



AGENDA | REGULAR TOWN COUNCIL MEETING

Tuesday, January 14, 2025 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

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

Town Council and Town Senior Executive Leadership

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

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

Town Manager: Randal E. Vosburg

Deputy Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

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

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

CONSENT AGENDA

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

CN1 Agreement - Apex C.E.R.T., Inc. - Apex Fire Department and Emergency Management - Formalized Volunteer Assistance

Timothy Herman, Fire Chief, Apex Fire Department (AFD)

CN2 Agreement - Facility Encroachment Agreement No. CSX1027645 - Town of Apex and CSX Transportation, Inc. - Apex Southwest Peakway Connector Project

Chris Johnson, Director, Transportation and Infrastructure Development Dept. (TID)

CN3 Agreement - North Carolina Division of Motor Vehicles (DMV) - Access DMV Records Containing Personal Information - eCrash Web - February 1, 2025 through January 31, 2028

Trevor Materasso, Interim Police Chief, Apex Police Department (APD)

CN4 Agreement - Mobile Communications of America - Standard Services Agreement - Support for Town of Apex Fire Department Radios (Replacement) - February 1, 2025 through January 31, 2030

Jeffrey Maynard, Assistant Fire Chief, Apex Fire Department (AFD)

- CN5 Agreement - Mission Critical Partners, LLC - Application Programming Interface (API) - Apex Fire Department's Record Management Software and Scheduling Software - February 1, 2025 through January 31, 2028**
Timothy Herman, Fire Chief, Apex Fire Department (AFD)
- CN6 Budget Ordinance Amendment No. 5 and Capital Project Ordinance Amendment No. 2025-5 - Debt Service Payments and Affordable Housing Land Purchase**
Amanda Grogan, Director, Budget and Performance Management Department (BPM)
- CN7 Budget Ordinance Amendment No. XX - New Position Authorizations**
Mary Beth Manville, Director, Human Resources Department
- CN8 Contract Multi-Year - Flock Safety Inc. - License Plate Reader Technology - February 1, 2025 through January 31, 2027**
Trevor Materasso, Interim Police Chief, Apex Police Department (APD)
- CN9 Council Meeting Minutes - Various**
Allen Coleman, Town Clerk
- CN10 Finance Policy - Internal Control Policy**
Antwan Morrison, Director, Finance Department
- CN11 Fiscal Year 2025-2026 Annual Operating Budget - Set Public Hearing - First Hearing**
Amanda Grogan, Director, Budget and Performance Management Department (BPM)
- CN12 Human Resources (HR) Policy Updates - Town's Personnel Policies - Vacation Leave Max Payout and Retiree Insurance**
Mary Beth Manville, Director, Human Resources Department
- CN13 Resolution - Abandon Existing Public Utility Easements - Hendrick Toyota - Access Relocation**
Steve Adams, Real Estate and Utilities Acquisition Specialist, Trans. and Infra. Dev. Dept.
- CN14 Resolution - Abandon Existing Access Easement - Aqualine Pristine Water Access and Dedication**
Steve Adams, Real Estate and Utilities Acquisition Specialist, Trans. and Infra. Dev. Dept.
- CN15 Tax Report - November 2024**
Allen Coleman, Town Clerk

PRESENTATIONS

- PR1 Proclamation - Martin Luther King Jr. Commemoration Weekend 2025**
Mayor Jacques K. Gilbert

PR2 Proclamation - Human Trafficking Prevention Month - January 2025

Mayor Jacques K. Gilbert

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

Antwan Morrison, Director, Finance Department

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 2045 Land Use Map and Transportation Plan Amendments - Western Big Branch Area
Plan: Encompassing Portions of the Friendship and New Hill Communities -**

Continuance Requested to January 28, 2025

Jenna Shouse, Senior Long-Range Planner, Planning Department

PH2 Rezoning Case No. 24CZ18 - Sweetwater PUD Amendment

Joshua Killian, Planner I, Planning Department

PH3 Unified Development Ordinance (UDO) Amendments - January 2025

Bruce Venable, Planner II, Planning Department; and

Amanda Bunce, Current Planning Manager, Planning Department

NEW BUSINESS

**NB1 North Carolina League of Municipalities (NCLM) Biennium Legislative Goals and
Priorities - Long Session 2025-2026**

Allen Coleman, Town Clerk

UPDATES BY TOWN MANAGER

CLOSED SESSION

Council will enter into closed session pursuant to:

CS1 Laurie Hohe, Town Attorney

NCGS §143-318.11(a)(3):

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

CS2 Laurie Hohe, Town Attorney

NCGS §143-318.11(a)(3):

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

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Tim Herman, Fire Chief

Department(s): Fire Department

Requested Motion

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

Approval Recommended?

Yes

Item Details

A formal agreement between the Town of Apex and the Apex CERT organization does not exist. The Apex CERT organization has increased their presence at town events in the form of first-aid stations and other duties in an effort to utilize this local resource more. During this increase of usage, it was discovered the lack of liability insurance and background checks carried or performed by the Apex CERT organization. This service agreement includes the requirement of liability insurance and background checks on members, which is funded by the town (outlined in contract @ \$5,000 annually).

Attachments

- CN1-A1: Agreement - Apex C.E.R.T., Inc. - Apex Fire Department and Emergency Management Volunteer Assistance



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**PURCHASE ORDER # 2025-XXXX
AGREEMENT FOR VOLUNTEER
SERVICES**

This Agreement (“Agreement”) is made by and between the Town of Apex, a North Carolina municipal corporation (hereafter, “Apex”) and **Apex C.E.R.T.**, Inc. (hereafter “CERT”), a North Carolina nonprofit corporation.

RECITALS

WHEREAS, CERT is a 501(c)(3) nonprofit organization that serves citizens in the Apex community by assisting the Apex Fire Department with public safety activities (“Services”); and

WHEREAS, CERT has provided volunteer services to Apex in the past and Apex desires to continue to allow CERT to provide Services as requested; and

WHEREAS, Apex has agreed to engage CERT, and CERT has agreed to contract with Apex, for performance of services as described, and according to the further terms and conditions, set forth herein.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

ARTICLE 1: EFFECTIVE DATE AND SCOPE OF SERVICES

- 1.1 The Recitals are incorporated into Agreement. This Agreement shall be effective upon execution by both parties (“Effective Date”).
- 1.2 This Agreement is for assistance with public services provided by the Apex Fire Department (hereafter, “AFD”). CERT shall provide all services as described herein and in Attachment A, attached hereto and incorporated herein by reference (“Basic Services”). CERT shall also provide additional services as may from time-to-time be agreed upon by written amendment to this Agreement (“Written Amendment”). Basic Services and Additional Services are collectively referred to as “CERT Services” or “Services.”
- 1.3 The initial term of this Agreement shall be for a period of one year beginning on Effective Date and shall automatically renew for one (1) year unless either party provides written notice to decline renewal option.
- 1.4 CERT represents and agrees that now and continuing for the term of Agreement, CERT:
 - a. is experienced, qualified, skilled and fully capable of performing services in a competent and professional manner;
 - b. shall exercise reasonable care and diligence, and shall act in the best interest of Apex, and in the best interest of the state of North Carolina if deployed;

c. shall act in accordance with generally accepted standards of CERT's practice applicable to the locality; and shall comply with this Agreement and all applicable federal, state and local laws, ordinances, codes, rules and regulations (collectively 'Laws and Regulations');

d. possesses all necessary qualifications, licenses and certifications;

e. shall work in good faith with Apex, and when deployed, in good faith with the state of North Carolina, to meet requirements imposed by the federal or state government or other funding entity if grants are used to fund any portion of Service; and

f. shall assure that the individual(s) signing Agreement have the right and power to do so and bind CERT to the obligations set forth herein and such individuals do so personally warrant that they have such authority; and

g. agrees to submit CERT member information to Apex to perform a background check. Apex may use a third-party contractor to collect the CERT member information and perform the background checks. This may include, but is not limited to, criminal background checks, employment verification, education verification, reference checks, and other relevant investigations deemed necessary by Apex. Apex will share the background check results with CERT for its own records and use. Apex will apply the Town of Apex Volunteer Background Check Policy, attached hereto as Attachment B, to determine whether an individual should be disqualified from providing the Services under this Agreement. Such decision shall not be binding on CERT in its decision to allow its members to participate in providing services outside of the scope of this Agreement.

ARTICLE 2: RESPONSIBILITIES OF CERT

- 2.1 Standard of Care. CERT shall perform Services in a competent and professional manner. CERT may not use Apex facilities for any non-Apex purpose. Apex in its sole discretion may also allow CERT to use its facilities for trainings consistent with CERT's 501(c)(3) nonprofit mission.

ARTICLE 3: COMPENSATION FOR SERVICES

- 3.1 Compensation for Basic Services. Apex will pay CERT \$5,000.00 each fiscal year that the Agreement is in place to cover administrative and operating expenses. There are no other reimbursable or compensable expenses.

ARTICLE 4: RESPONSIBILITIES OF APEX

- 4.1 Cooperation and Coordination. In addition to being responsible for the duties set forth as duties or responsibilities of Apex, Apex may designate, in writing, a person who shall coordinate the Services and who shall be available as often as may be reasonably required to render decisions within guidelines established by the Town manager and to furnish information. Apex shall examine documents submitted by CERT and shall make

reasonable efforts to render timely decisions pertaining thereto so as not to unduly delay the orderly progress of CERT's Services.

ARTICLE 5: INSURANCE

- 5.1 Insurance. CERT shall purchase and maintain during the term of this Agreement General Liability Insurance covering claims arising out of or related to bodily injury and to real and personal property in the amount of \$1,000,000 per occurrence/ \$10,000,000 aggregate. In addition, CERT shall purchase and maintain workers' compensation insurance.

All insurance policies maintained by CERT (except Workers Compensation) shall name Apex, its elected officials, officers, employees, and volunteers as an additional insured. Each policy shall provide that Apex shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. The insurer shall have no right of recovery or subrogation against Apex, its agents or agencies, it being the intention of the parties that the insurance policies shall protect Apex and be primary coverage for any and all losses covered by the policies.

ARTICLE 6: DAMAGES AND REMEDIES

- 6.1 General Indemnity. To the fullest extent permitted by Laws and Regulations, CERT shall indemnify and hold Apex, its officers and employees, harmless from and against all claims, costs, charges, civil penalties, fines, losses, liabilities, and damages (including but not limited to reasonable professionals' fees and charges and all court or other dispute resolution costs), by whomsoever brought or alleged, arising out of, resulting from, or in connection with (a) any breach by CERT of any term or condition of this Agreement or Written Amendment, (b) any breach or violation by CERT of any applicable Law or Regulation, or (c) any other cause resulting from any act or failure to act by CERT under this Agreement or Written Amendment, but only to the extent caused by any negligence or omission of CERT. This indemnification shall survive the termination of this Agreement.

ARTICLE 7: TERMINATION AND SUSPENSION

- 7.1 Termination for Convenience. This Agreement may be terminated by either party without cause and for its convenience upon ten (10) days written notice to the other party.
- 7.2 Other Termination. After ten (10) days written notice to the other party of its material breach of the Agreement, this Agreement may be terminated by the noticing party, provided that the other party has not taken all reasonable actions to remedy the breach.
- 7.3 Survival. Termination of this Agreement, for whatever reason, shall not terminate a party's representations and warranties nor nullify any indemnity hereunder.

ARTICLE 8: ADDITIONAL PROVISIONS

- 8.1 Dissemination of Information. Apex takes efforts to assure that accurate information about Apex is disseminated such that neither the public trust nor the public's perception of Apex impartiality is compromised. CERT, mindful of those efforts, agrees that it shall not publicly disseminate any information concerning Services without prior approval of Apex. Any approval by Apex may be given with certain stipulations, such as Apex's participation in the creation of the public product or Apex's review and the option to refuse ultimate release of the final product should it fail to meet Apex's standards and goals. Publicly disseminate means but is not limited to electronic, video, audio, photographic or hard copy materials serving as, in whole or part, advertising, sales promotion, professional papers or presentations, news releases, articles, or other media products including social media, and/or CERT's business collateral pieces.
- 8.2 Limited Assignment/Delegation. This Agreement shall bind CERT and its successors and permitted assigns. CERT shall not assign or transfer its rights or interest in this Agreement (including the right to payment), nor shall CERT delegate its duties under this Agreement, without Apex's written consent, which Apex may grant or withhold in its sole discretion. Apex's consent shall not release CERT of any obligation under this Agreement and CERT and permitted assigns shall be subject to all of Apex's defenses. Any attempt to assign this Agreement without the prior written approval of Apex shall be void.
- 8.3 Governing Law. The parties acknowledge this Agreement is a "business contract" subject to the provisions of N.C.G.S. Chapter 1G and agree that this Agreement and the rights and duties of the Parties shall be governed by the laws of the State of North Carolina, without regards to conflict of laws provisions. The Parties further agree that any dispute arising from this Agreement shall be litigated in the courts of the State of North Carolina and any and all suits or actions related to this Agreement shall be brought exclusively in Wake County, North Carolina. Service of process may be affected by delivery by any method permitted under the N.C. Rules of Civil Procedure on the office or individual specified in Paragraph 10.9 "Notice" or on any officer of the CERT.
- 8.4 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.
- 8.5 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable without such provision.

- 8.6 Notice. Whenever any provision of this Agreement requires the giving of written notice, it will be deemed to have been validly given if (i) delivered in person to the Project Manager, if to Apex, or to an officer/member of the entity that is the CERT, if to the CERT, or (ii) delivered or sent by a nationally recognized overnight courier service or overnight express mail or registered or certified mail, postage prepaid, to Apex's or CERT's address. The date of receipt of said notice shall be the date of such delivery, in the case of delivery in person, or three days after deposit when sent by courier or mail.

TO CERT:

Apex CERT

shroyster@gmail.com

TO APEX:

Town of Apex

Attention:

PO Box 250

Apex, NC 27502

Timothy.Herman@apexnc.org

- 8.7 Gifts and Favors. CERT shall become aware of and comply with laws related to gifts and favors, conflicts of interest and the like, including G.S. §14-234, G.S. §133-1, and G.S. §133-32.
- 8.8 Public Records; Confidential Records and Information. CERT acknowledges that records made or received in connection with the transaction of public business are public records and subject to public records requests. Apex may provide copies of such records, including copyrighted records, in response to public record requests. If CERT during provision of Services becomes aware of or has access to confidential records or information or information otherwise protected from disclosure by Federal or State law, including the Health Insurance Portability and Accountability Act of 1996, as amended ("Confidential Information"), CERT shall not disclose any such Confidential Information, except when required by law to do so.
- 8.9 Electronic Version of Agreement. Apex may convert a signed original of this Agreement to an electronic record pursuant to an approved North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of this Agreement shall be deemed for all purposes to be an original signed Agreement.
- 8.10 Verification of Work Authorization. To the extent required by law, CERT shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.
- 8.11 No Third-Party Beneficiaries. There are no third-party beneficiaries to Agreement.
- 8.12 Independent Contractor. CERT is an independent contractor and is not an agent, representative, or employee of Apex. CERT has no authority to make any commitments on Apex's behalf. If Apex notifies CERT in writing that any person providing Services appears to be incompetent, disorderly, or otherwise unsatisfactory to Apex, such person

shall be removed from providing Services and shall not again provide Services except with the prior written consent of Apex.

- 8.13 Nondiscrimination. To the extent permitted by law, neither Party, their officers, employees, contractors, agents, successors, or permitted assigns, shall discriminate against any member of a protected class as defined by Section 3-2 of the Town of Apex Code of Ordinances in connection with this Agreement.
- 8.14 Performance of Government Functions. Nothing contained in this Agreement shall be deemed or construed so as to restrict or inhibit Apex's police powers or regulatory authority.
- 8.15 No Waiver of Immunity. Nothing in this Agreement shall be construed to mandate purchase of insurance by Apex pursuant to N.C.G.S. §160A-485 or to in any way waive Apex's defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent or employee of Apex shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.
- 8.16 Further Assurances. CERT agrees that it will cooperate with Apex and will execute and deliver, or cause to be delivered, all such other instruments, and will take all such other actions, as Apex may reasonably request from time to time in order to effectuate the provisions and purposes of Agreement.
- 8.17 Principles of Interpretation and Definitions. In this Agreement, unless the context requires otherwise: (1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. (2) References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation. (3) References to a "Section" or "section" or "paragraph" shall mean a section or paragraph of this Agreement. (4) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Agreement. (6) "Duties" includes obligations. (7) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word "shall" is mandatory. (9) The word "day" means calendar day. (10) Normal business hours means Monday through Friday from 8:00 a.m. until 5:00 p.m. Eastern Standard Time.
- 8.18 Emergencies. Notwithstanding anything else in this Agreement, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been

declared, CERT shall comply with all guidance and recommendations of the Centers for Disease Control, the State of North Carolina, or Wake County, unless mutually agreed to by Apex and CERT.

- 8.19 Electronic Signatures. Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement 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 Agreement and any related documents. If electronic signatures are used the Agreement shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

In cases of conflict between this Agreement and any of the above incorporated attachments or references, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the contracting parties, by their authorized agents, affix their signatures and seals this ____ day of _____, 2025.

CERT

Town of Apex

(Signature)

Randal E. Vosburg, Town Manager

Title:_____

Attest:

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

(Secretary, if a corporation)

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

(Signature)

Antwan Morrison, Finance Director

Title:_____

Attest:

(Secretary, if a corporation)

Attachment A – Scope of Services

CERT will provide services to the AFD and town at the request of the AFD or town special event staff, subject to capability of CERT to provide said services, to include but not be limited to:

1. Supplement staffing at planned events such as:
 - PeakFest
 - Rotary Christmas Parade
 - Fireworks Frenzy
 - Apex Night Out
 - Other special events, such as festivals, sports events, and parades
 - Provide basic First-aid by trained members, not exceeding their scope of practice
 - Other services at events as needed, including, but not limited to, serving meals, WebEOC operation, and radio operation.
2. Apex Fire Training events and Emergency Incidents
 - Utilizing Volunteer as role players, acting as victims during training exercises and drills
 - Provide rehabilitation for firefighters when requested at training events and during prolonged emergency incidents.
 - Severe weather events or other disasters
 - Shelter Support
 - Crowd control and evacuations
 - Emergency Operations Center support staff
 - Large area search
 - Other Emergency Management support duties as needed
3. Public Education/Outreach
 - Smoke Detector Canvassing, installations, and education with AFD
 - Promote community awareness of potential hazards and preparedness measures through emergency plans, neighborhood exercises, preparedness outreach, fire safety education, and workplace safety.

Attachment B - Volunteer Background Check Policy

Town of Apex Parks, Recreation & Cultural Resources

Department Updated: 04/30/2024

PURPOSE

The Town of Apex Parks, Recreation & Cultural Resources Department (“PRCR”) conducts background checks to prioritize the safety of all of our participants. These checks serve to verify information provided by an applicant while promoting safety and security for program participants.

