo de 2022 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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter 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.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

**Fecha y hora de la audiencia pública del Consejo Municipal: 22 de marzo de 2022 6:00 PM**

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>. Por favor visite [www.apexnc.org](http://www.apexnc.org) el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la secretaria municipal adjunta (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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.



**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. Puede ver la solicitud y otros documentos relacionados aquí:

<https://www.apexnc.org/DocumentCenter/View/37928>.  
La ubicación de la propiedad también puede verse aquí: <https://chathamncgis.maps.arcgis.com/apps/webappviewer/index.html?id=65367d5f69774726828390a90e5cde1c>.

Puede ver el Mapa de Uso Territorial para 2045 aquí: [www.apexnc.org/DocumentCenter/View/478](http://www.apexnc.org/DocumentCenter/View/478). Puede ver el Plan Integral del Condado de Chatham aquí: <https://www.chathamcountync.gov/government/departments-programs-i-z/planning/adopted-plans/comprehensive-plan>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426.



**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 #22CZ02 Project Real  
Project Location: 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751  
Applicant or Authorized Agent: Maggie Houston  
Firm: Beacon Development

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on ~~March 1, 2022~~ March 1, 2022, 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, Chatham County Tax Administration Office, 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.

3-9-2022

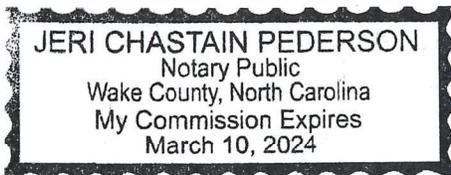
Date

Riz Kalfim for Dianne Khin  
Director of Planning and Community Development

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 9 day of March, 2022.



SEAL

Jeri Chastain Pederson  
Notary Public

Commission Expires: 3 / 10 / 2024

Rezoning #22CZ02

751

Chatham County

Hattie Rd

Pinefield Rd

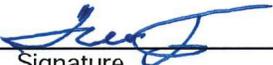
Two Pond Ln

64

Lawson Ln

Dropseed Dr

Deer Creek

Public Hearing Sign Posted By  
  
Signature  
Date 1/11/2022



November 2021 Aerial Photography  
Prepared by: Town of Apex Planning Department  
January 2022

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 132.11 ACRES LOCATED AT 104 NC HWY 751, 106 OFF NC HWY 751, AND OFF NC HWY 751 FROM CHATHAM COUNTY RESIDENTIAL DISTRICT 1 (R-1) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)**

**#22CZ02**

**WHEREAS**, Maggie Houston, Beacon Development, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of January 2022 (the “Application”). The proposed conditional zoning is designated #22CZ02;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ02 before the Planning Board on the 14<sup>th</sup> day of March 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 14<sup>th</sup> day of March 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ02. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ02;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ02 before the Apex Town Council on the 22<sup>nd</sup> day of March 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 22<sup>nd</sup> day of March 2022. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #22CZ02 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Industrial Employment. This designation on the 2045 Land Use Map includes the zoning district Light Industrial-Conditional Zoning (LI-CZ) and the Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: approval of the rezoning is reasonable and in the public interest because the proposed Light Industrial-Conditional Zoning (LI-CZ) district will allow for non-residential development in an area that anticipates non-residential uses, provides a dedication of right-of-way for the future interchange planned for US Hwy 64 and NC 751, and will allow development that will generate jobs and increase the tax base.; and

**WHEREAS**, the Apex Town Council by a vote of \_\_\_ to \_\_\_ approved Application #22CZ02 rezoning the subject tract located at 104 NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751 from Chatham County Residential District 1 (R-1) to Light Industrial-Conditional Zoning (LI-CZ).

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX**

**Section 1:** The lands that are the subject of the Ordinance are those certain lands described in Attachment “A” – Legal Description which is incorporated herein by reference, and said lands are hereafter referred to as the “Rezoned Lands.”

## Ordinance Amending the Official Zoning District Map #22CZ02

**Section 2:** The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the “Rezoned Lands” from Chatham County Residential District R-1 (R-1) to Light Industrial-Conditional Zoning (LI-CZ) District, subject to the conditions stated herein.

**Section 3:** The Director of Planning and Community Development is hereby authorized and directed to cause the said Official Zoning District Map for the Town of Apex, North Carolina, to be physically revised and amended to reflect the zoning changes ordained by this Ordinance.

**Section 4:** The “Rezoned Lands” are subject to all of the following conditions which are imposed as part of this rezoning:

### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately 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.