POLICY

PRCR general policy is as follows:

- A. A **volunteer** is defined as anyone who performs a task at the direction of and on behalf of the Town of Apex without compensation.
- B. **Sensitive positions** are defined as any role that works with vulnerable populations regularly or in unsupervised settings. **Vulnerable populations** are defined as any participant who may be vulnerable due to age or ability (children, seniors, the disabled or those with specialized recreation needs)
- C. **Background checks** will be conducted for any volunteer that will be working with vulnerable populations in sensitive positions. Any questionable items uncovered during a background check may require picture ID or other information to be submitted to PRCR for further consideration.
- D. Any volunteer who refuses to consent to a background check will be removed from consideration for a sensitive position with PRCR.
- E. All information received through the background check process will only be used as part of the volunteer application process and will be kept strictly confidently according to the Fair Credit Reporting Act (FCRA).
- F. No information discovered as a result of the background check will be used to discriminate on the basis of race, color, religion, sex, national origin, political affiliation, qualified disability, or age.
- G. Background check shall be conducted on an annual basis. All volunteers will repeat the background check process one year after initial approval to continue volunteering.

DISQUALIFYING FACTORS

A. If any items are identified during the background check process, the applicant will be sent a pre-adverse letter, a copy of their rights under the FCRA and a copy of the background check report. This does not mean the applicant is automatically disqualified.

B. If an applicant is disqualified due to findings in the background check, an adverse letter will be sent to the applicant stating that they will not be considered for volunteer service opportunities by PRCR. The applicant is able to reapply after the necessary time since the conviction has passed according to the list of disqualifying convictions below.

C. If a volunteer is discovered to have withheld information with the intent to mislead or is found to have falsified information which is deemed pertinent to the volunteer position the volunteer will be disqualified from current and/or future consideration for volunteer service with PRCR.

D. Disqualifying factors will be used to accept and deny volunteer services.

E. A person shall be disqualified and prohibited from serving as a volunteer if the person has been found guilty following trial, entered a plea of guilty, entered a plea of no contest accompanied by a court finding of guilty. The following list includes disqualifying convictions based on offense:

1. Regardless of amount of time since the offense occurred:

- a. All sexually-related offenses
- b. All violence-related felonies
- c. All felonies involving a minor
- d. All violence-related misdemeanors involving a minor
- e. All drug and alcohol-related offenses involving a minor

2. Within the past 10 years:

- a. All felonies not related to sex, violence or involving a minor
- b. All violence-related misdemeanors
- c. More than two drug and/or alcohol related offenses

3. Within the past 5 years:

- a. All other felony or misdemeanors that would be considered a potential danger to vulnerable participants or is directly related to the functions of that volunteer
- b. One or more drug or alcohol related offenses

OTHER DISQUALIFYING FACTORS

A. Any applicant who has been charged with any of the disqualifying offenses above will not be allowed to volunteer until the disposition of the charge.

B. If a volunteer is currently serving in a role or has been previously approved should subsequently have any criminal charges brought against them during their term of service with PRCR, they are required to disclose the nature of the charges to the Volunteer Coordinator. A serving volunteer or approved volunteer who has been charged with any disqualifying offense will have their ability to volunteer suspended until the disposition of the charge.

POLICY REVIEW

A. This policy is subject to review and may be updated at any time by the Parks, Recreation & Cultural Resources Director or the Town of Apex Town Manager.

Questions regarding this policy should be directed to Ellison Lambert, Volunteer Coordinator, at ellison.lambert@apexnc.org or Patrick Fitzsimons, Pleasant Park Manager, at patrick.fitzsimons@apexnc.org.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Chris Johnson, Director

Department(s): Transportation and Infrastructure Development

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Apex Peakway Southwest Connector project requires a 16-inch water line to be constructed under the CSX Transportation rail line for the conveyance of potable water. Since this is a Town project, the construction of the water line, its ongoing operation, and maintenance will fall under a single agreement between the Town and CSX Transportation (Attachment 01).

The license fee for this encroachment is \$5,100. Railroad Protective Liability (RPL) insurance is provided by the contractor installing the water line, S. T. Wooten Corporation. The Agreement has been reviewed by Town legal staff.

Attachment

- CN2-A1: Facility Encroachment Agreement No. CSX1027645- Apex Southwest Peakway Connector Project
- CN2-A2: Exhibit A - Apex Southwest Peakway Connector Project
- CN2-A3: Invoice - Apex Southwest Peakway Connector Project



FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and effective as of December 2, 2024, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and TOWN OF APEX, a municipal corporation, political subdivision or state agency, under the laws of the State of North Carolina, whose mailing address is 73 Hunter Street, Apex, North Carolina 27502, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. One (1) sixteen inch (16") diameter sub-grade pipeline crossing, solely for the conveyance of potable water, located at or near Apex, Wake County, North Carolina, Florence Division, Aberdeen Subdivision, Milepost S-172.36, Latitude N35:43:16.571., Longitude W78:51:52.055.;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes, including but not limited to Licensor's track(s) structures(s), power lines, communication, signal or other wires, train control system, cellular or data towers, or electrical or electronic apparatus, or any appurtenances thereto ("Licensor's Facilities") and any other facilities as now exist or which may in the future be located in, upon, over, under or across the property

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensors.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensors a one-time nonrefundable Encroachment Fee of FIVE THOUSAND ONE HUNDRED AND 00/100 U.S. DOLLARS (\$5,100.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensors' current administrative and document preparation fees for the cost incurred by Licensors in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensors), any additional annual taxes and/or periodic assessments levied against Licensors or Licensors' property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensors shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part. Licensee agrees that it shall not assess Licensors any stormwater or drainage fee associated with such Facilities. Furthermore, Licensee shall be responsible for any stormwater or drainage fees assessed by any County or State agency managing such systems.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensors (CSXT Specifications), or Licensee's particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensors and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensors, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensors' property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives on or adjacent to Licensors' property of any type or perform or cause any blasting on or adjacent to Licensors' property without the separate express written consent of Licensors. As a condition to such consent, a representative will be assigned by Licensors to monitor blasting, and Licensee shall reimburse Licensors for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensors' use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensors, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensors to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensors, shall be construed as an admission of liability or responsibility by Licensors, or as a waiver by Licensors of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensors' safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensors any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from Licensors, or when applicable, an official field representative of Licensors permitted to approve changes, authorizing the necessary field changes and Licensee shall provide Licensors with complete As-Built Drawings of the completed work. As-Built Drawings shall be submitted to Licensors in either electronic or hard copy form upon the substantial completion of the project and upon Licensors' request.

3.11 In the event of large scale maintenance/construction work to railroad bridges Licensee is required to protect power lines with insulated covers or comparable safety devices at their costs during construction/maintenance for safety of railroad employees.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

- (A) support track(s) and roadbed in a manner satisfactory to Licensor;
- (B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and
- (C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

- (A) Restore any track(s), roadbed and other disturbed property; and
- (B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event

future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's Facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of Licensor's Facilities; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 To the fullest extent permitted by State law (constitutional or statutory, as amended), Licensee hereby agrees to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.2 Use of Licensor's rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon Licensor's rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.3 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage; and (d) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any drainage or runoff on or off the Encroachment area as a result of the Facilities/Encroachment herein permitted.

9.4 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities, whether or not such loss(es) result(s) in whole or part from Licensor's contributory negligence or joint fault.

9.5 Obligations of Licensee hereunder to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by,

subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.6 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.7 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

- (i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00).
- (ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement and naming Licensor, and/or its designee, as additional insured. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.
- (iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence naming Licensor, and/or its designee, as additional insured.
- (iv) The insurance policies must contain a waiver of subrogation against CSXT and its Affiliates, except where prohibited by law. All insurance companies must be A. M. Best rated A- and Class VII or better.
- (v) Such other insurance as Licensor may reasonably require.

(vi) Licensee shall require its contractors to meet minimum insurance requirements above when performing work in relation to this agreement. Licensee will procure and review contractor's insurance certificates to confirm requirements are met. Licensor may request a copy of the insurance certificate.

10.2 If Licensee's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 To the extent permitted by law and notwithstanding anything to the contrary in this Agreement, the insurance required and provided by Licensee shall not be subject to the limitations of sovereign immunity.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require its contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor, Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 04 13) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

(B) At Licensor's option, in lieu of purchasing RPL insurance or the 50 foot endorsements from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

11. GRADE CROSSINGS; PROTECTION SERVICES:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, or field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

11.3 Subject to consent of Licensor, in its sole discretion, and subject to Licensor's operating rules and labor agreements, Licensee may provide flagmen, in place of Licensor's provision, at Licensee's sole risk, cost and expense, and in such event, Licensor shall not be liable for the failure or neglect of such flagmen. Such flagmen shall be approved by Licensor and shall meet all Licensor's requirement for performing such work.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or changes to Licensor's Facilities shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:
https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 919-249-3417.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o

CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

17. TITLE:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law

of the State where the Encroachment is located otherwise permits Licensors to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensors, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensors under any other facts or rights, Licensors merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensors continues its own occupation, use or control. Licensors does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensors in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensors's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensors for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensors's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensors's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensors hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensors property.

17.8 In the event that any property of Licensors becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensors; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Within thirty (30) days of an overpayment in a cumulative total amount of One Hundred Dollars (\$100.00) or more by Licensee to Licensor, Licensee shall notify Licensor in writing with documentation evidencing such overpayment. Licensor shall refund the actual amount of Licensee's overpayment within one hundred twenty (120) days of Licensor's verification of such overpayment.

18.10 This Agreement may be executed in any number of counterparts, and such counterparts may be exchanged by electronic transmission. Upon execution by the parties hereto, each counterpart shall be deemed an original and together shall constitute one and the same instrument. A fully executed copy of this Agreement by electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

Witness for Licensor:

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee:

TOWN OF APEX

Allen L. Coleman, CMC, NCCCC
Town Clerk

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

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

Print/Type Name: Randal E. Vosburg

Print/Type Title: Town Manager

Antwan Morrison, Finance Director

Tax ID No.: 56-6001166

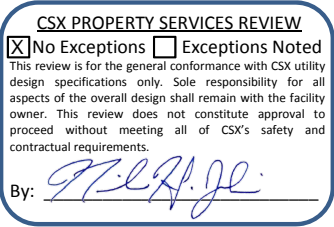
Authority under Ordinance or

Resolution No. _____,

Dated _____.

JACK AND BORE

Apex, Wake County, North Carolina | Florence Division, Aberdeen Subdivision
Mile Post S 172.36 | Latitude Longitude: 35.72127, -78.86446



CSXT GENERAL NOTES:

1. CSXT owns its right-of-way for the primary purpose of operating a railroad, and shall maintain unrestricted use of its property for current and future operations.
2. Agency or its contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damages to CSXT’s property, or to poles, wires, and other facilities of tenants of CSXT’s property or right-of-way.
3. Refer to the CSXT’s “Design & Construction Standard Specifications Pipeline Occupancies” revised June 5, 2018 (4.1.2).
4. Work schedule is subject to the approval of all required construction submittals by the CSXT Construction Representative, verification that proposed work will not conflict with any CSXT U.G. Facilities, and the availability of CSXT Flagging and Protection Services. Construction submittals will be based upon the proposed scope of work and may include, but are not limited to; proposed work plan, project schedule, means and methods, site access, dewatering, temporary excavation/shoring, soil disposition/management, track monitoring, concrete placement work, structural lifting/rigging plans for hoisting operations, substructure construction plans, steel erection plans, roadwork plans, etc. No work may begin on, over, or adjacent to CSXT property, or that could potentially impact CSXT property, operations or safety without the prior completion and approval of the required aforementioned information and approvals.
5. Prior to construction, all signal facilities and/or warning devices at proposed facility crossing, i.e. cantilevers, flashers, and gates must be located and marked/flagged by CSXT. The traditional “One Call” utility locate services are not responsible for locating any CSX under-grade utilities or facilities Contractor shall be held liable for any damages to CSXT communication & signal facilities.
6. Contractor also has the sole responsibility of ascertaining that all other utilities have been properly located by complying with the local “call before you dig” regulation(s). Contractor shall solely be responsible for notifying owners of adjacent properties and of underground facilities and utility owners when prosecution of the work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.
7. The use of construction safety fencing is required when a CSXT Flagman is not present. Distance of fencing from nearest rail to be determined by the CSXT Track Supervisor and shall be removed upon completion of the project.
8. Contractor access will be limited to the immediate project area only. The CSXT property outside the project area may not be used for contractor access to the project site and no temporary at-grade crossings will be allowed.
9. All material and equipment will be staged to not block any CSXT access or maintenance roads. No hoisting or auxiliary equipment necessary for the procedure shall be placed on CSXT track structure and / or ballast section. Clear working locations for equipment used will be laid out and approved by CSXT’s representative prior to equipment set-up. Agency and contractor shall not store their materials or equipment on CSXT’s property or where they may potentially interfere with CSXT’s operations.
10. CSXT does not grant or convey an easement for this installation.
11. CSXT requires contractors, subcontractors, and vendors to participate in job safety briefings daily and as necessary with the CSXT flagger. The scope of work may require that various protection against train movements be discussed, understood, and utilized. Work shall only be undertaken with the presence and permission of the CSXT flagger. If at any time the CSXT flagger perceives that the hoisting procedure is causing or has the potential to cause a hazard or delay to CSXT operations through the project site, work will cease until such time as satisfactory modifications have been reviewed and approved.
12. Erosion and Sedimentation Control (E&SC) – Clearing and grubbing operations shall not adversely impact the stability of CSXT property. Temporary (and permanent) erosion and sedimentation (E&S) control devices shall be provided to prevent the flow of sediment onto and adjacent to CSXT property. The addition of permanent E&SC control Best Management Practices (BMP) devices may be required at the project’s expense. E&SC devices shall not restrict or prevent access to CSXT operations and shall be maintained by the contractor for the life of the project. No additional drainage (construction or permanent) may be directed onto CSXT property. Upon completion of the project, contractor shall remove all temporary erosion and sedimentation control devices used during construction activities from CSXT’s property.
13. The right of way shall be restored to a condition equal to or better than the condition prior to beginning the project before final acceptance will be provided. Punch lists shall be responded to prior to issuance of an acceptance memorandum signed by the CSXT representative.
14. No construction or entry upon the CSXT corridor is permitted until the document transaction is completed, you are in receipt of a fully executed document, and you have obtained authority from CSXT’s.
15. CSX does not represent or warrant the right-of-way dimensions depicted on these drawings. A third party survey is recommended for verification and accuracy.
16. Upon completion of project construction, contractor must submit to CSX the as-built plans showing the final alignment on CSXT property, including actual depth of facility and any field change to location on CSXT property, pipe materials, number of innerducts, etc.
17. The front of the pipe shall be provided with mechanical arrangements or devices that will positively prevent the auger from leading the pipe so that no unsupported excavation is ahead of the pipe. The bore head / auger set-up (sketch or photos) shall be submitted by contractor and accepted by assigned CSXT representative prior to start of the jack & bore.
18. The operation shall be progressed on a 24-hour basis without stoppage (except for adding lengths of pipe) until the leading edge of the pipe has reached the receiving pit.
19. The auger and cutting head arrangement shall be removable from within the pipe in the event an obstruction is encountered.
20. Pipeline shall be prominently marked at both sides of the CSXT property lines by durable, weatherproof signs located over the centerline of the pipe in accordance with CSXT specifications.
21. If required, a dewatering plan in accordance with CSXT specifications will be submitted to the CSXT representative for review and approval prior to any dewatering operations. Dewatering drawdown level at tracks shall be field verified that it meets the approved dewatering design prior to commencement of jack and bore operations.
22. Blasting is not permitted under, on, or adjacent to CSXT property.
23. Jacking pit: identify hazards and put controls in place prior to start of excavation. Contractor shall erect a barrier and construction fence along the face of jacking pit construction limits and not encroach past it when preparing the pit. Stake or mark pit as needed for digging. Erosion control devices shall be placed at the jacking and receiving pits protecting CSXT property and ditches to the satisfaction of the CSXT representative.
24. Excavation: If the excavation is 5 feet or greater in depth, the walls may be sloped at 1.5 horizontal to 1 vertical to reduce the risk of cave-ins or slides. A safe manner in which to enter and exit the excavation must be established. The toe of slopes in excavation shall in no case be undercut by power shovels, bulldozers, graders, blasting, or in any manner. Excavation shall not be made in excess of the authorized cross-section.
25. Backfill, cover or fence all excavations when unattended. The CSXT representative will approve the protection method and the type of fencing material. Set fencing back at least 3 feet (91 centimeters) from the edges of the excavation. Set fence posts securely in the ground and insure the fencing is securely tied to posts with zip ties or some other tie wrap product.
26. For any excavations permitted on CSXT property, all backfill in excavations and trenches shall be compacted to 95% maximum dry density as defined in ASTM standard d1557 and installed in six-inch lifts. In-situ soil shall be used for backfill material. Should additional offsite backfill material be needed, offsite material sources are to meet state and residential clean fill requirements and be preapproved by CSXT’s representative. CSXT does not require a specific testing requirement or standard for stone.

JACK AND BORE

- 27. Track monitoring: prior to commencing jack & bore operations, contractor shall be required to conduct and submit a baseline survey along the top of each rail under CSXT flagger protection and in accordance with the preapproved settlement monitoring construction submittal. Additional survey data shall be collected and submitted once each day during casing pipe installation, or as directed by CSXT representative. Contractor shall also take elevation shots at top of tie and top of casing pipe before starting the bore to verify depth of cover proposed for the work has been met.
- 28. Projects that generate soils from CSXT property must adhere to CSXT’s soil management policies. CSXT requires soils generated from its property to either be reused on CSXT property or properly disposed in a CSXT approved disposal facility. CSXT environmental department will handle waste characterization and profiling into an approved disposal facility. CSXT prohibits any environmental sampling on its property unless granted through a written environmental right-of-entry or approved in writing by the CSXT environmental department. The management of soils generated from CSXT property should be planned for and properly permitted (if applicable) prior to initiating any work on CSXT property. A list of CSXT approved laboratories and/or disposal facilities may be obtained from the CSXT manager environmental programs.