### Permitted Uses and Limitations:

- |  |   |
|--|---|
| 1. Government Service                        | 18. Parking Lot, Commercial             |
| 2. Communication Tower, Commercial (S)       | 19. Glass Sales                         |
| 3. Communication Tower, Public Safety (S)    | 20. Health/Fitness Center or Spa        |
| 4. Utility, Minor                            | 21. Truck Terminal                      |
| 5. Wireless Support Structure                | 22. Building Supplies, Wholesale        |
| 6. Wireless Communication Facility           | 23. Laboratory, Industrial Research     |
| 7. Broadcasting Station (radio & television) | 24. Machine or Welding Shop             |
| 8. Radio and Television Recording Studio     | 25. Warehousing                         |
| 9. Commissary                                | 26. Woodworking or Cabinetmaking        |
| 10. Restaurant, General                      | 27. Wholesaling, General                |
| 11. Dispatching Office                       | 28. Brewery                             |
| 12. Medical or Dental Office or Clinic       | 29. Distillery                          |
| 13. Medical or Dental Laboratory             | 30. Manufacturing and Processing        |
| 14. Office, Business or Professional         | 31. Manufacturing and Processing, Minor |
| 15. Pilot Plant                              | 32. Microbrewery                        |
| 16. Research Facility                        | 33. Microdistillery                     |
| 17. Parking Garage, Commercial               |   |

### Use Conditions:

1. Machine or welding shop: This use is allowed with the exception of welding associated with automobiles.
2. Building supplies, wholesale: This use shall not exceed 200,000 square feet and shall not include more than 15% of the building's square footage as outdoor storage.
3. The use Glass Sales shall be all indoors except what is stored on trucks. Outdoor truck parking must be fully screened from any public right-of-way.

### Environmental Conditions:

1. Existing trees greater than 18” in diameter that are removed by site development shall be replaced by planting a 1.5” caliper native tree from the Town of Apex Design and Development Manual

## Ordinance Amending the Official Zoning District Map #22CZ02

either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.

2. Post-development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, and 25-year storm events in accordance with the Unified Development Ordinance.
3. The project shall install at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
4. The project shall preserve a minimum of 15% of the existing tree canopy. Preserved areas may include, but are not limited to, RCA, perimeter buffers, riparian buffers, and/or common area in the development.
5. To improve energy efficiency, the project shall plant evergreen trees on the northern side of all buildings to act as a windbreak. This shall not apply where loading docks are proposed along a building facade.
6. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. This shall not apply where loading docks are proposed along a building facade.
7. The project shall plant only drought tolerant native plants. Landscaping shall be coordinated with and approved by the Planning Department at the time of Site Plan or Master Subdivision Plan review.
8. At least (1) information sign or other marking shall be provided at the boundary of an area dedicated as Resource Conservation Area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.
9. The project shall install light timers or other smart lighting technology on at least 50% of the fixtures in the parking lot so they are automatically turned off or reduced in level of lighting when the business is closed.
10. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.

### Architectural Conditions - Industrial

1. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
2. The building shall have more than one parapet height.
3. Windows and glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
4. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.

### Architectural Conditions - Commercial

1. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades. This would also include reveals in concrete tilt construction with integrated thin brick and contrasting paint colors, which add visual interest. The percentage of brick required on the facades will be 65 percent for a single story building, 50 percent for a two story building, and only the first floor for a three story building.
2. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color