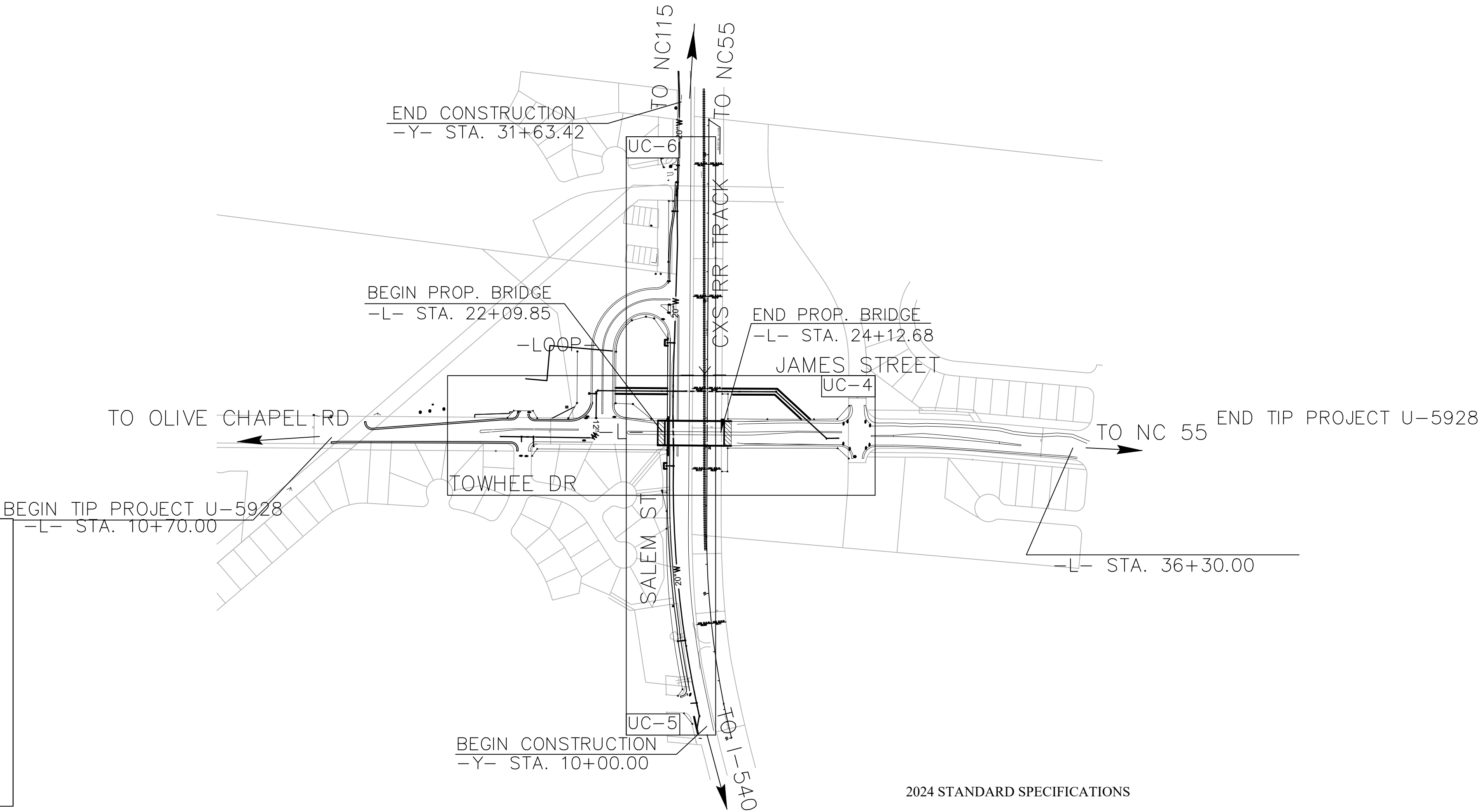
TIP PROJECT: U-5928

STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS

T.I.P. NO.	SHEET NO.
U-5928	UC-1

UTILITY CONSTRUCTION PLANS
WAKE COUNTY

LOCATION: JAMES STREET TO TOWHEE DRIVE
CONSTRUCT GRADE SEPARATED INTERCHANGE FOR APEX
PEAKWAY AT SOUTH SALEM STREET AND CSX RAILROAD
TYPE OF WORK: WATER LINE RELOCATION



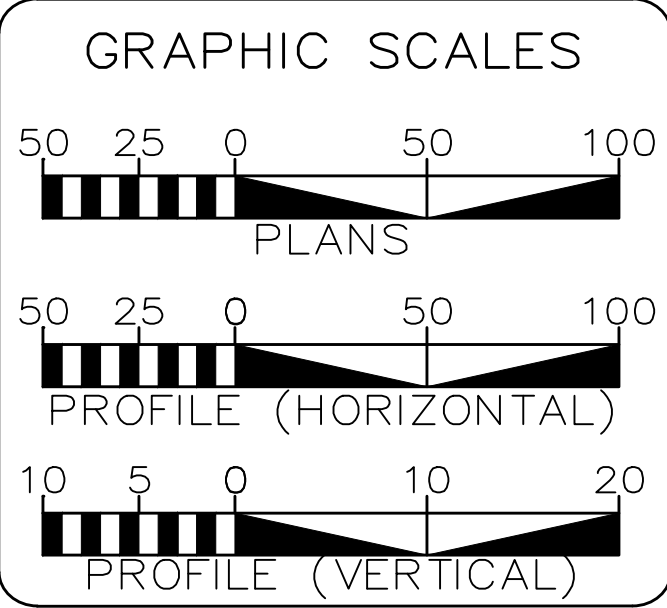
The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

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

2024 STANDARD SPECIFICATIONS

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

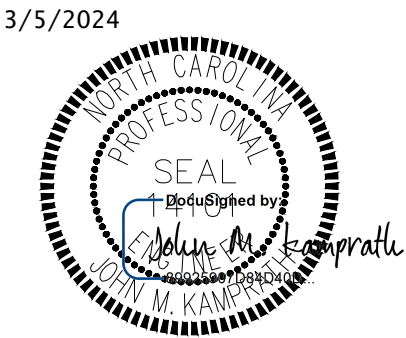
DOCUMENT NOT CONSIDERED FINAL
UNTIL ALL SIGNATURES ARE COMPLETED



SHEET NO.:	DESCRIPTION:
UC-1	TITLE SHEET
UC-2	UTILITY SYMBOLOGY
UC-3 & UC-3A	NOTES
UC-3C & UC-3D	DETAILS
UC-4 THRU UC-6	PLAN & PROFILE SHEETS

WATER AND SEWER OWNERS ON PROJECT
(A) WATER TOWN OF APEX (B) SANITARY SEWER TOWN OF APEX
LETTING DATE: ?? 2024

PREPARED IN THE OFFICE OF	
 VHB Engineering NC, P.C. (C-3705) 940 Main Campus Drive, Suite 500 Raleigh, NC 27606	
JOHN M. KAMPRATH, PE	CONSULTANT CONTACT #1
BRANDON T. BARHAM, PE	CONSULTANT CONTACT #2
TIM GOINS, PE	CONSULTANT CONTACT #3



 DIVISION OF HIGHWAYS UTILITIES UNIT 1555 MAIL SERVICES CENTER RALEIGH, NC 27699-1555 PHONE (919) 707-6690 FAX (919) 250-4151	
DONALD PROPER	UTILITIES REGIONAL ENGINEER
JAMES SWINSON	UTILITIES ENGINEER
XXXX	UTILITIES AREA COORDINATOR
MONROE BROWN	UTILITIES COORDINATOR

STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS

vhb
VHB Engineering NC, P.C. (C-3705)
940 Main Campus Drive, Suite 500
Raleigh, NC 27606



PROJECT REFERENCE NO.	SHEET NO.
U-5928	UC-2

UTILITIES PLAN SHEET SYMBOLS

PROPOSED WATER SYMBOLS

Water Line (Sized as Shown)	12" WL
11¼ Degree Bend	+
22½ Degree Bend	+X
45 Degree Bend	+X
90 Degree Bend	+
Plug	+
Tee	+
Cross	+
Reducer	▶
Gate Valve	GV
Butterfly Valve	BV
Tapping Valve	TGV
Line Stop	LS
Line Stop with Bypass	LS/BP
Blow Off	BO
Fire Hydrant	PFH
Relocate Fire Hydrant	RFH
Remove Fire Hydrant	REM FH
Water Meter	PWM
Relocate Water Meter	RWM
Remove Water Meter	REM WM
Water Pump Station	PST(W)
RPZ Backflow Preventer	RPZ
DCV Backflow Preventer	PBFP
Relocate RPZ Backflow Preventer	RRPZ
Relocate DCV Backflow Preventer	PBFP

PROPOSED SEWER SYMBOLS

Gravity Sewer Line (Sized as Shown)	12" SS
Force Main Sewer Line (Sized as Shown)	12" FS
Manhole (Sized per Note)	•
Sewer Pump Station	PST(SS)

PROPOSED MISCELLANOUS UTILITIES SYMBOLS

Power Pole	⦿
Telephone Pole	⦿
Joint Use Pole	⦿
Telephone Pedestal	TEL PED
Utility Line by Others (Type as Shown)	PROP O/H POW LINES
Trenchless Installation	12" TL INSTALL
Encasement by Open Cut	24" ENCAS BY OC
Encasement	24" ENCASEMENT

Thrust Block	I
Air Release Valve	AR
Utility Vault	UV
Concrete Pier	CP
Steel Pier	SP
Plan Note	NOTE
Pay Item Note	PAY ITEM

EXISTING UTILITIES SYMBOLS

Power Pole	•
Telephone Pole	•
Joint Use Pole	•
Utility Pole	•
Utility Pole with Base	□
H-Frame Pole	••
Power Transmission Line Tower	⊠
Water Manhole	⊗
Power Manhole	⊗
Telephone Manhole	⊗
Sanitary Sewer Manhole	⊗
Hand Hole for Cable	⊠
Power Transformer	⊠
Telephone Pedestal	⊠
CATV Pedestal	⊠
Gas Valve	◇
Gas Meter	◇
Located Miscellaneous Utility Object	○
Abandoned According to Utility Records	AATUR
End of Information	E.O.I.

*Underground Power Line	_____
*Underground Telephone Cable	_____
*Underground Telephone Conduit	_____
*Underground Fiber Optics Telephone Cable	_____
*Underground TV Cable	_____
*Underground Fiber Optics TV Cable	_____
*Underground Gas Pipeline	_____
Aboveground Gas Pipeline	A/G Gas
*Underground Water Line	_____
Aboveground Water Line	A/G Water
*Underground Gravity Sanitary Sewer Line	SS
Aboveground Gravity Sanitary Sewer Line	A/G Sanitary Sewer
*Underground SS Forced Main Line	_____
Underground Unknown Utility Line	_____
SUE Test Hole	⦿
Water Meter	⊠
Water Valve	⊗
Fire Hydrant	◇
Sanitary Sewer Cleanout	⊗

*For Existing Utilities	
Utility Line Drawn from Record (Type as Shown)	_____
Designated Utility Line (Type as Shown)	_____

CONSTRUCTION

Salem Waterline Line and Curve Data

No.	Delta	Radius	Length	Bearing	Ch. Dist.	Start Northing	Start Easting	End Northing	End Easting
L1		19.91'		N73°13'38"E		717393.44	2039060.45	717399.19	2039079.51
L2		43.07'		S84°27'13"E		717399.19	2039079.51	717395.03	2039122.38
C1	012°25'45"	3638.12'	789.21'	N78°30'22"E	787.66'	717395.03	2039122.38	717551.98	2039894.24
L3		124.47'		N85°27'19"E		717551.98	2039894.24	717561.84	2040018.32
L4		121.11'		N84°05'07"E		717561.84	2040018.32	717574.32	2040138.79
L5		139.14'		N85°24'41"E		717574.32	2040138.79	717585.46	2040277.48
L6		449.28'		N86°52'10"E		717585.46	2040277.48	717609.99	2040726.09
L7		93.98'		N84°09'35"E		717609.99	2040726.09	717619.55	2040819.58
L8		184.63'		N85°55'47"E		717619.55	2040819.58	717632.66	2041003.74
L9		62.66'		N87°33'53"E		717632.66	2041003.74	717635.32	2041066.34
C2	003°18'24"	1800.00'	103.88'	N85°54'41"E	103.86'	717635.32	2041066.34	717642.73	2041169.94
L10		76.66'		N84°15'29"E		717642.73	2041169.94	717650.40	2041246.22
C3	003°28'10"	1854.99'	112.32'	N83°05'44"E	112.30'	717650.40	2041246.22	717663.90	2041357.71

-W- Line and Curve Data

No.	Delta	Radius	Length	Bearing	Ch. Dist.	Start Northing	Start Easting	End Northing	End Easting
L11		42.18'		N05°45'31"W		717002.84	2040109.84	717044.81	2040105.60
L12		234.70'		N37°36'41"E		717044.81	2040105.60	717230.73	2040248.84
L13		608.71'		N04°37'50"W		717230.73	2040248.84	717837.46	2040199.70
L14		608.71'		N04°37'50"W		717230.73	2040248.84	717837.46	2040199.70
L15		7.08'		N49°35'05"W		717837.46	2040199.70	717842.05	2040194.31
L16		143.37'		S85°26'57"W		717842.05	2040194.31	717830.67	2040051.40
L17		18.00'		N49°37'50"W		717830.67	2040051.40	717842.33	2040037.68
L18		241.80'		N04°13'13"W		717842.33	2040037.68	718083.48	2040019.89
L19		73.16'		N04°12'38"W		718083.48	2040019.89	718156.44	2040014.52

NOTES KEYED TO PLAN

1. CONNECT TO EX. WATERLINE WITH THRUST COLLAR
2. ~180 LF 16" DIP WATERLINE JACK AND BORE INSTALLATION WITH 36" DIA (0.532" THICK) UNCOATED SPIRAL WELDED STEEL MEETING ASTM A-139, GRADE B WITH A YIELD STRENGTH OF 35,000 PSI. JOINTS TO BE BUTT WELDED. SEE DETAIL, SHEET UC-3D. CARRIER PIPE THICKNESS DUE TO CSX CROSSING REQUIREMENTS. ALL CSX REQUIREMENTS ARE TO BE MET WITH THIS INSTALLATION. WATERLINE TO BE WRAPPED IN TWO LAYERS OF 6 MIL POLYETHYLENE FILM WRAP FOR THE LENGTH OF THE CASING.
3. ~120 LF 20" DIP WATER LINE CARRIER PIPE INSIDE 42" DIA (0.312" THICK) UNCOATED SPIRAL WELDED STEEL PIPE MEETING ASTM A-139, GRADE B WITH A YIELD STRENGTH OF 35,000 PSI (42" ENCASEMENT PIPE). 42" WELDED STEEL PIPE SHALL BE INSTALLED BY JACK AND BORE OPERATION. JOINTS TO BE BUTT WELDED. SEE DETAIL, SHEET UC-3D. WATER LINE TO BE WRAPPED IN TWO LAYERS OF 8 MIL POLYETHYLENE FILM WRAP FOR THE LENGTH OF THE CASING.
4. ~60 LF 20" RJDIP WATER LINE OPEN CUT INSTALLATION. WATERLINE TO BE WRAPPED IN TWO LAYERS OF 8 MIL POLYETHYLENE FILM WRAP FOR 60 LF LEADING TO THE EASEMENT (~180 LF WRAPPED). MAINTAIN MINIMUM 18" VERTICAL SEPARATION FROM COLONIAL PIPELINE CASING MATERIALS. NO WORK TO OCCUR WITHIN COLONIAL PIPELINE EASEMENT UNTIL EXISTING CASING HAS BEEN EXTENDED PAST PROPOSED RIGHT-OF-WAY. ALL COLONIAL PIPELINE REQUIREMENTS ARE TO BE MET WITH THIS INSTALLATION.
5. REMOVE EXISTING MANHOLE AND APPROXIMATELY 15 LF OF 8" SEWER. SET NEW MANHOLE. RIM: 457.10' INVERT OUT: 449.90'. SEE DETAILS, SHEET UC-3D.
6. 45° BEND C/W FACTORY RESTRAINED JOINTS AND CONCRETE REACTION BLOCKING. SEE DETAIL 600.13 ON SHEET UC-3C.
7. INSTALL FIRE HYDRANT ASSEMBLY. SEE DETAIL SHEET UC-3C.
8. INSTALL 20" BLOW-OFF ASSEMBLY. SEE DETAIL SHEET UC-3C.

Notes

Town of Apex Notes:

1. ALL WATER LINES SHALL BE INSTALLED WITH A MINIMUM OF 3 FEET OF COVER.
2. MAINTAIN 18" MINIMUM VERTICAL SEPARATION BETWEEN UTILITIES.
3. VERIFY ALL ILLUSTRATED UTILITY CROSSINGS PRIOR TO CONSTRUCTION AND NOTIFY THE ENGINEER IF CONFLICTS ARE ENCOUNTERED.
4. CONTRACTOR SHALL COORDINATE UTILITY RELOCATION OR ABANDONMENT WITH LOCAL UTILITY COMPANIES AS REQUIRED.
5. WATER SHALL BE AT LEAST 10 FEET LATERALLY FROM EXISTING OR PROPOSED SEWERS. WHERE LOCAL CONDITIONS PREVENT A SEPARATION OF 10 FEET, THE WATER MAIN MAY BE LAID CLOSER, PROVIDED THAT THE ELEVATION OF THE BOTTOM OF THE WATER MAIN IS AT LEAST 18 INCHES ABOVE THE TOP OF THE SEWER WITH A HORIZONTAL SEPARATION OF AT LEAST 3 FEET.
6. ALL GATE VALVES SHALL BE APPROVED BY THE TOWN OF APEX. BUTTERFLY VALVES ARE NOT APPROVED FOR USE.

Notes

1. PRIOR TO COMMENCING ANY WORK ON ANY TRENCHLESS INSTALLATION ON THIS PROJECT, PROVIDE A DESIGN FOR THE TRENCHLESS INSTALLATION CERTIFIED BY AN ENGINEER LICENSED IN THE STATE OF NORTH CAROLINA, AS REQUIRED BY SUBARTICLE 1550-3(B) OF THE STANDARD SPECIFICATIONS.

LEGEND

- EX. WATERLINE
- 16" W

PROPOSED DIP WATERLINE
- 16" W

PROPOSED RJDIP WATERLINE
- TRENCHLESS INSTALLATION (JACK AND BORE)
- DRY UTILITY DUCT BANK
- PUBLIC UTILITY EASEMENT
- EX. WATERLINE TO BE REMOVED OR ABANDONED

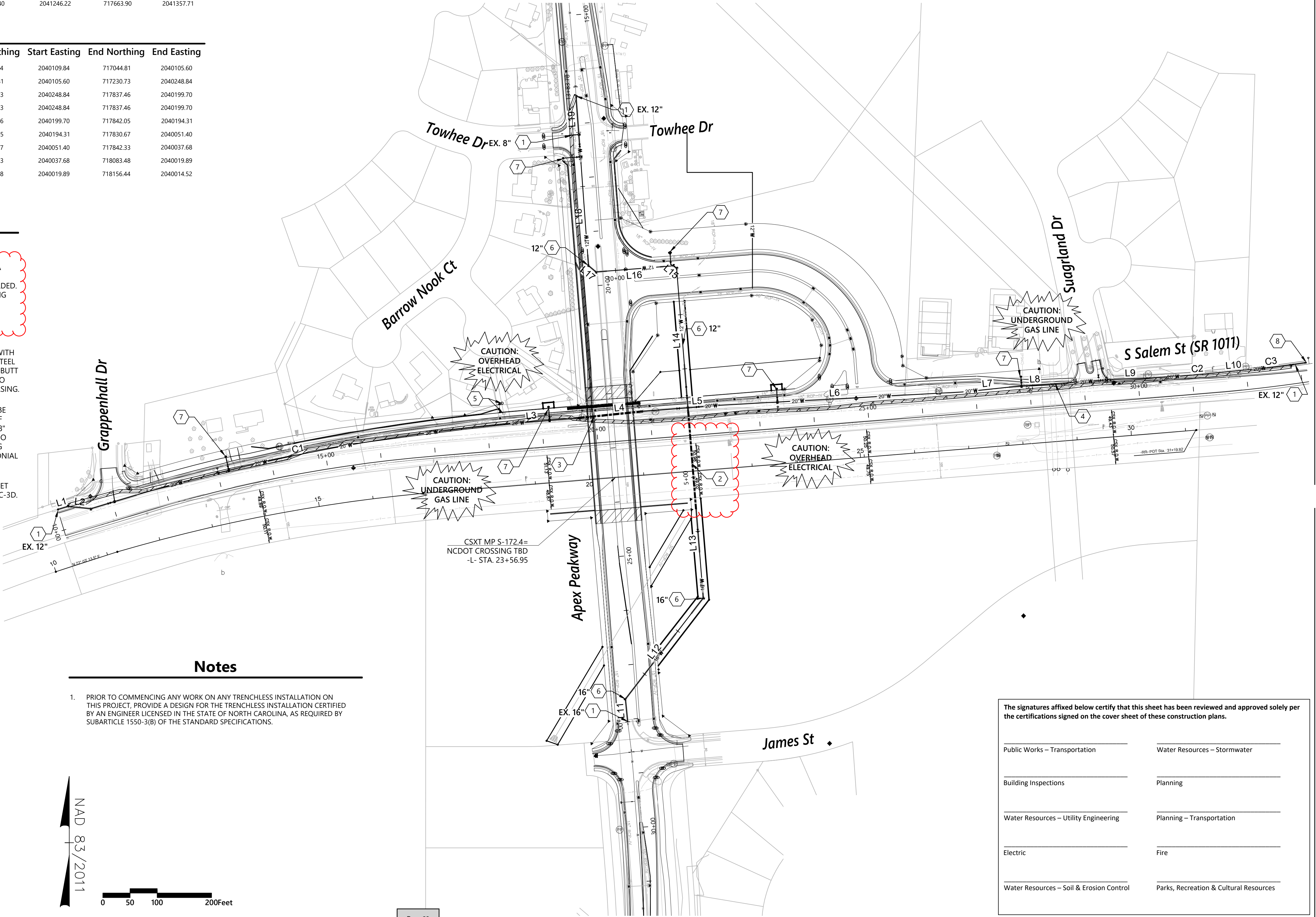


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940 Main Campus Drive, Suite 500
Raleigh, NC 27606

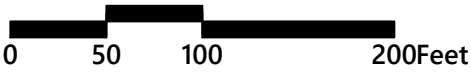
PROJECT REFERENCE NO.	SHEET NO.
U-5928	UC-3B
DESIGNED BY: JK	<div>ENGINEER JOHN M. KAMPF 14101 NORTH CAROLINA REGISTERED PROFESSIONAL 6/28/2024</div>
DRAWN BY: JT	
CHECKED BY: JK	
APPROVED BY: TG	
REVISED:	
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION	
UTILITIES ENGINEERING SEC. PHONE: (919)707-6690 FAX: (919)250-4151	UTILITY CONSTRUCTION PLANS ONLY

UTILITY CONSTRUCTION

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UNLESS ALL SIGNATURES COMPLETED



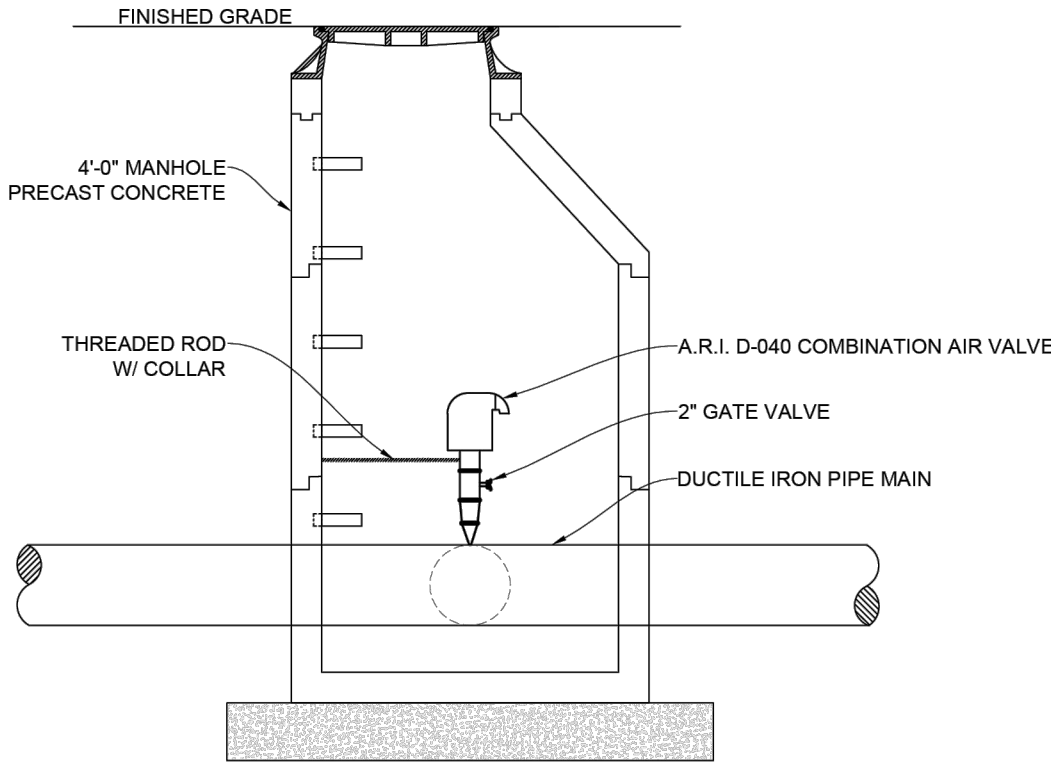
NAD 83/2011



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

- NOTES:
1. TAP SIZE AND ISOLATION VALVE TO BE SAME SIZE AS AIR VALVE.
 2. ALL PIPING AND FITTINGS IN THE MANHOLE SHALL BE BRASS OR BRONZE UNLESS NOTED OTHERWISE.
 3. MANHOLE STEPS SHALL BE PLACED 16" O.C. WHEN DEPTH OF MANHOLE EXCEEDS 4 FEET.
 4. MANHOLE INTERIOR SHALL BE EPOXY COATED IN THE CASE OF SEWER.



TOWN OF APEX STANDARDS	AIR RELEASE MANHOLE FOR WATER MAINS	STD. NO. 600.12
EFFECTIVE: NOVEMBER 20, 2007		SHEET 1 OF 1

Diagram showing the installation of a Bore & Jack system. The diagram illustrates a carrier pipe being installed under an existing road, supported by mechanical supports. The carrier pipe is grouted and blocked to seal the high side of the carrier pipe. The depth of the bore is indicated as per plan @ .05% slope minimum. The carrier pipe is shown with a 4'-0" diameter and a 1'-0" thickness. The diagram also shows the installation of a mechanical joint pipe and a tapping plug.

NOTES:

1. CASING SHALL BE UNCOATED SPIRAL WELDED STEEL MEETING ASTM A-139, GRADE B WITH A YIELD STRENGTH OF 35,000 PSI.
2. CROSSINGS ON NCDOT MAINTAINED ROADS TO BE IN ACCORDANCE WITH CURRENT NCDOT STANDARDS AND APPROVED ENCROACHMENT AGREEMENT.
3. RESTRAINED JOINT PIPE ONLY. MEGE-LUGS ARE NOT PERMITTED.
4. SUPPORTS SHALL BE MANUFACTURED BY ADVANCE PRODUCTS & SYSTEMS, INC. PIPELINE SEAL AND INSULATOR LTD. OR BWM COMPANY.
5. THREE SUPPORTS SHALL BE INSTALLED ON EACH PIPE SEGMENT.
6. LARGER ENCASEMENT SIZES MAY BE UTILIZED AT THE DISCRETION OF THE DESIGN ENGINEER AND/OR CONTRACTOR FOR EASE OF INSTALLATION AS LONG AS ALL OTHER DESIGN CRITERIA IS MET.
7. ALL PIPES 36" AND LARGER SHALL REQUIRE 4 SUPPORTS.

Carrier Pipe Nominal Diameter (inches)	Casing Minimum Inside Diameter (inches)	Casing Nominal Wall Thickness (inches)
6	14	0.375
8	16	0.375
10	18	0.375
12	20	0.375
14	24	0.375
16	30	0.500
18	30	0.500
20	36	0.500
24	36	0.625
30	42	0.625
36	48	0.750
42	54	0.875

TOWN OF APEX STANDARDS	BORE & JACK	STD. NO. 450.06
EFFECTIVE: MARCH 23, 2021		SHEET 1 OF 1

Diagram showing the installation of a Thrust Collar. The diagram illustrates a concrete thrust collar (3000 PSI) being installed on a main pipe. The collar is shown in plan and section Z-Z. The plan view shows the collar with an anchor ring and a tapping plug. The section Z-Z view shows the collar with a concrete thrust collar (3000 PSI) and a mechanical joint pipe. The diagram also shows the installation of a tapping plug and a mechanical joint pipe.

PIPE DIAMETER	CONCRETE THRUST COLLAR	ANCHOR RING	RINGS REQUIRED
6"/8"/12"	A	B	C
16"	1'-0"	1'-0"	2"
20"	1'-4"	1'-0"	3"
24"	1'-4"	1'-0"	3"
30"	1'-4"	1'-2"	4"
36"	1'-4"	1'-4"	4"

TOWN OF APEX STANDARDS	THRUST COLLAR INSTALLATION	STD. NO. 600.11
EFFECTIVE: DECEMBER 3, 2002		SHEET 1 OF 1

- NOTES:
1. FOR DEAD END MANHOLES, THE INVERT SHALL BE EXTENDED THROUGH THE MANHOLE.
 2. ON THE INTERIOR OF THE MANHOLE, ALL JOINTS BETWEEN SECTIONS SHALL BE PARGED WITH NON-SHRINK GROUT.
 3. ON THE INTERIOR OF ALL MANHOLES, ALL JOINTS BETWEEN SECTIONS SHALL BE PARGED WITH PRECO-PLUG QUICK SETTING GROUT.
 4. ON THE EXTERIOR OF ALL MANHOLES, ALL JOINTS BETWEEN SECTIONS SHALL BE CONTINUOUSLY WRAPPED WITH 12" WIDE WATERPROOF BITUMINOUS TAPE.
 5. SEWER MANHOLES WITHIN 1200 FEET OF FORCE MAIN CONNECTION SHALL HAVE INTERIOR EPOXY COATED.

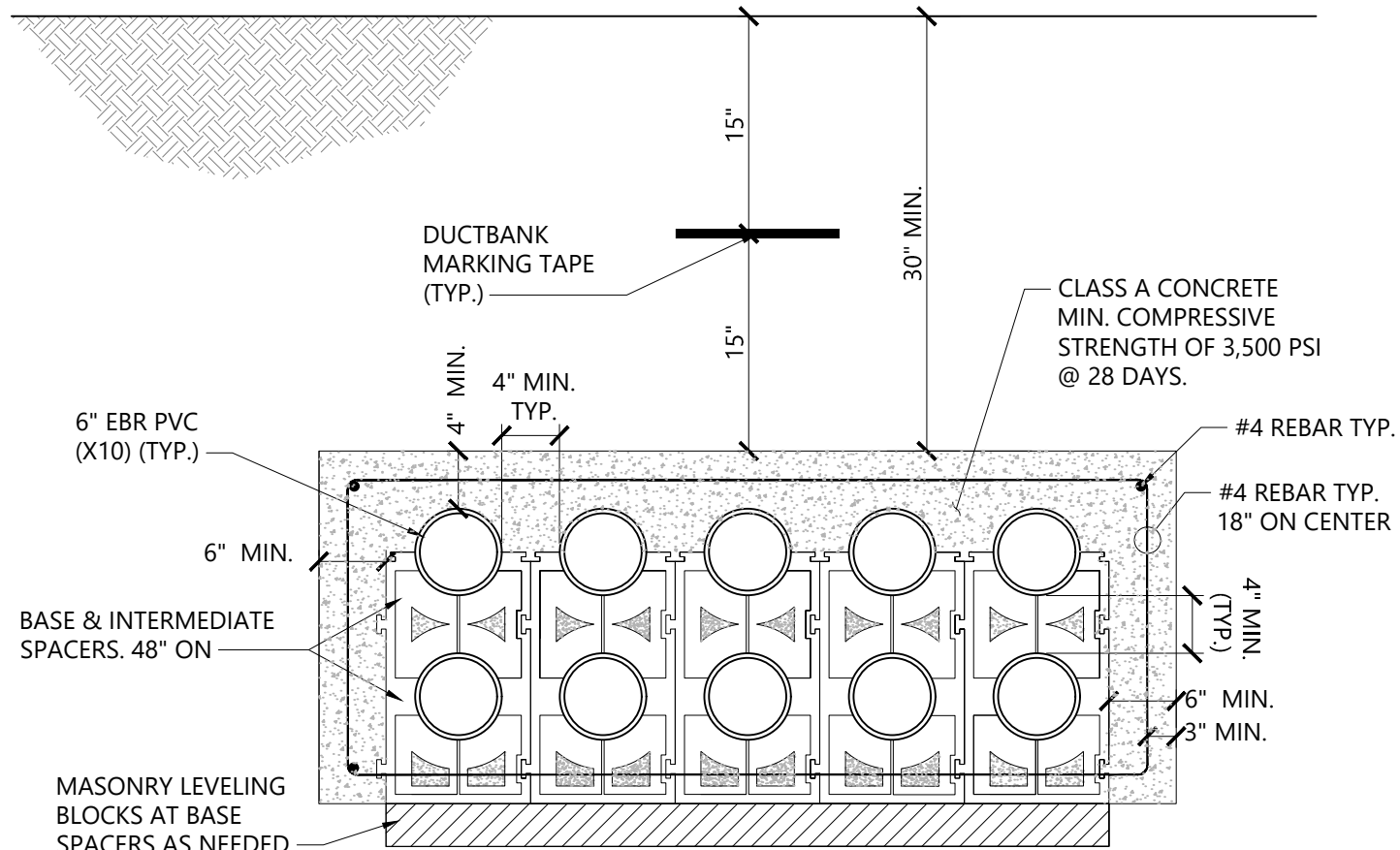
TOWN OF APEX STANDARDS	PRECAST MANHOLE TRAFFIC RATED	STD. NO. 700.04
EFFECTIVE: APRIL 12, 2022		SHEET 1 OF 3

Diagram showing the installation of Restrained Joints on Mechanical Joint Pipe & Fittings. The diagram illustrates a mechanical joint pipe with a tapping plug and a mechanical joint pipe. The diagram also shows the installation of a tapping plug and a mechanical joint pipe.

RESTRAINED JOINTS ON MECHANICAL JOINT PIPE & FITTINGS

COVER DIA. MAIN	DEGREE OF ELBOW						REDUCER (LARGE SIDE ONLY)	
	11.25°	22.5°	45°	90°	VERTICAL OFFSET 45°			
	3'	3'	3'	3'	UPPER BEND (3')	LOWER BEND (3')	3'	3'
6"	2'	5'	10'	25'	15'	10'	15'	20'
8"	4'	6'	14'	33'	25'	15'	30'	40'
12"	5'	10'	20'	50'	30'	20'	55'	45'
16"	7'	13'	28'	67'	45'	30'	80'	45'
20"	8'	17'	35'	84'	55'	35'	105'	45'

TOWN OF APEX STANDARDS	RESTRAINED JOINT DETAIL	6/14/19
N.T.S.	Source: VHB	0



- NOTES:
1. GEOTECH TEST, IN ACCORD WITH ASTM D698, THE BOTTOM OF EXCAVATION TO ACHIEVE 98% OF MAXIMUM DRY DENSITY, PRIOR TO CONCRETE PLACEMENT.

DRY UTILITY DUCT BANK DETAIL	11/12/18
N.T.S.	Source: VHB
	0

Diagram showing the installation of Valves (Non-Dead End) 8" and Smaller. The diagram illustrates a valve with a restrained joint and a standard joint. The diagram also shows the installation of a restrained joint and a standard joint.

VALVES (NON-DEAD END) 8" AND SMALLER

Diagram showing the installation of Valves (Non-Dead End) 12" and Larger. The diagram illustrates a valve with a restrained joint and a standard joint. The diagram also shows the installation of a restrained joint and a standard joint.

VALVES (NON-DEAD END) 12" AND LARGER

Diagram showing the installation of Reducers - Larger Pipe Diameter is 8" or Smaller. The diagram illustrates a reducer with a restrained joint and a standard joint. The diagram also shows the installation of a restrained joint and a standard joint.

REDUCERS - LARGER PIPE DIAMETER IS 8" OR SMALLER

Diagram showing the installation of Reducers - Larger Pipe Diameter is 12" or Larger. The diagram illustrates a reducer with a restrained joint and a standard joint. The diagram also shows the installation of a restrained joint and a standard joint.

REDUCERS - LARGER PIPE DIAMETER IS 12" OR LARGER

TYP. RESTRAINING FOR VALVES AND REDUCERS	6/14/19
N.T.S.	Source: VHB
	0



VHB Engineering NC, P.C. (C-3705)
940 Main Campus Drive, Suite 500
Raleigh, NC 27606

PROJECT REFERENCE NO.	SHEET NO.
U-5928	UC-3D
DESIGNED BY: JK	3/5/2024 NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SEAL 14101 DESIGNED BY VHB ENGINEERING NC, P.C. NOT A PROFESSIONAL SEAL
DRAWN BY: JT	
CHECKED BY: JK	
APPROVED BY: TG	
REVISED:	UTILITY CONSTRUCTION PLANS ONLY
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION	
UTILITIES ENGINEERING SEC. PHONE: (919) 707-6690 FAX: (919) 250-4151	

UTILITY CONSTRUCTION
DOCUMENT NOT CONSIDERED FINAL
UNLESS ALL SIGNATURES COMPLETED

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

5/14/99

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

NOTES KEYED TO PLAN

- CONNECT TO EX. 16" WATERLINE W/ THRUST COLLAR PRIOR TO CONNECTION.
- CONNECT TO EX. 12" WATERLINE W/ THRUST COLLAR PRIOR TO CONNECTION.
- EXTEND EXISTING 8" WATERLINE AND CONNECT WITH 12" X 8" TEE. RESTRAIN VALVE WITH THRUST COLLAR AND RODS PRIOR TO NEW CONNECTION.
- ~180 LF 16" DIP WATERLINE JACK AND BORE INSTALLATION WITH 36" DIA (0.532" THICK) UNCOATED SPIRAL WELDED STEEL MEETING ASTM A-139, GRADE B WITH A YIELD STRENGTH OF 35,000 PSI. JOINTS TO BE BUTT WELDED. SEE DETAIL, SHEET UC-3D. CARRIER PIPE THICKNESS DUE TO CSX CROSSING REQUIREMENTS. ALL CSX REQUIREMENTS ARE TO BE MET WITH THIS INSTALLATION. WATERLINE TO BE WRAPPED IN TWO LAYERS OF 6 MIL POLYETHYLENE FILM WRAP FOR THE LENGTH OF THE CASING.
- AIR RELEASE MANHOLE. SEE DETAIL, SHEET UC-3D.
- 16" DIP 45° BEND C/W FACTORY RESTRAINED JOINTS AND CONCRETE THRUST BLOCK. SEE DETAIL, SHEETS UC-3C AND UC-3D.
- 12" DIP 45° BEND C/W FACTORY RESTRAINED JOINTS AND CONCRETE THRUST BLOCK. SEE DETAIL, SHEETS UC-3C AND UC-3D.
- REMOVE EX. FIRE HYDRANT.
- INSTALL FIRE HYDRANT ASSEMBLY. SEE DETAIL, SHEET UC-3C.
- RETAINING WALL. DESIGN BY OTHERS.
- DRY UTILITY DUCT BANK. SEE DETAIL SHEET UC-3D.