## Ordinance Amending the Official Zoning District Map #22CZ02

- change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.
3. Buildings on corners are to be treated as gateways with quality design.
  4. Corner buildings shall match or exceed the height of adjacent buildings.
  5. Corner buildings shall have two facades which maintain a relationship to each other although they do not need to be identical.
  6. The orientation of drive-thru lanes, pick-up windows, and other utilitarian building functions should not be oriented toward or located adjacent the street. If drive-thru lanes must be located adjacent to a street, they shall be screened through the use of low walls and/or landscaping. Pick-up windows shall be de-emphasized through screening and/or architectural elements.
  7. Each façade shall have a rhythm that is repeated through the pattern of wall and openings. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of 50% of the total building height. Buildings shall not have blank side walls creating a false front appearance.
  8. The street level of the facades shall provide human scaled entries including, but not limited to, recessed entries, sheltering elements and adjacent storefront windows. Facades shall incorporate a minimum of two (2) continuous details refined to the scale of twelve (12) inches or less within the first ten (10) feet of the building wall, measured vertically at street level. Recessed arcades, entries flush with the building face, and small entries without adjacent windows shall be avoided.
  9. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
  10. Simple parapet roof edges with varying coping shall be used on most buildings. The roofline height shall vary from building to building as well as within buildings with wide street frontage.
  11. The building shall have more than one parapet height.
  12. Roof features may include hip roofs or awnings with metal or shingle roofs.
  13. Buildings shall be architecturally compatible by way of colors and use of materials. The building exterior shall have more than one material color.
  14. The exterior materials shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
    - a. Brick masonry
    - b. Decorative concrete block (either integrally colored or textured)
    - c. Stone accents
    - d. Aluminum storefronts with anodized or pre-finished colors.
    - e. EIFS cornices and parapet trim.
    - f. Precast concrete
    - g. Concrete tilt with a base wall paint color in conjunction with varying complimentary accent paint colors and integral thin brick, with associative percentages as outlined in item 1 above.
  15. Exterior materials that shall not be allowed are as follows:
    - a. Vinyl siding
    - b. Painted, smooth faced concrete block (decorative blocks are acceptable)
    - c. Metal walls
  16. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
  17. Soffit and fascia materials shall be EIFS, architectural metal panels (ACM), or tongue and groove wood.

### Transportation Conditions

1. Development shall dedicate public right-of-way for the future interchange at US 64 and NC 751 consistent with the area shown in Exhibit 1. This area is based on the outermost limit of interchange concepts evaluated by the North Carolina Department of Transportation at the time of rezoning. This dedication shall be included in future development plans and occur at the time of

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Subdivision Final Plat or Site Plan Final Plat, whichever occurs first, for any parcel(s) adjacent to US 64 and NC 751 as applicable. If NCDOT has approved an interchange design prior to the first Subdivision Final Plat or Site Plan Final Plat that is less than shown on Exhibit 1, the development shall only be required to dedicate the right-of-way shown in the approved interchange design.

- 2. Development shall dedicate a 60 foot right-of-way with 30' Public Road Construction Easement on each side for a public roadway extending from NC 751 to the eastern boundary of the rezoned parcels. The location of the connection to NC 751 is subject to NCDOT and Town review and approval. The terminus at the eastern edge of the rezoned parcels is subject to Town review and approval. The right-of-way and Public Road Construction Easement shall be directly adjacent to the highway buffer of the right-of-way dedicated accommodating the future interchange at US 64 and NC 751. The development shall contribute a \$1,000,000 payment-in-lieu for the future construction of the collector road.
- 3. All lots within the development shall have frontage on a public street. The development shall construct a minimum of two stub street connections to adjacent parcels that have no frontage along public streets or only have frontage along NC 751. The location of the stub streets shall be subject to Town review and approval.

**Section 5:** The "Rezoned Lands" shall be perpetually bound to the conditions imposed including the uses authorized, unless subsequently changed or amended as provided for in the Unified Development Ordinance. Site plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for site plan approval as provided for in the Unified Development Ordinance.

**Section 6:** This Ordinance shall be in full force and effect from and after its adoption.

Motion by Council Member \_\_\_\_\_

Seconded by Council Member \_\_\_\_\_

With \_\_\_\_ Council Member(s) voting "aye."

With \_\_\_\_ Council Member(s) voting "no."

This the \_\_\_\_ day of \_\_\_\_\_ 2022.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Interim Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: March 22, 2022

## Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager

Department(s): Planning and Community Development

### Requested Motion

Public hearing and possible motion regarding amendments to the Transportation Plan for North Salem Street between Davis Drive and Laura Duncan Road.

### Approval Recommended?

Planning staff recommends adoption of the proposed amendment.

The Planning Board considered the proposed amendment at their March 14, 2022 meeting and unanimously recommended approval.

### Item Details

The amendment to the Thoroughfare and Collector Street Plan map includes showing North Salem Street as a three-lane thoroughfare (widening) between Davis Drive and Laura Duncan Road. The corridor is currently shown as an existing two-lane thoroughfare. The amendment was requested by Public Works and Transportation due to traffic volumes and operations.

### Attachments

- Staff report





The Thoroughfare and Collector Street Plan map (last amended November 9, 2021) represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth and connectivity. The plan does not require a schedule for implementation nor does it set aside funding for improvements. The purpose of the public hearing is to consider a proposed amendment to the network of planned thoroughfare and collector streets in order to make a decision.

The proposed amendment would show proposed widening to a three-lane thoroughfare for North Salem Street between Davis Drive and Laura Duncan Road, as shown in Figure 1. This corridor is currently shown as an existing two-lane thoroughfare.