LEGEND

- EX. WATERLINE
- PROPOSED DIP WATERLINE
- PROPOSED RJDIP WATERLINE
- TRENCHLESS INSTALLATION (JACK AND BORE)
- DRY UTILITY DUCT BANK
- PUBLIC UTILITY EASEMENT
- EX. WATERLINE TO BE REMOVED OR ABANDONED


Notes

Town of Apex Notes:

- ALL WATER LINES SHALL BE INSTALLED WITH A MINIMUM OF 3 FEET OF COVER.
- MAINTAIN 18" MINIMUM VERTICAL SEPARATION BETWEEN UTILITIES.
- VERIFY ALL ILLUSTRATED UTILITY CROSSINGS PRIOR TO CONSTRUCTION AND NOTIFY THE ENGINEER IF CONFLICTS ARE ENCOUNTERED.
- CONTRACTOR SHALL COORDINATE UTILITY RELOCATION OR ABANDONMENT WITH LOCAL UTILITY COMPANIES AS REQUIRED.
- WATER SHALL BE AT LEAST 10 FEET LATERALLY FROM EXISTING OR PROPOSED SEWERS. WHERE LOCAL CONDITIONS PREVENT A SEPARATION OF 10 FEET, THE WATER MAIN MAY BE LAID CLOSER, PROVIDED THAT THE ELEVATION OF THE BOTTOM OF THE WATER MAIN IS AT LEAST 18 INCHES ABOVE THE TOP OF THE SEWER WITH A HORIZONTAL SEPARATION OF AT LEAST 3 FEET.
- ALL GATE VALVES SHALL BE APPROVED BY THE TOWN OF APEX. BUTTERFLY VALVES ARE NOT APPROVED FOR USE.

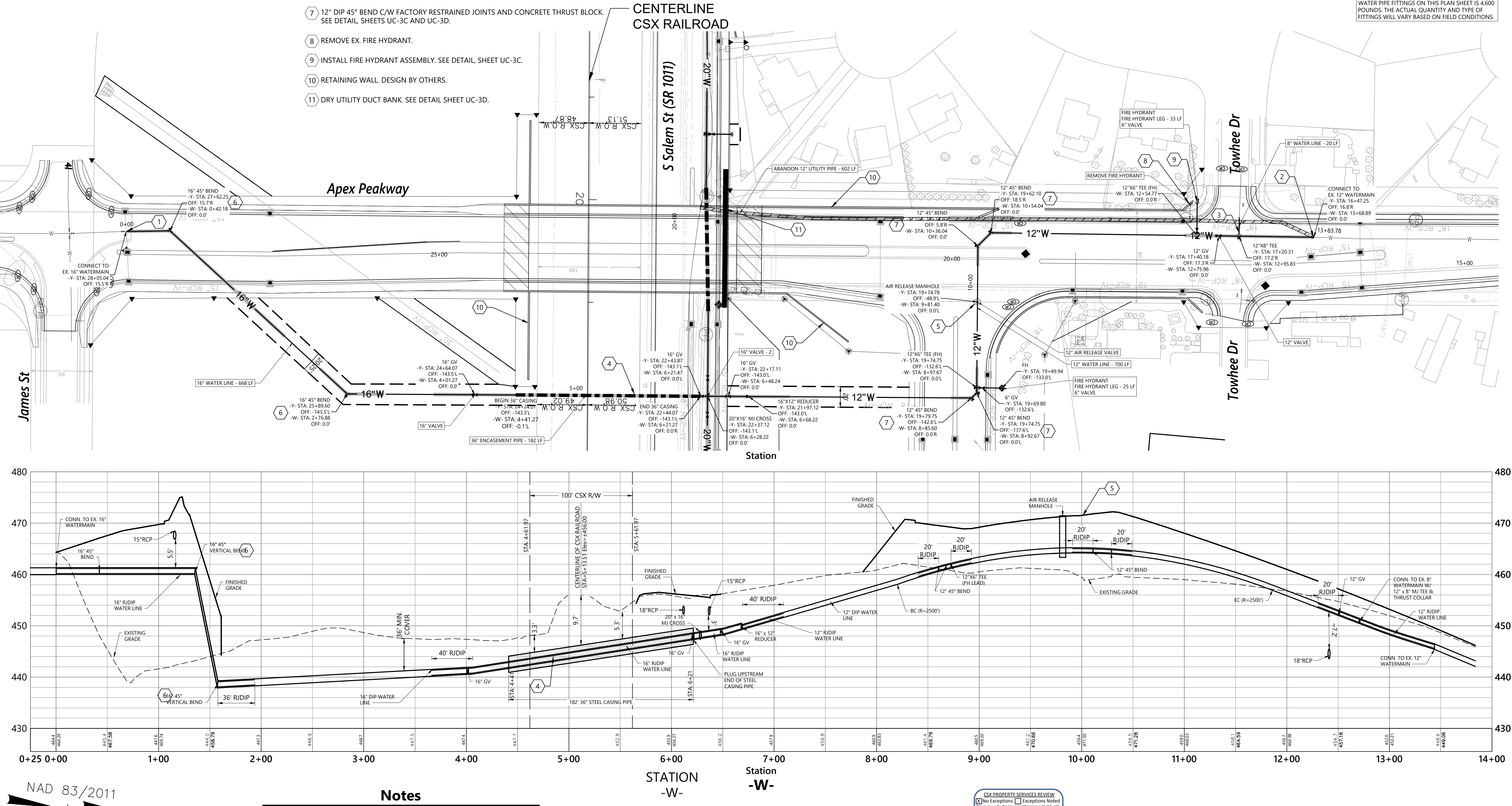


vhb
VHB Engineering NC, P.C. (C-3705)
940 Main Campus Drive, Suite 500
Raleigh, NC 27606

PROJECT REFERENCE NO.		SHEET NO.	
U-5928		UC-4	
DESIGNED BY: JK		<div>3/5/2024</div> <div></div>	<div>14846</div> <div>State of North Carolina</div>
DRAWN BY: JT			
CHECKED BY: JK			
APPROVED BY: TG			
REVISED:			
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION			
UTILITIES ENGINEERING SEC. PHONE: (919) 707-6690 FAX: (919) 250-4151			
		UTILITY CONSTRUCTION PLANS ONLY	

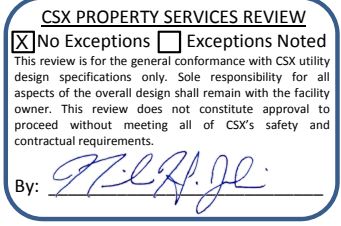
UTILITY CONSTRUCTION
DOCUMENT NOT CONSIDERED FINAL
UNLESS ALL SIGNATURES COMPLETED

THE ESTIMATED QUANTITY OF DUCTILE IRON
WATER PIPE FITTINGS ON THIS PLAN SHEET IS 4,600
POUNDS. THE ACTUAL QUANTITY AND TYPE OF
FITTINGS WILL VARY BASED ON FIELD CONDITIONS.



Notes

- PRIOR TO COMMENCING ANY WORK ON ANY TRENCHLESS INSTALLATION ON THIS PROJECT, PROVIDE A DESIGN FOR THE TRENCHLESS INSTALLATION CERTIFIED BY AN ENGINEER LICENSED IN THE STATE OF NORTH CAROLINA, AS REQUIRED BY SUBARTICLE 1550-3(B) OF THE STANDARD SPECIFICATIONS.





Page	1 of 1
Account/Contract No.	CSX1027645
Tracking No.	1079439
Reference Number	NC1171

Invoice

Date	12/02/2024
------	------------

Customer

APEX TOWN OF
73 HUNTER STREET
APEX, NC 27502

Please submit a copy of this statement with payment submission to the "Remit To" address shown below.

Fees-At-A-Glance

Amount Due in U.S. dollars	5,100.00
----------------------------	----------

Fees Summary

Review Fee	\$.00
Railroad Protective Liability (Only if RPL is not provided)	
Expedited Review Fee	
License Fee	\$5,100.00
Sales Tax*	
Money on File	

*Florida Sales tax applies to the license fee

Total Current Fees in U.S. dollars	5,100.00
------------------------------------	----------

CSX Federal ID No.
CSX Canadian ID No.
CSX Quebec ID No.

54-6000720
105203095 RC 0001
1022434469 IC 0001

Please remit payment to:

Legal Address:
500 Water Street, J180
Jacksonville, FL 32202
Questions? Contact:

CSX Transportation, Inc.

Mailing Address:
500 Water Street, J180
Jacksonville, FL 32202
JUSTIN_ROERIG2@CSX.COM

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Trevor Materasso, Interim Chief of Police

Department(s): Police

Requested Motion

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

Approval Recommended?

Yes

Item Details

The North Carolina Division of Motor Vehicles (DMV) maintains records containing information pertaining to driver's licenses, motor vehicles, and accident reports pursuant to Chapter 20 of the North Carolina General Statutes. Such records contain confidential personal information which is not public record. DMV discloses records containing personal information in accordance with the Federal Driver's Privacy Protection Act (DPPA of 1994 (18 U.S.C 2721 et seq.) and North Carolina General Statute 20-43.1. Personal information from these records may only be released to individuals or organizations that qualify under an exception(s) defined within the DPPA.

The Town of Apex previously submitted a request and agreement to access DMV records. After the cyber incident, the police department transitioned to a new platform for submitting electronic motor vehicle crash reports by utilizing eCrash software. The term of the agreement was for three (3) years, but utilization of this new software requires the police department submit an updated agreement with eCrash language. The three-year term will be renewed beginning on the last date this agreement is signed by a party to the agreement.

Attachments

- CN3-A1: Agreement - North Carolina Division of Motor Vehicles (DMV) - Access DMV Records Containing Personal Information - eCrash software - February 1, 2025 through January 31, 2028





North Carolina Division of Motor Vehicles

CRASH AND BULK DATA MANAGEMENT
3106 MAIL SERVICE CENTER
RALEIGH, NORTH CAROLINA 27697-3106
PHONE: (919) 615-7729 | data-access@ncdot.gov

GOVERNMENT
(Local, State and Federal)

REQUEST & AGREEMENT TO ACCESS DMV RECORDS CONTAINING PERSONAL INFORMATION

Applicable Law and Fees

The North Carolina Division of Motor Vehicles (DMV) maintains records containing information pertaining to driver's licenses, motor vehicles, and accident reports pursuant to Chapter 20 of the North Carolina General Statutes. Such records contain confidential personal information which is not public record. DMV discloses records containing personal information in accordance with the Federal Driver's Privacy Protection Act (DPPA) of 1994 (18 U.S.C. 2721 *et seq.*) and North Carolina General Statute § 20-43.1. Personal information from these records may only be released to individuals or organizations that qualify under an exception(s) defined within the DPPA.

Access Coordinator & Contact Person

Agency	Apex Police Department
Contact Name	Susan Metz
Title	Police Records Supervisor
Agency Address	205 Saunders St
Agency City, State, Zip	Apex NC 27502
Telephone Number	919-249-3466
Email	Susan.Metz@apexnc.org

This section is intentionally left blank.

Excerpt from the DPPA - 18 U.S.C. § 2721

In order to review or receive records containing personal identifiable information from the North Carolina Division of Motor Vehicles, the entities MUST qualify for one or more **Exception(s)** under the Federal Driver's Privacy Protection Act which prohibits the disclosure of such information.

These **Exceptions** are listed below as Permissible Uses.

Personal information may be released for the following reasons:

- (1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.
- (2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.
- (3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:
 - a. to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - b. if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- (4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- (5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.
- (6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.
- (7) For use in providing notice to the owners of towed or impounded vehicles.
- (8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.
- (9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.
- (10) For use in connection with the operation of private toll transportation facilities.
- (11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

*** PLEASE NOTE: According to North Carolina Gen Stat § 20-43.1, NCDMV does NOT disclose personal information for the purposes specified (11).**

- (12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

*** PLEASE NOTE: According to North Carolina Gen Stat § 20-43.1, NC DMV shall not disclose personal information for the purposes specified in (12) unless the Division receives prior written permission from the person about whom the information is requested.**

- (13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.
- (14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

Authorization to Access Records

The purpose of this form is to establish the nature of the request, how the information will be used, the exception(s) under which the request is made, and to execute a signed agreement that records **(1)** will be used only for the purpose(s) identified in Question 2 (below) and **(2)** will not be released to others except as provided in the DPPA, State law, and only as approved by the Division of Motor Vehicles.

Failure to complete this form or to provide sufficient explanation will result in DMV denying your request.

1. The agency requests access to the following records or system: Crash Web
2. The Agency is qualified to obtain records under exception number(s) ¹ _____ listed on Page 2 above.
(You **MUST** identify **ALL** of the **Permissible Uses** that apply.)
3. (a) Explain in detail how the agency/business qualifies under the above noted exception(s).
(b) Describe in detail why the records are needed **and** how the data will be used.

We are an agency that will be submitting electronic wreck reports to DMV by utilizing eCrash software. Having access to Crash Web and ECRS will give us the ability to look at the wreck reports that we have submitted to your agency.

4. Describe the Agency's internal procedures that are in place to ensure that Personal Identifiable Information (PII) data will be secure. *Please consider and address the following: Who has access to data? How are the machines used to access data secured? Does the business have a retention policy? If so, what is it? Do you only view the data you have access to? Do you print or copy the data you have access to? If so, what do you do with the hard copies? Where do you store them? How long do you keep the hard copies? How do you destroy the hard copies?*

There will be a small number of employees that will have access to the website and the records. These employees know public record law and PII. The computers that will be utilized are facing away from the public view and can only be seen by our Records Technicians. Our computers and servers have anti-virus software. We would not keep a hard copy of any record. If we printed out a report, we would put it in a shred box, that is emptied every month by Shred It.

Additional Terms and Conditions

You agree to all other terms within this agreement and further agree and understand that:

1. **Suspension of Access or Delivery of Records.** DMV, in its sole discretion, may immediately, and without notice, permanently revoke access and cease access to records if it discovers or has reasonable belief that you have breached any provisions of this agreement or violated any applicable laws. If DMV revokes access under this provision, you shall cease all use of records and purge all records in your possession.
2. **Misuse of Personal Information/Self Reporting.** You must notify DMV in writing of any incident where it is suspected or confirmed that personal information has been compromised because of unauthorized access, distribution, use, modification, or disclosure, by any means, within five (5) business days of such discovery. The statement must be provided on your letterhead and include each of the following: (1) a summary of the incident; (2) the outcome of the review; (3) the date of the occurrence(s); (4) the number of records compromised; (5) whether the persons whose personal information was compromised were notified. The statement shall also indicate the steps taken, or to be taken, by you to ensure that misuse of data does not continue or reoccur. This statement shall be mailed to DMV at the address indicated on the first page of this agreement. If an incident involving breach of personal information did occur and you did not notify the owner(s) of the compromised records, you must indicate why notice was not provided. DMV will consider your level of compliance with this section in DMV's decision to permanently revoke access to records. This section does not otherwise limit DMV's authority to revoke access pursuant to Paragraph 1 above.
3. **Record Breaches.** You shall report any breaches or disclosures of records containing information obtained from DMV not otherwise provided for by this agreement immediately upon discovery of any such breach or potential breach, and comply with all reporting policies, standards, and guidelines set forth in the North Carolina Statewide Information Security Manual.
4. **Statutorily Required Record Keeping.** In accordance with the DPPA, specifically 18 U.S.C. § 2721(c), if you **resell or redisclose** personal information or highly restricted personal information obtained from DMV, or information otherwise generally protected from disclosure pursuant to Federal or North Carolina law, you shall keep documentation for a period of 5 years. For each resell or redisclosure, you shall identify each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request. DMV is not liable for disclosures made by Requester/Applicant that resells or rediscloses data provided by DMV.
5. **Additional Record Keeping.** For each record accessed, you shall keep for a period of 5 years documentation that delineates the purpose for which the information was accessed and identify the exception for which you are qualified to receive this data under the DPPA.
6. **DMV Access to Your Records.** You shall make all records required to be maintained by this agreement and by law available to DMV immediately upon request, but no later than three business days of any request. You shall cooperate fully with any investigations by DMV into any real or alleged breaches of this agreement, the DPPA, or State statutes arising from your access or use of DMV records. DMV shall immediately and permanently terminate your access to DMV records if you refuse or are unable to fully and immediately comply with this provision.
7. **State and Federal Law.** You shall comply with all relevant State and Federal laws and Division policies and procedures. This includes but is not limited to: (1) the DPPA; (2) N.C. Gen. Stat. § 20-43; (3) § 20-43.1; (4) N.C. Gen. Stat. § 75-64; and (5) N.C. Gen. Stat. § 75-65.
8. **Personal Information Originating from NCDOT/DMV.** You assume all risks and responsibilities arising from use and redisclosure of personal information originating from NCDOT/DMV including, but not limited to, any violations of the DPPA.
9. **Criminal Punishment and Civil Liability.** You understand any person who knowingly discloses any information in violation of DPPA or State law may be subject to criminal sanctions, including fines, and civil liability.
10. **Authority of Signatory.** You certify that you are duly authorized and have the legal capacity to bind your agency contractually.
11. **Limited Use of Records.** You qualify under the exception(s) noted above and the records will only be used for the purposes approved by the Division and as described above in this agreement. Information used for any other purpose, even if otherwise lawful, will be considered a violation of this agreement.
12. **User and Contact Person Maintenance.** You shall notify DMV within five (5) business days of changes to: user access or permissions, to include inactivating user access or permissions following separation, or negligent, improper, or unauthorized use or dissemination of any records. The information shall be e-mailed to data-control@ncdot.gov.
13. **Security.** You shall handle, process, and store records consistent with the Statewide Information Security Manual and the Data Classification and Handling Policy, as in effect at any given time. You shall also otherwise store records with personally identifiable information in a location that is physically and logically secure from access by unauthorized persons. Access to records received from DMV with personally identifiable information shall also be protected in such a way that unauthorized persons cannot view, retrieve, print or copy the information. The Statewide Information Security Manual can be currently viewed at: https://files.nc.gov/ncdit/documents/Statewide_Policies/Statewide-Information_Security_Manual.pdf. The policy regarding data classification and handling can be currently viewed at: <https://files.nc.gov/ncdot/documents/statewide-data-classification-and-handling-policy>.

14. **Acknowledgements.** All personnel with access to the information provided herein, must be instructed of, and acknowledge that, they understand the confidential nature of the information they are accessing. In addition, individuals having access to this information must confirm their understanding of the civil and criminal penalties per State and Federal law for unauthorized use of the data. These acknowledgements must be timely and accurately maintained by you and be provided to DMV within ten (10) business days of a request.
15. **Communication.** You consent that all communications can be through electronic mail or other electronic means.
16. **Term.** The term of this agreement is for three years, beginning on the last date this agreement is signed by a party to the agreement. To eliminate a break in the relay of data, a new agreement must be signed and submitted thirty (30) days prior to the expiration of this agreement. However, it may be necessary for a new agreement to be submitted and evaluated prior to the expiration of any agreement based on changes to the law, Security Requirements and/or DMV policies and procedures. DMV may terminate this agreement at any time with 30 days' notice to the Agency and immediately upon any breach of the terms of this agreement by you or upon any violation of DPPA or relevant North Carolina laws. In the event that Federal or North Carolina statutes change in such a manner as affects the operation of this agreement, the statutory changes shall control and any portion of this agreement which is in violation of the new or amended statute(s) is void and without effect.
17. **Assignment.** This agreement, and any rights or obligations within this agreement, shall not be assigned, sublicensed, subcontracted, or otherwise transferred by you to another individual, partnership, limited partnership, corporation, or any other entity except with the written consent of DMV.
18. **Governing Law and Venue.** This agreement shall be governed by the laws of the State of North Carolina, without giving effect to principles of conflict of law. Venue of any dispute concerning this agreement shall be exclusively in Wake County, North Carolina.
19. **Modifications.** This agreement shall not be altered, changed, or amended except by an express, written agreement executed by the authorized representatives of the parties.
20. **Waiver.** Neither the failure nor any delay on the part of the DMV to exercise any right, remedy, power, or privilege under this agreement shall operate as a waiver and shall not prevent any subsequent enforcement of such term or obligation.
21. **Entire Agreement.** This agreement encompasses the entire agreement between the Agency and DMV and supersedes all previous understandings and agreements between the parties, whether oral or written. The parties hereby acknowledge and represent that they have not relied on any representation or other assurance, except those set out in this agreement, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this agreement. The parties hereby waive all rights and remedies which may arise as the result of a party's reliance on such representation or other assurance, provided that nothing herein contained shall be construed as a restriction or limitation of said party's right to remedies associated with the gross negligence, willful misconduct or fraud of any person or party taking place prior to, or contemporaneously with, the execution of this agreement.

This section is intentionally left blank.

Attestation

I, on behalf of the Town of Apex, hereby certify under penalty of law that the information and statements in this request are true and accurate. The Town is entitled to personal information from the requested driving, vehicle and/or crash record under one or more of the permissible users and uses listed in the Federal Driver Privacy Protection Act and North Carolina law. I understand that the Town may not redisclose this information, except as provided in the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721 *et seq.* and North Carolina law. The Town therefore agrees to defend, hold harmless and indemnify NCDMV and any of its officers, employees, agents, or contractors, from all actions brought or damages alleged by reason of the negligent, improper, or unauthorized use or dissemination of the information provided to me by NCDMV.

I am aware that there are Federal criminal and civil penalties for knowingly obtaining, disclosing, or using personal information for a purpose not permitted under DPPA (18 U.S.C. Sections 2721-2724).

I also understand that North Carolina G.S. 20-43.1 prohibits someone from obtaining personal information from a motor vehicle record by purposely or knowingly misrepresenting his or her identity or the use for which he or she is seeking that information.

Signature: _____ Date: _____

Randal E. Vosburg, Town Manager

Printed Name and Title: _____

DMV Security Coordinator Approval

Data Control Review: Approved _____ Initials: _____ Date: _____

Security Coordinator Review: Approved _____ Initials: _____ Date: _____

Signature: _____ Date: _____

Janna Allison, Assistant Director of Business Operations

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Jeffrey Maynard, Assistant Fire Chief

Department(s): Fire

Requested Motion

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

Approval Recommended?

Yes

Item Details

This agreement with Mobile Communications of America and the Town of Apex Fire Department is to provide annual preventive maintenance, annual firmware updates and make repairs and replacements to 76 portable radios, 26 mobile radios, and 2 vehicle repeaters as needed according to the details in the Equipment and Coverage details in Attachment A and Statements of Work are outlined in Attachment B of the included Mobile Communications of America agreement.

Attachments

- CN4-A1: Agreement - Mobile Communications of America - Standard Services Agreement - Support for Town of Apex Fire Department Radio Replacement
- CN4-A2: Attachments A and B - Agreement - Mobile Communications of America - Standard Services Agreement - Support for Town of Apex Fire Department Radio Replacement



**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**PURCHASE ORDER # [Click here to PO #](#)
STANDARD SERVICES AGREEMENT**

THIS STANDARD SERVICES AGREEMENT (hereinafter "Agreement") is entered into this _____ day of _____, [2025](#) by and between, [Mobile Communications of America](#), a North Carolina corporation with its principal business offices located at [315 Kitty Hawk Drive Morrisville, NC 27560](#) (the "Contractor"), and the Town of Apex, a municipal corporation of the State of North Carolina, (the "Town"). Town and Contractor may collectively be referred to as "Parties" hereinafter.

WITNESSETH:

The Town and the Contractor, for the consideration stated herein, agree as follows:

1. SCOPE OF SERVICES.

The Contractor agrees to perform for the Town the following services: [Mobile Communications of America agrees to provide annual preventive maintenance, annual firmware updates and make repairs to 76 portable radios, 26 mobile radios, and 2 vehicle repeaters as needed according to the details in Attachment A and B of the included Mobile Communications of America agreement.](#)

In the event of a conflict between the terms of the attached Scope of Services and this Agreement, this Agreement shall control.

2. SPECIFICATIONS.

Contractor shall provide services in accordance with all governing agency regulations and shall be held to the same standard and shall exercise the same degree of care, skill and judgment in the performance of services for Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina. Upon request by the Town, Contractor will provide plans and specifications prior to engaging in any services under this Agreement. Contractor hereby acknowledges that it is fully licensed to perform the work contemplated by this Agreement. In the event of a conflict between any provided plans and specifications and this Agreement, this Agreement shall control.

3. TIME OF COMMENCEMENT AND COMPLETION.

Contractor shall commence and complete the services as outlined under Attachment A. If a Scope of Services is provided Contractor shall also comply with all timelines and deadlines documented in the Scope of Services. If Contractor has not satisfactorily commenced or completed the work within the times specified, the Town may declare such delay a material breach of contract and may pursue all available legal and equitable remedies. Any changes to the schedule(s) provided in the Agreement must be agreed to in writing by the Town and the Contractor.

4. CONSIDERATION AND PAYMENT OF SERVICES.

In consideration of the above services, the Town will pay the Contractor the annual sum of \$ [20,136.00](#) to be paid according to the following schedule: [30 days from receipt of invoice](#). The total sum for the five year term is \$100,680.00. Town has the right to require the Contractor to produce for inspection all of

Contractor's records and charges to verify the accuracy of all invoices. Town shall pay Contractor's invoices at times set forth above unless a bona fide dispute exists between Town and Contractor concerning the accuracy of said invoice or the services covered thereby.

5. INDEMNIFICATION.

To the extent permitted by law, the Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the Town of Apex, its elected and appointed officials, employees, agents, and volunteers against any and all claims, demands, suits or losses, including all costs connected therewith, for any damages which may be asserted, claimed or recovered against or from the Town of Apex, its elected or appointed officials, employees, agents, and volunteers by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof resulting from the negligence of the Contractor.

6. APPLICABILITY OF LAWS AND REGULATIONS.

The Contractor shall adhere to all laws, ordinances, and regulations of the United States, the State of North Carolina, the County of Wake, and the Town of Apex in the performance of the services outlined in this Agreement and any attached specifications.

This Agreement shall be governed by the laws of the State of North Carolina. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or nonperformance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Wake County, North Carolina, or the United States District Court sitting in Wake County, North Carolina, and it is agreed by the Parties that no other court shall have jurisdiction or venue with respect to such suits or actions.

7. E-VERIFY COMPLIANCE.

The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). Contractor shall require all of the Contractor's subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify).

8. ANTI-HUMAN TRAFFICKING.

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.

9. QUALITY AND WORKMANSHIP.

All work shall be performed to the satisfaction of the Town. The work shall not be considered complete nor applicable payments rendered until the Town is satisfied with the services provided.

10. INSURANCE.

The Contractor shall maintain valid general liability insurance in the minimum amount of \$1,000,000, commercial automobile liability insurance in the minimum amount of \$2,000,000, and provide certificates of such insurance naming the Town of Apex as an additional insured by endorsement to the policies. If the policy has a blanket additional insured provision, the contractor's insurance shall be primary and non-contributory to other insurance. Additionally, the contractor shall maintain and show proof of workers'

compensation and employer's liability insurance in the minimum amount of \$1,000,000. The Contractor shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Contractor to have sufficient insurance nor the requirement that Town is named as an additional insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law.

11. PRE-PROJECT SAFETY REVIEW MEETING.

When specified by the Safety and Risk Manager, the Contractor shall attend a pre-project safety review meeting with the contacting Department Head and Supervisors and Safety and Risk Manager prior to the start of work.

12. DEFAULT.

In the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement, Town shall have the right to terminate Contractor upon seven (7) days written notice in which event Contractor shall have neither the obligation nor the right to perform further services under this Agreement.

13. TERMINATION FOR CONVENIENCE.

Town shall have the right to terminate this Agreement for the Town's convenience upon thirty (30) days written notice to Contractor. Contractor shall terminate performance of services on a schedule acceptable to the Town. In the event of termination for convenience, the Town shall pay Contractor for all services satisfactorily performed.

14. NOTICE.

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

TO CONTRACTOR:

Cord Mahone
315 Kitty Hawk Drive
Morrisville, NC 27560
cordmahone@callmc.com

TO TOWN: Town of Apex

Attention: Jeffrey Maynard
PO Box 250
Apex, NC 27502
Jeffrey.maynard@apexnc.org

15. DELAY BEYOND THE CONTROL OF THE PARTIES.

Neither Contractor nor Town, having taken commercially reasonable precautions, shall be in default of the provisions of this Agreement for delays in performance due to forces beyond the control of the parties. "Forces beyond the control of the parties" shall mean, but is not limited to, delay caused by natural disaster, fire, flood, earthquakes, storms, lightning, epidemic, pandemic, war, riot, civil disobedience, or other event reasonably outside of the parties' control. Due to the ever-changing circumstances surrounding the COVID-19 pandemic, situations may arise during the performance of this Agreement that affect availability of resources and staff of Contractor or the Town. There could be changes in anticipated performance times and service costs. Contractor will exercise reasonable efforts to overcome the challenges presented by

current circumstances. In the event of changes in performance times or service costs caused by the COVID-19 pandemic the Town reserves the right to terminate this Agreement in accordance with its terms. The Parties agree that they shall not be liable to each other for any delays, expenses, losses, or damages of any kind arising out of the impact of the COVID-19 pandemic.

16. NONWAIVER FOR BREACH.

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and for any such breach or non-performance each party shall be relegated to such remedies as provided by law.

17. CONSTRUCTION.

Should any portion of this Agreement require judicial interpretation, it is agreed that the Court or Tribunal construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any one party by reason of the rule of construction that a document is to be more strictly construed against the party who prepared the documents.

18. NO REPRESENTATIONS.

The parties hereby warrant that no representations about the nature or extent of any claims, demands, damages, or rights that they have, or may have, against one another have been made to them, or to anyone acting on their behalf, to induce them to execute this Agreement, and they rely on no such representations; that they have fully read and understood this Agreement before signing their names; and that they act voluntarily and with full advice of counsel.

19. SEVERABILITY.

In the event for any reason that any provision or portion of this Agreement shall be found to be void or invalid, then such provision or portion shall be deemed to be severable from the remaining provisions or portions of this Agreement, and it shall not affect the validity of the remaining portions, which portions shall be given full effect as if the void or invalid provision or portion had not been included herein.

20. COUNTERPARTS.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument.

21. MODIFICATION.

This Agreement contains the full understanding of the parties. Any modifications or addendums to this Agreement must be in writing and executed with the same formality as this Agreement.

22. BINDING EFFECT.

The terms of this Agreement shall be binding upon the parties' heirs, successors, and assigns.

23. ASSIGNMENT.

Contractor shall not assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the Town. Nothing contained in this paragraph shall prevent Contractor from employing such independent consultants, associates, and sub-contractors as it may deem appropriate to assist Contractor in the performance of services rendered.

24. INDEPENDENT CONTRACTOR.

Contractor is an independent contractor and shall undertake performance of the services pursuant to the terms of this Agreement as an independent contractor. Contractor shall be wholly responsible for the methods, means and techniques of performance.

25. NON-APPROPRIATION.

Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the Town are from appropriations and monies from the Town Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the Town to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the Town.

26. IRAN DIVESTMENT ACT CERTIFICATION.

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 the Contractor hereby certifies that the Contractor is not listed on the Final Divestment List created by the North Carolina State Treasurer and that the Contractor will not utilize any subcontractors found on the Final Divestment List.

27. NONDISCRIMINATION.

Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, Contractor hereby warrants and agrees that Contractor will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement "protected class" includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

28. ELECTRONIC SIGNATURE.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement 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 Agreement and any related documents. If

electronic signatures are used the Agreement shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals this ____ day of _____, 2024.

Contractor	Town of Apex
Name: _____ Name of Contractor (type or print)	_____ Randal E. Vosburg, Town Manager
By: _____ (Signature)	Attest: _____ Allen L. Coleman, CMC, NCCCC Town Clerk
Title: _____	<i>This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.</i>
Attest: _____ (Secretary, if a corporation)	_____ Antwan Morrison, Finance Director



SERVICE LEVEL AGREEMENT

Attachment A

MCA Office: Raleigh

This Service Level Agreement (this "Agreement") is entered into by and between Mobile Communications America, Inc. a Delaware corporation ("MCA") and the entity listed below as Customer (referred to herein as, "Customer") as of the effective date listed below.

Effective Date: 3/1/2025
Customer: Town of Apex, NC
Customer Address: 315 W Williams St, Apex, NC 27502

WHEREAS, the undersigned (collectively, the "Parties" and each, individually, a "Party") desire to enter into this Agreement to set forth the terms and conditions for the services to be provided by MCA as it applies to maintenance service, parts and labor for the equipment and/or systems as described in Attachment A. Beginning on the effective date of this Agreement, MCA agrees to provide maintenance service to keep covered equipment in good working order.

Summary of Services:

End Date: 2/28/2030 ("Initial Term")
Monthly Price: \$1,678.00
Annual Price: \$20,136.00 (State/Local taxes NOT included)
Billing Frequency: Annual

By signing this Agreement, Customer agrees to accept maintenance service for the listed equipment, per Attachment A, according to the specified terms and conditions of the Agreement. Customer also agrees to provide full, free and safe access to the equipment and/or systems covered by this Agreement. Services provided hereunder do not assure uninterrupted operation of the Equipment or service and MCA is not responsible for failure to render covered service due to causes beyond its control. This Agreement is valid only if signed by an authorized representative or officer of MCA and Customer.

ENTIRE AGREEMENT: This Agreement, together with the SOWs and any Attachments attached thereto, from time to time, **is an Addendum to the Standard Services Agreement between the Parties which this shall be attached to.** This Agreement may only be amended by a written document duly executed between the Parties. The Customer acknowledges that the Customer has read this entire Agreement, understands it, and agrees to be bound by its terms and conditions.

Signature: _____
Customer
Name(print) & Title: _____
Date: _____

Signature: _____
MCA
Name(print) & Title: _____
Date: _____

TERMS AND CONDITIONS

NORMAL WORKING HOURS: Normal working hours shall be from 8:00 AM to 5:00 PM, Monday through Friday, except holidays, in the time zone of the Customer location receiving the services.

SERVICE: MCA will perform such repairs as may be required to restore Equipment to their normal operating level, provided that such repairs are necessitated by the failure of the Equipment due to normal usage. Non-fixed Equipment shall be serviced at an MCA shop during normal working hours. Travel charges and expenses incurred by MCA at the request of the Customer to resolve a malfunction of the Equipment that is not covered under this Agreement shall be billable to the Customer at current MCA rates. For emergency service or other service performed at Customer's request outside of normal working hours, for equipment not covered under this Agreement or for Equipment whose failure was due to causes not considered to be "normal usage," Customer will be billed for the service at the then current MCA rates for each occurrence.

PREMIER SERVICE OPTION: If Customer has elected to purchase the Premier Service Option, emergency service is included at no additional charge per occurrence, provided that all other terms of this Agreement are satisfied. Emergency service is provided 24 hours per day, seven days per week. Customers not electing the Premier Service Option shall pay an additional charge for emergency service rendered at current MCA rates for each occurrence.

UNSUPPORTED EQUIPMENT. From time to time manufacturers discontinue or cease to support equipment, which MCA cannot control. In the event that equipment covered by this by this contract is discontinued or no longer supported by the manufacturer ("Obsolete Equipment"), MCA's recommendation is that the Obsolete Equipment be replaced. In the event that Customer elects not to replace the Obsolete Equipment, MCA will provide its best efforts to repair and maintain the Obsolete Equipment but makes no guarantees or warranties that the Obsolete Equipment will continue to function as intended, or that firmware updates will be available to ensure that the Obsolete Equipment can communicate properly with other equipment in Customer's system. In the event MCA is unable to repair the Obsolete Equipment or the cost of repair in MCA's opinion makes repairing the equipment impractical, MCA will notify the Customer the equipment is non-repairable and remove it from the service agreement.

REPLACEMENT PARTS: MCA will replace parts and components of the Equipment on an exchange basis when failure is due to the normal and proper use of the Equipment. Parts or equipment exchanged back to MCA during maintenance service become the property of MCA.

PREVENTIVE MAINTENANCE: MCA will inspect the Equipment and make such repairs, adjustments, and replacements of parts and components as may be necessary to maintain the Equipment in normal operating condition provided that such services and maintenance are necessitated by normal usage of the Equipment. Inspections and preventive maintenance service will be provided by MCA during normal working hours at the locations specified. All preventive maintenance inspections will be scheduled for mutual convenience and may be performed during remedial service.