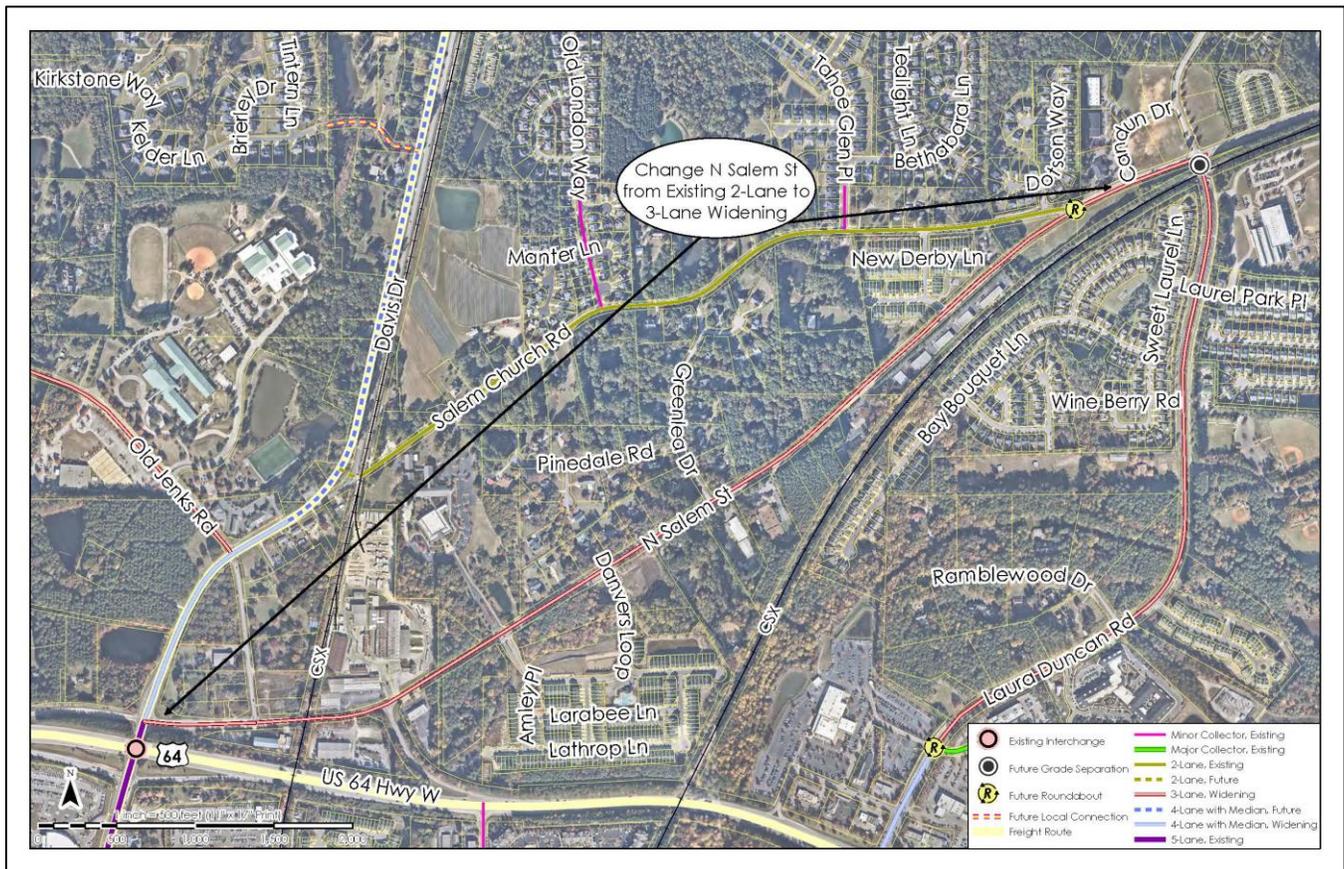


Figure 1. Proposed amendments to the Thoroughfare and Collector Street Plan map

The proposed amendment is requested by the Department of Public Works and Transportation based on traffic volumes and traffic operations along this roadway. The North Carolina Department of Transportation (NCDOT) measured annual average daily traffic (AADT) of 8,600 in 2020. Modeling completed for the 2050 Metropolitan Transportation Plan projects traffic volumes will at least double by 2050. This roadway also serves as the route for the Apex-Cary Express bus. A center turn lane for the entire corridor will assist operations as volumes increase. The Town’s typical section for a three-lane thoroughfare requires 80 feet of right-of-way. Figure 2 shows that 80 feet of right of way has already been dedicated for sections of the corridor, as shown in shades of green. The abutments for the existing railroad bridge over North Salem Street will prevent any widening in

that location until the bridge is replaced, which is not programmed; however, the corridor overall would still benefit from planned future widening.