LIMITATIONS: MCA reserves the right to inspect any equipment or service prior to its inclusion under the terms of this Agreement. MCA may at its sole discretion require that said equipment or system be restored to proper operating specifications at Customer's expense prior to its being covered under this Agreement. Should Equipment not meet specifications to provide service or MCA, at its sole discretion, declares Equipment to be unserviceable, MCA will provide an Exhibit outlining audit and test results. In such case, MCA's sole responsibility is to remove such Equipment from the billing under this Agreement.

EXCLUDED SERVICES: The following services are not included under the terms of this Agreement. The repair of Equipment, replacement of parts, or any additional service labor due to accident, abuse, disaster, neglect, misuse, physical damage, liquid damage, damage by lightning or other **natural hazards outside of human control for which no person or persons can be held responsible**, service by personnel other than those authorized by MCA, alterations, modifications, attachments, accessories (other than those specifically designed for use with the particular piece of Equipment), use of Equipment with unauthorized batteries and/or power supplies or reprogramming by other than MCA personnel. Travel charges and expenses incurred by MCA at the request of the Customer to resolve a malfunction of equipment or systems not covered under this Agreement shall be billable to the Customer at current MCA rates. If MCA finds that any Equipment has been altered or repaired by others, such Equipment shall not be covered by this Agreement and any services shall be billable to the Customer at current MCA rates.

RENEWALS: After the Initial Term, this Agreement **may be renewed in a writing signed by the Parties**, with an annual price increase of 5% **[clause deleted]**.

WARRANTY: MCA warrants that it will perform the services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement. EXCEPT FOR THE WARRANTY SET FORTH IN THIS PARAGRAPH, MCA MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

PAYMENT: Payment shall be due and payable thirty (30) days from the date of invoice. Payment shall not be withheld on account of any claim by Customer against MCA. If Customer disputes any portion of a MCA invoice, Customer shall pay the undisputed portion when due and the Parties shall work to resolve the dispute within thirty (30) days. Nonpayment or delay in payment by Customer shall be considered a breach of the Agreement. If the financial condition of the Customer at any time does not, in MCA's sole discretion, justify continuance of performance, MCA may require full or partial payment from the Customer in advance. In the event of bankruptcy or insolvency of the Customer, or in the event any proceedings are brought by or against the Customer under any bankruptcy or insolvency laws, MCA shall be entitled to cancel any Services then outstanding and shall receive reimbursement for any expenses incurred by it in connection with such cancellation and any applicable cancellation charges.

TAXES: Applicable taxes will be billed to the Customer and the Customer hereby agrees to pay said taxes, unless the Customer has provided a current tax exemption certificate.

CUSTOMER DEFAULT: Upon any default by Customer under this Agreement, including the refusal to accept conforming Services, MCA may exercise all remedies to which MCA may be entitled at law or in equity, including specific performance. Additionally, MCA may declare all sums due or to become due hereunder immediately due and payable, and MCA shall be entitled to recover all reasonable collection costs incurred, including legal interest. In addition, for non-disputed payments not received within thirty (30) days of the invoice date, a late fee not exceeding the lower of one and a half percent (1.5%) per month or the maximum rate allowed by law shall be assessed on any past due invoice balance. In the event of Customer's default, MCA shall not be obligated to continue performing Services hereunder. Upon Customer default, MCA may at its sole discretion suspend or cancel any outstanding, unfulfilled Services of Customer under this Agreement.

TERMINATION: Customer may, upon thirty (30) days' written notice to MCA, terminate this Agreement for convenience, provided the Customer shall be liable for any third-party costs incurred and outstanding payments to MCA for maintenance services provided. With the exception of the Customer's liability for any and all payments outstanding under this Agreement, neither the Customer nor MCA shall retain any liability for any performance under this Agreement on any date following the expiration of this Agreement.

COVENANT NOT TO SOLICIT: MCA expends considerable resources including money, time, training, etc. to properly train and educate its employees. MCA experiences considerable financial and other harm when its employees are recruited and hired by customers. Therefore, Customer agrees to not recruit or solicit any MCA employee during the term of this Agreement and for a period of two (2) years thereafter. In consideration of MCA performing its services under this Agreement, Customer acknowledges MCA's damages in such event and agrees to pay as liquidated damages for breach of this Section a one-time payment equal to five hundred (500) times the then standard technician hourly billable rate, which is currently \$200/hour. Customer expends considerable resources including money, time, training, etc. to properly train and educate its employees. Customer experiences considerable financial and other harm when its employees are recruited and hired by vendors. Therefore, MCA agrees to not recruit or solicit any Customer employee during the term of this Agreement and for a period of two (2) years thereafter. MCA acknowledges Customer's damages in such event and agrees to pay as liquidated damages for breach of this Section a one-time payment equal to five hundred (500) times the then MCA's standard technician hourly billable rate, which is currently \$200/hour. **Nothing in this section shall preclude the Customer or MCA from hiring persons who respond to a general solicitation for employment.**

MCA INSURANCE: MCA agrees to carry \$1,000,000 per occurrence general liability insurance and applicable worker's compensation insurance.

CUSTOMER INSURANCE: Customer shall maintain all necessary and appropriate policies of insurance in respect of its obligations under this Agreement. Comprehensive General Liability and Property Insurance for liability, casualty, fire, theft, and property damage under which Customer is named as insured and which shall on a primary and non-contributing basis cover any loss or damage MCA's services are intended to detect to one hundred percent of the insurable value or potential risk. The parties intend that the Customer assume all potential risk and damage that may arise by reason of failure of the equipment, or MCA's services and that Customer will look to its own insurance carrier for any loss or assume the risk of loss. MCA shall not be responsible for any portion of any loss or damage which is recovered or recoverable by Customer from insurance covering such loss or damage or for such loss or damage against which Customer is indemnified or insured. Customer and all those claiming rights under Customer waive all rights against MCA and its subcontractors for loss or damages caused by perils intended to be detected by MCA's services or covered by insurance to be obtained by Customer, except such rights as Customer or others may have to the proceeds of insurance. Customer on its behalf and any insurance carrier waives any right of subrogation Customer's insurance carrier may otherwise have against MCA or MCA's subcontractors arising out of this Agreement or the relation of the parties hereto.

NO CHANGES: Except as previously described, no changes, alteration or modification of this Agreement may be made without the express written consent of both parties.

ASSIGNMENT: Customer shall not assign in whole or in part this Agreement or any interest therein or any rights hereunder without the written consent of MCA, which shall not be unreasonably withheld or delayed. Any such assignment without consent shall be void. Notwithstanding the foregoing, MCA may assign this Agreement or any other agreement between the Parties, without consent in whole or in part, for the purposes of corporate reconstruction, reorganization, or analogous proceeding, or to (a) any affiliate; or (b) a third party in the event of a merger, recapitalization, conversion, consolidation, other business combination or sale of all or substantially all of the assets of MCA to such third party.

GOVERNING LAW AND VENUE: This Agreement is governed by and construed in accordance with the laws of the State of **North** Carolina without regard to its rules governing conflicts of law. This Agreement shall be binding upon and inure to the benefit of each Party and its respective heirs, successors and assigns. Should any part of this Agreement, for any reason, be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any remaining portion, and such remaining portion shall remain in full force and effect. The Parties shall attempt to resolve all disputes arising out of this Agreement in a spirit of cooperation without formal proceedings. Any dispute which cannot be so resolved (other than the collection of money due on unpaid invoices) shall be subject to arbitration upon written demand of either party. Arbitration shall take place in **Wake County**, South Carolina, and shall be the exclusive forum for resolving the dispute, controversy, or claim. The arbitration shall take place before an arbitration panel chosen as follows: The parties shall each choose an arbitrator, and the two (2) arbitrators shall choose a third (3rd) arbitrator and determine the third (3rd) arbitrator's compensation. Each party shall have one (1) veto over the choice of the third (3rd) arbitrator. The three (3) arbitrators shall schedule an informal proceeding, hear the arguments, and decide the matter by secret majority vote. Unless the arbitrators decide otherwise, each party shall pay the costs of its own arbitrator and shall pay half of the other costs of the arbitration proceeding. The award or decision of the arbitrator shall state the reasons upon which the award or decision is based and shall be final and binding upon the Parties. **[sentence deleted]** The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. **[sentence deleted]**

EXCULPATORY CLAUSE: Both Parties agree that MCA is not an insurer, and no insurance coverage is offered herein. The equipment and MCA's services are designed to detect and reduce certain risks of loss, though MCA does not guarantee that no loss or damage will occur. No equipment provided by MCA is represented to be medical grade, FDA approved, or intended for use by a healthcare professional or healthcare facility or to diagnose, treat, cure or prevent disease or medical condition unless explicitly stated in the SOW and no equipment or services are intended to diagnose, treat, cure, prevent, mitigate or minimize the likelihood of communicable disease, infectious agent, bacteria, virus or illness. MCA is not assuming liability, and, therefore, Customer agrees MCA shall not be liable to Customer or any other third party, and Customer covenants not to sue MCA, for any loss, economic or non-economic, business loss or interruption, consequential damages, in contract or tort, data corruption or inability to retrieve data, personal injury, health condition or property damage sustained by Customer or others as a result of equipment failure, human error, burglary, theft, hold-up, fire, smoke, water, any communicable disease, infectious agent, bacteria, virus, illness or any other cause whatsoever, regardless of whether or not such loss or damage was caused by or contributed to by MCA's breach of contract, negligent performance to any degree in furtherance of this Agreement, any extra contractual or legal duty, strict products liability, or negligent failure to perform any obligation pursuant to this Agreement or any other legal duty, except for gross negligence and willful misconduct.

LIMITATION OF LIABILITY: MCA SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, DAMAGE OR LOSS OF OTHER PROPERTY OR EQUIPMENT OR SYSTEMS OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (**EXCLUDING** NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT MCA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE LIABILITY OF MCA WITH RESPECT TO ANY OF ITS OBLIGATIONS HEREUNDER, INCLUDING SERVICE, SALE, DELIVERY, RESALE, INSTALLATION OR THE TECHNICAL DIRECTION OF INSTALLATION, REPAIR OR USE OF ANY ITEM COVERED BY OR FURNISHED HEREUNDER, WHETHER SUCH LIABILITIES ARE FOUNDED IN CONTRACT, IN TORT, UNDER ANY WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID TO MCA WITH RESPECT TO THE SERVICE GIVING RISE TO THE CLAIM. **[Sentence deleted]**

INDEMNIFICATION: **[Paragraph deleted]**

ATTORNEYS' FEES: **[Sentence deleted]**

NOTICES: All notices given by one party to the other under this Agreement must be delivered by: (a) hand delivery, (b) certified mail, return receipt requested, (c) nationally recognized overnight courier service, or (d) facsimile, to the other party's respective address given in the preamble to the Agreement.

SEVERABILITY: If any provision or part-provision of this Agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

COUNTERPARTS: The Agreement may be executed in counterparts, which together constitute the same agreement. A facsimile copy or computer image, such as a PDF or tiff image, of a signature shall be treated as and shall have the same effect as an original signature. In addition, a true and correct facsimile copy or computer image of the Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

Equipment and Coverage Details - Attachment A

	MCA Services		
	Repair Qty	24 x7 Coverage	Annual PM
Public Safety Portable	76		76
PCR Portable			
Public Safety Mobile			26
PCR Mobile			
Vehicle Repeater	2		2
Console			
Consolettes			
Control Station			

Other MCA Services

Special Instructions

Coverage Summary

Repair Services: 9 APX NEXT, 67 APX6000XE (BN model), 2 Vehicle Repeaters

Annual PM: 9 APX NEXT, 67 APX6000XE (BN model), 26 Mobiles, 2 Vehicle Repeaters

Annual FW: 9 APX NEXT, 67 APX6000XE (BN model), 26 Mobiles, 2 Vehicle Repeaters

- **Note:** It is the customer's responsibility to schedule and facilitate access to equipment for MCA's technicians to perform the annual Preventative Maintenance.

Statements of Work - Attachment B

<p>MCA Repair Service</p> <p>Subscriber support includes repair. It is the customer's responsibility to get the subscriber to their local MCA facility and ensure MCA has the current programming files on hand. It is MCA's responsibility to:</p> <ul style="list-style-type: none">• Triage the device• Ship to the depot if repair cannot be addressed locally• Track repair status• Receive the device back from the depot <ul style="list-style-type: none">• Confirm that the radio has been repaired and is programmed to the customer's specifications• Communicate to the customer their device is fixed. <p>Infrastructure support includes M-F 8X5 response to all issues arising from infrastructure, infrastructure cabling and antenna systems. Issues that result from power failure, force majeure, or tampering are excluded from this service. Removal of infrastructure equipment for warranty repair is the responsibility of MCA. Repair of cabling and antenna systems is not a part of this service. After hours support is available upon request but is not covered under this service. Additional charges would apply at after hour rates.</p>	<p>MCA 24 x 7 Coverage</p> <p>Adds 24 x 7 x 365 Coverage on Repeaters, Consoles, Consolettes, and Control Stations.</p>
<p>MCA Annual PM</p> <p>One annual Preventative Maintenance check of the covered equipment. Subscriber Preventative Maintenance includes but not limited to visual inspection of radio, realignment back to factory specifications (transmit power out, transmit frequency error, transmit deviation, and receive sensitivity), and check of battery date code.</p>	<p>MCA Annual Firmware Update</p> <p>One annual firmware update of the covered equipment will be completed at the time of the preventative maintenance check.</p>

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Tim Herman, Fire Chief

Department(s): Fire

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Apex Fire Department is switching to a new records management system (RMS) that is used county-wide by both fire and EMS departments. The majority of the RMS is funded by Wake County; however, some costs are needed to allow this new RMS to communicate with other software used by the department. This service agreement links the new RMS to the department's staffing software with the use of an API.

Attachments

- CN5-A1: Agreement - Mission Critical Partners, LLC - Application Programming Interface (API) - Apex Fire Department's Record Management Software and Scheduling Software - February 1, 2025 through January 31, 2028



Secure, Bidirectional Data Flow
Between Endpoints

DataLink™

Interface Solution

Statement of Services and End-User Subscription Agreement

November 20, 2024

Apex, North Carolina

- Page 64 -

M MissionCriticalPartners

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Introduction Letter

11/20/2024

Michael Frickman
Assistant Chief of Professional Standards
Apex Fire Department
315 W. Williams St.
Apex, NC 27502

Re: DataLink™ Statement of Services and End-User Subscription Agreement

Dear Michael Frickman:

Mission Critical Partners (MCP) is pleased to be working with the Apex Fire Department in partnership with Vector Solutions.

Please review this Statement of Services to include background information on Mission Critical Partners as well as the guiding document on the scope of work for the indicated integration.

Sincerely,
Mission Critical Partners, LLC



Gary Pulford
Director of Product Management

Cc: Mark Catone, Vector Solutions
Treva Aguinaga, Vector Solutions



Putting Our Clients' Missions First A Firm Unlike Any Other

At Mission Critical Partners, our mission is simple: to improve public safety and justice outcomes. Our client commitment is to act as a trusted, independent advisor, always striving to solve problems, deliver value, efficiency, and fresh ideas – all while mitigating risk.

We stand behind the significance of the work our clients do and how critical their missions truly are – not just for their organization, but for their entire community. Our greatest pride is partnering with clients to implement the best solutions that drive their mission, building upon our expertise and experience – because their mission is what matters.

We bring highly specialized expertise in public safety, justice and in other critical infrastructure sectors. Many of our professionals have been in our clients' shoes and are well attuned to their unique needs. Our vision is to transform mission-critical and public-sector networks and operations into integrated ecosystems.

A Halo Effect Over the Critical Communications Ecosystem

MCP provides its clients with a holistic approach to enhance and evolve critical communications systems and operations across the entire ecosystem. The "MCP Halo Effect" is our comprehensive integrated series of products and solutions to dramatically effect collaboration and situational awareness, improve decision-making, and ultimately influence outcomes.

SecureHalo™
Family of Cybersecurity and IT Solutions

We're designing and monitoring highly reliable, secure and easy-to-manage integrated public safety networks.

Consulting
Consultive & Advisory Solutions

We're providing expertise across all areas of the constantly evolving public safety, justice, and broader public sector ecosystem.

DataHalo™
Family of Data Solutions

We provide data analytics and software solutions that improve collaboration, productivity, and decision-making.

3,200+ projects

supporting 1,300+ public-sector and critical communications agencies since 2009

We serve clients in

48 states

and 95% of the nation's largest metropolitan areas

200+

subject-matter experts on staff with an average of 25 years of experience

90%

of our clients remain with us from project to project

15%

average project cost savings for our clients—sometimes more

Corporate Headquarters:
690 Gray's Woods Blvd.
Port Matilda, PA 16870
Phone: 888-862-7911

Data Integration Services

In the courts, justice and public safety arena, the business environment includes vendors, suppliers, partners, community, private organizations, and various government agencies. MCP's Data Integration Services team specializes in the planning and implementation of complex data exchange and integration projects for the criminal justice market. Our successes include integration initiatives that span all major entities within the criminal justice community, including:

- Law Enforcement
- Courts
- State Bureaus of Investigation
- Social Services
- Prosecution
- Probation
- Human and Health Services
- Department of Motor Vehicles
- Public Defenders
- Adult/Juvenile Corrections
- Child Support

We've made it our business to help you facilitate, integrate, and improve your ability to work together—by focusing on workflow integration—to achieve real-time accessibility to information that is relevant to the business environment. This event-triggered information sharing has the benefit of reducing paper dependencies, cutting costs and uncovering innovative revenue opportunities that exist in your ecosystem.

MCP has implemented large-scale, multi-year workflow integration projects at the state, county, and local levels. The benefit to our clients is that our full range of system integration capabilities is augmented with real-world experiences, proven methodologies, industry standards, and best practices that are demonstrated in the breadth, depth, and realism of our strategic planning and implementation efforts.

Our court, justice, and public safety capabilities include, but are not limited to:

Services
<ul style="list-style-type: none">• Strategic Planning and Governance• Analysis• Exchange Architecture• Integration• Project Management• National Standards• Product Solutions

MCP uses national standards, modeling tools, and open technologies day in and day out, including:

- Justice Information Exchange Model (JIEM)
- Service-Oriented Architecture (SOA) and Global Reference Architecture (GRA)
- Web Services Standards
- eXtensible Markup Language (XML) Standards and National Information Exchange Model (NIEM)


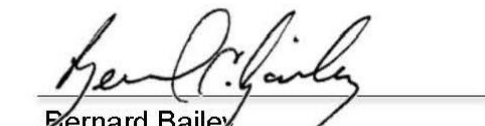
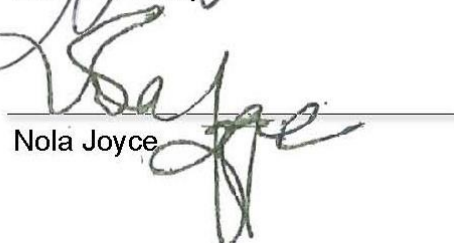
Our Commitment to Our Clients

Partnering with a firm that brings an independent, objective perspective to every engagement is our clients' top priority. We stand behind our commitment to always put the fundamental interests of our clients first.