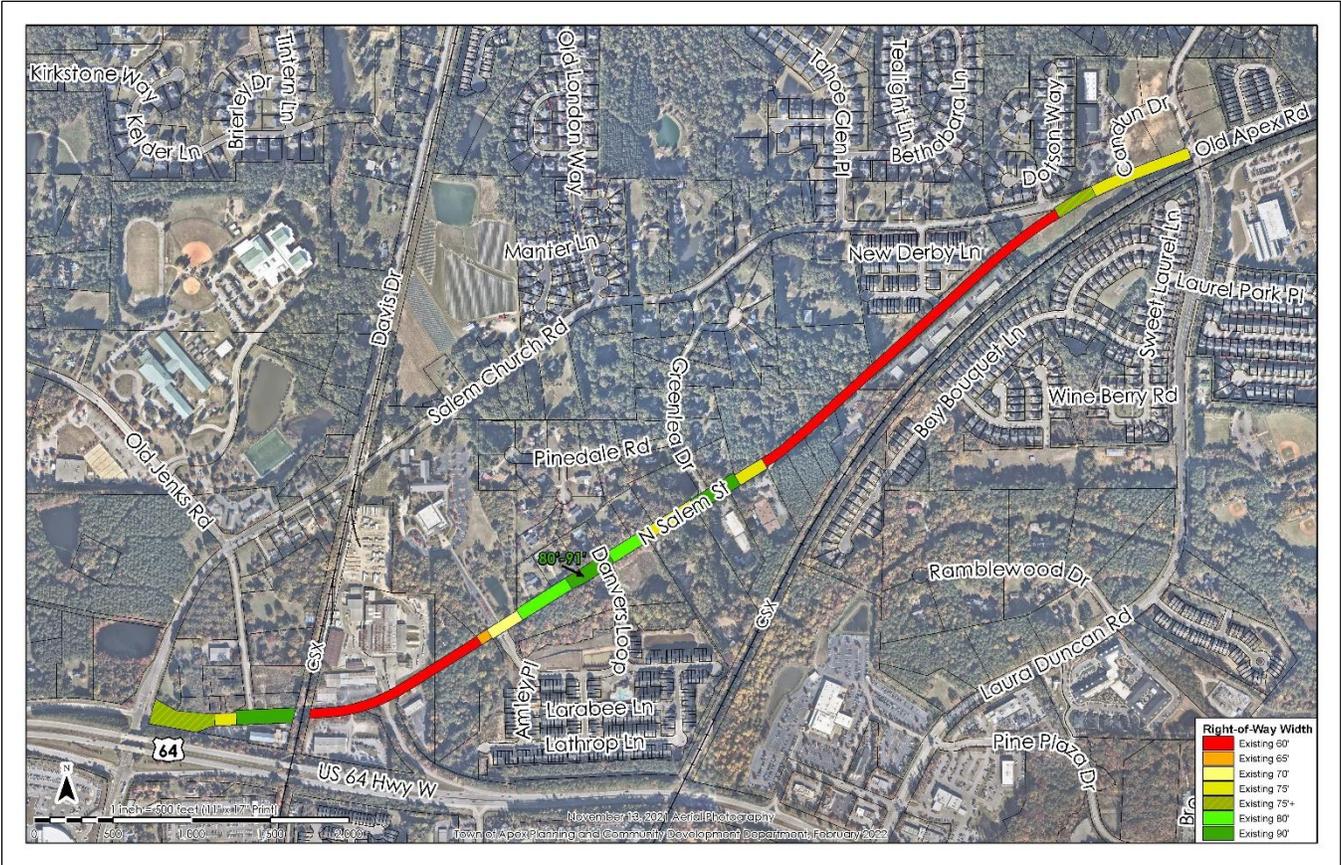


Figure 2. Existing right of way along North Salem Street

**Programmed Projects:**

There are no programmed municipal or state projects to widen North Salem Street.

**Staff Recommendation:**

Planning staff recommend supporting the proposed amendment to the Thoroughfare and Collector Street Plan map. Staff from Public Works and Transportation, Fire, and Police are also supportive of the proposed amendment.

**Planning Board Recommendation:**

The Planning Board considered the proposed amendment at their March 14, 2022 meeting and unanimously recommended approval.