From our inception, vendor-neutrality is a value that underpins every aspect of what we do. Our goal is to determine the most favorable solution for our clients based on their unique requirements, budget, governance structure, operations, and existing technologies. We provide a holistic perspective regarding the entire mission-critical communications ecosystem, free of bias or favoritism to any specific product or service provider. Our recommendations are always based solely on the value and the benefit provided to the client.

For clients, this approach means more control and greater visibility into the systems they ultimately are responsible for operating and maintaining, and—more importantly—a successful project that improves outcomes.

Board of Directors


R. Kevin Murray
Robert Chefitz
Bernard Bailey
Darrin J. Reilly
Nola Joyce

Statement of Services

Introduction

Mission Critical Partners, LLC (MCP) appreciates the opportunity to provide this proposal to Apex Fire Department for the scope of work to accomplish the integration indicated as well as the licensing of MCP's DataLink™ software that will provide the technology and ensure the ongoing operation and maintenance of the integration.

In this Statement of Work, MCP proposes to configure and deliver its DataLink software components to meet the integration need of Apex Fire Department to transfer data from the Vector Scheduling product to the ESO Fire Records Management System (ESO Fire RMS).

The goal is a managed one-way interface that transfers roster and schedule data from Vector Scheduling to ESO Fire RMS on a periodic basis by employing the Vector Scheduling Application Programming Interface (API), DataLink and the ESO Fire EMS API that enable extraction and provision of data out of and into the systems.

MCP will manage all formatting of data in the required formats to acquire data from Vector Scheduling, transform data and then transfer it to ESO Fire RMS. This approach minimizes or eliminates the reliance on the vendor who provides the Fire EMS system, reducing costs and timelines and clarifying maintenance, support and troubleshooting.

MCP's services will go beyond simply building an interface and letting it run. Our ongoing subscription-based approach provides complete *lifecycle management* of the integration. This provides Apex Fire Department with full-time remote monitoring of the interface, a single point of contact at MCP for problem resolution, and a commitment by MCP to update the interface when either Vector Scheduling or ESO Fire RMS requirements change.

Problem Statement

Apex Fire Department has a business process in place to create rosters, and Vector Scheduling is the master roster and scheduling system as the "source of truth". MCP understands there are two basic Use Cases for the transmission of data from Vector Scheduling to ESO Fire RMS:

Apex Fire Department has up to five 24-hour shifts. There is a shift supervisor that sets the roster for each shift.

1. Each shift supervisor sets a roster for a shift one to two weeks in advance (or more). When the roster is completed, the full roster needs to be populated from Vector Scheduling into ESO Fire RMS.
2. A shift supervisor needs to change an individual assignment on a roster, i.e., someone calls in sick, etc. That change needs to be updated from Vector Scheduling in the ESO Fire RMS.

Proposed Solution

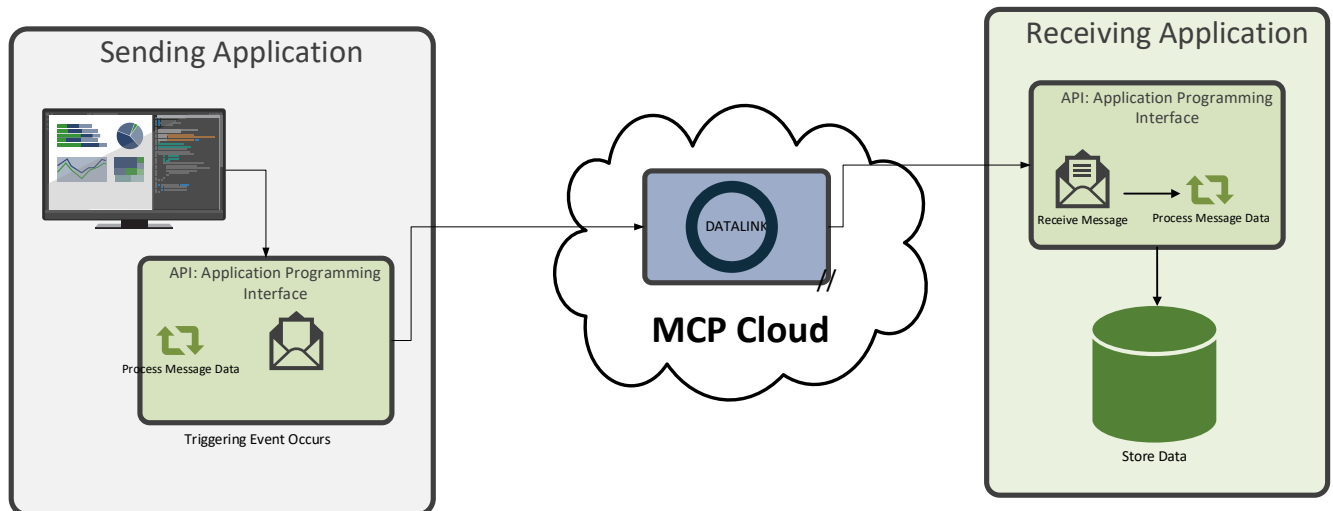
MCP proposes to deploy DataLink™, a lightweight software component that standardizes and streamlines interfaces that will connect component(s) in Apex Fire Department's computing environment to the Vector Scheduling API. The DataLink will receive roster data from the Vector Scheduling API.

DataLink will be configured to call an operation on the Vector Scheduling API to retrieve a full set of data/rosters. Ideally, the API would have the capability to send roster data triggered by the shift supervisor

completing a roster. However, if this proves to be problematic, the DataLink would be configured to poll the Vector Scheduling API on a regular interval for newly completed rosters.

The DataLink will also receive roster updates any time a Vector Scheduling user makes an update, and in a comparable manner as above. The DataLink would be configured to poll the Vector Scheduling API on a regular interval for new data/roster information.

DataLink translates the complexity of interface requirements, simplifying the data exchange for any information system and its vendor. DataLink exchanges information with the local system in as simple a format as possible and executes all of the detailed interface requirements to send and/or receive required data. The diagram below illustrates this.



Scope of Work

Configuring and implementing the DataLink for scheduling data will involve the following steps:

1. Analysis of the two systems' APIs.
2. Configuration of MCP's DataLink software to execute one or more Vector Scheduling API calls.
3. Formatting of roster data into a JSON format that can be provided to ESO Fire RMS API.
4. Processing of response messages from the ESO Fire RMS API.
5. MCP will then coordinate with Apex Fire Department's IT Administrators to deploy the DataLink in the same computing environment as Vector Scheduling and establish connectivity with the ESO Fire RMS API.
6. MCP will coordinate with Apex Fire Department users to test both Use Cases defined above, including different variations or scenarios that users often encounter. Users will verify that the data from Vector Scheduling is displayed and available in ESO Fire RMS as expected.
7. Once Apex Fire Department users sign off on completed testing, the parties will establish an agreed-upon date and time for putting the DataLink into production.

8. MCP will provide support and a mechanism for users to report bugs, issues, and failures. MCP will respond to these issues as specified in an End-User Subscription Agreement (EUSA) between Apex Fire Department and MCP between these parties.

MCP's subscription service will include remote monitoring of the DataLink and the resolution of documented issues per the EUSA. In addition, MCP will update the DataLink to meet any changes to the ESO Fire RMS API on a schedule to be agreed upon mutually by the parties.

Roles and Responsibilities

Vector Solutions will:

- Provide technical resources to support the design and development of the Interface
- Provide facilitation between ESO product and/or sales teams as needed in cases where issues arise that require ESO participation

Mission Critical Partners will:

- Design, develop, test, install and maintain the interface between Vector Scheduling and the ESO Fire RMS platform
- Execute the EUSA with Apex Fire Department for the DataLink license
- Provide lifecycle management of DataLink per the terms of the EUSA
- Invoice Apex Fire Department for the one-time cost of the interface and the annual subscription fee for the DataLink defined in the EUSA

Apex Fire Department will:

- Provide resources to support the deployment, testing and Installation of the interface
- Facilitate any interaction between MCP and ESO for information or issue resolution if Vector Solutions is, in the rare case, unable to elicit the appropriate responses from ESO
- Execute the EUSA with MCP for the DataLink for lifecycle management and support
- Pay the one-time cost of interface development and the ongoing subscription fees for lifecycle maintenance and support

Ownership Rights

It is understood and agreed that MCP is licensing its DataLink Solution for Apex Fire Department's use, and usage of DataLink is limited to the terms of the EUSA. The ideas, know-how, concepts, techniques and source code related to the MCP software are and shall exclusively belong to MCP. MCP retains exclusive rights to the intellectual property related to any included DataLink solutions. MCP's intellectual property or products remain the exclusive property of MCP. Vector Scheduling intellectual property or products remain the exclusive property of Vector Scheduling, and ESO Fire RMS intellectual property or products remain the exclusive property of ESO.

End-User Subscription Agreement



END-USER SUBSCRIPTION AGREEMENT

This END-USER SUBSCRIPTION AGREEMENT (this “Agreement” or “EUSA”) is made and entered into by and between Mission Critical Partners, LLC (“MCP”) and Town of Apex (“Customer”). MCP and Customer may be referred to herein collectively as the “Parties” or individually as a “Party.”

GENERAL TERMS

MCP Solutions	MCP owns certain software solutions that enable a variety of technology services designed to enhance customer solutions, including to streamline data integration, offer additional data analytic capacity, and improve the security and network reliability of customer solutions (collectively, the “ <u>MCP Solutions</u> ”). The specific MCP Solutions that will be made available to Customer are: DataLink to transfer data from the Vector Scheduling system to the ESO Fire Records Management System (ESO Fire RMS).
Professional Services	MCP will provide to Customer the professional services, including any installation and implementation services, specified in each statement of work attached hereto which is executed by both Parties (each, an “ <u>SOW</u> ”).
Fees	Customer will pay to MCP a one-time fee of \$3,000 and \$3,600 on an annual basis (300\$/month) in advance, together with all amounts set forth in each mutually executed SOW, if any (all such amounts to be paid hereunder, the “ <u>Fees</u> ”).
Term	The term of this Agreement will commence on the date of the last signature below (the “ <u>Effective Date</u> ”) and will continue for three years, unless earlier terminated as set forth herein (“ <u>Initial Term</u> ”). This Agreement may be renewed in a writing signed by both Parties (“ <u>Renewal Term</u> ”). The Initial Term and all Renewal Terms shall be collectively, the “ <u>Term</u> ”.

By signing below, the Parties agree to be legally bound by this Agreement, which includes the terms and conditions of this Cover Page, the Terms and Conditions attached to this cover page, and any additional terms in one or more Addenda attached to this Agreement.

Mission Critical Partners, LLC

Signature: _____

Name: _____

Title: _____

Date: _____

Address: 690 Gray’s Woods Blvd.
Port Matilda, PA 16870
Attn: LMS Division

Town of Apex

Signature: _____

Name: _____

Title: _____

Date: _____

Address: 315 W. Williams St.
Apex, NC 27502

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

Antwan Morrison, Finance Director

TERMS AND CONDITIONS

1. Definitions.

1.1. “Authorized Users” means Customer’s employees, service providers, agents and others who are authorized by Customer to use the MCP Solutions in accordance with these terms.

1.2. “Cover Page” means the cover page to this Agreement, to which these Terms and Conditions are attached.

1.3. “Customer Data” means information, data, and other content that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the MCP Solutions, other than Non-Identifiable Information.

1.4. “Documentation” means user manuals, handbooks, and guides relating to the MCP Solutions provided by MCP to Customer either electronically or in hard copy form.

1.5. “MCP IP” means the MCP Solutions, the Documentation, and any and all copyrights, trade secrets, and other intellectual property provided to Customer or any Authorized User in connection with the foregoing, including all intellectual property developed by or on behalf of MCP or Customer in connection with any professional services provided to Customer pursuant to an SOW.

1.6. “Non-Identifiable Information” means information, data, and other content that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the MCP Solutions, which does not identify any specific individual or entity, including Customer or any Authorized User.

1.7. “Third-Party Data” means information, data or other content that a third-party government agency or entity agrees to share with Customer. Third-Party Data may be integrated into Customer Data.

1.8. “Third-Party Products” means any third-party products, materials, or information that is provided with or incorporated into the MCP Solutions, including any publicly available standards or criteria used by other solution providers.

2. Access and Use.

2.1. MCP Solutions. Subject to Customer’s compliance with the terms and conditions of this Agreement, including payment of all Fees, MCP hereby grants Customer, during the Term, a limited, revocable, non-exclusive, non-transferable, terminable right to have Authorized Users access and use the MCP Solutions and the Documentation for Customer’s internal business purposes.

2.2. Use Restrictions. Customer shall not use the MCP Solutions for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (a) copy, modify, or create derivative works of the MCP IP, in whole or in part; (b) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the MCP IP; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the MCP Solutions, in whole or in part; (d) remove

any proprietary notices from the MCP IP; (e) use the MCP IP for developing, using, or providing a competing software product or service or any other purpose that is to MCP’s, or its licensors’, detriment or commercial disadvantage; (f) use the MCP IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; or (g) otherwise use the MCP IP except as expressly allowed under this Agreement.

2.3. Reservation of Rights. As between MCP and Customer, MCP reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the MCP IP.

2.4. Suspension. Notwithstanding anything to the contrary in this Agreement, MCP may temporarily suspend Customer’s and any Authorized User’s access to any portion or all of the MCP Solutions if: (a) MCP reasonably determines that (i) there is a threat or attack on any of the MCP IP, (ii) Customer’s or any Authorized User’s use of the MCP IP disrupts or poses a security risk to the MCP IP or to any other customer or vendor of MCP, (iii) Customer or any Authorized User is using the MCP IP for fraudulent or illegal activities, or (iv) MCP’s provision of the MCP Solutions to Customer or any Authorized User is prohibited by applicable law; (b) any vendor of Customer or MCP has suspended or terminated access to or use of any third-party services or products required to enable Customer to access the MCP Solutions; or (c) in accordance with Section 5 (any such suspension described in subclause (a), (b), or (c), a “Service Suspension”). MCP shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the MCP Solutions following any Service Suspension. MCP shall use commercially reasonable efforts to resume providing access to the MCP Solutions as soon as reasonably practicable after the event giving rise to the Service Suspension is cured. MCP will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

2.5. Audit. Upon written request from MCP and subject to reasonable advance notification, Customer shall provide MCP with access to any systems, software, computers, records, or other information that relate or may relate to Customer’s use of the MCP Solutions as MCP may request to show Customer’s compliance with the terms of this Agreement. Such audit will not unreasonably interfere with Customer’s business activities. In the event that an audit reveals use of the MCP Solutions in violation of the terms of this Agreement, Customer will reimburse MCP for the reasonable cost of the audit, in addition to such other rights and remedies that MCP may have.

3. Professional Services. Customer may engage MCP to perform professional services as set forth in an SOW signed by both Parties. MCP shall not commence work or provide any

professional services until the Parties enter into a written SOW, which shall set forth, among other things: (a) the professional services to be performed by MCP; (b) the cost and payment schedule with respect to the Fees for such professional services; and (c) any additional provisions applicable to the professional services to be provided pursuant to the SOW. Customer will provide information reasonably requested by MCP to perform the services hereunder, including as applicable, technical specifications, Customer or third-party databases and schemas, network architectures and diagrams, performance statistics, interfaces and access to Customer systems, including third-party systems, routing and network addresses and configurations (collectively, “Customer Materials”). Customer represents and warrants that (i) Customer is solely responsible for the content and rights to the Customer Materials; (ii) Customer Materials will be accurate, and (iii) MCP’s use of Customer Materials will not violate the rights of any third party

4. Customer Responsibilities.

4.1. General. Customer is responsible and liable for all uses of the MCP IP resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement’s provisions as applicable to such Authorized User’s use of the MCP IP and shall cause Authorized Users to comply with such provisions.

4.2. Third-Party Products. MCP may from time to time make Third-Party Products available to Customer. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions. If Customer does not agree to abide by the applicable terms for any such Third-Party Products, then Customer should not install or use such Third-Party Products.

5. System Availability and Support.

5.1. Definitions. “Uptime” is calculated by determining the percentage of time during a given month in which aspects of the MCP Solutions which are hosted by or on behalf of MCP were Unavailable (as defined below) and subtracting that time percentage from 100%. Uptime measurements exclude downtime resulting directly or indirectly from any of the exclusions specified in Section 5.3. “Unavailable” and “Unavailability” means that Licensee is unable to access and/or use the MCP Solutions for any reason other than those reasons specified by the exclusions specified in Section 5.3.

5.2. Service Availability. MCP will use commercially reasonable efforts to make the MCP Solutions available for use with an Uptime of at least 99.0%, in each case during any monthly billing cycle (the “Service Commitment”).

5.3. Exclusions. The Service Commitment does not apply to any unavailability, suspension, termination, or performance issues relating to the MCP Solutions: (a) caused by factors outside of MCP’s reasonable control, including any force majeure event (as described in Section 13.3), Internet access or related event beyond

the demarcation point of MCP; (b) that result from any negligent or intentional actions or inactions by Customer or any third party; (c) that result from any failure, misconfiguration, or incompatibility of equipment, software or other technology under Customer’s reasonable control; (d) that result from any failure, misconfiguration, or incompatibility of third party equipment, software, hosting services or other technology (other than third party equipment within MCP’s direct control); (e) that result from any MCP scheduled maintenance or downtime; or (f) arising from MCP’s suspension and termination of Customer’s right to use the MCP Solutions pursuant to this Agreement. No representations or guarantees are made regarding Uptime or availability of the MCP Solutions unless specifically identified in this Section 5.

5.4. Connectivity Infrastructure. Notwithstanding the foregoing, and for the avoidance of doubt, access to and hosting of the MCP Solutions, as well as the connections between the MCP Solutions and any peripheral devices, are provided by underlying Internet, cellular circuits and third party services and data, including any third party records management systems used by Customer and all related Third-Party Data (collectively, the “Connectivity Infrastructure”). The Parties agree that such Connectivity Infrastructure is beyond MCP’s reasonable control, and MCP expressly disclaims any warranties, responsibilities (beyond advising Customer of general practices to improve Connectivity Infrastructure), or liabilities for such Connectivity Infrastructure, or for failures of the MCP Solutions due to lack of coverage, connectivity failures, or downtime of any component of the Connectivity Infrastructure.

5.5. Support. Customer shall provide MCP remote access to the MCP Solutions via an Internet or other network connection. Customer shall not interrupt or disconnect this connection. MCP will provide remote monitoring via the network connection to monitor performance and detect operational issues related to the MCP Solutions, in addition to a method for Customer to alert MCP to known issues. “Tier 1 Support” is the initial support level provided to Customer that addresses basic issues, generally via telephone or email communications to answer questions and help troubleshoot any difficulties that Customer may have in using the MCP Solutions. “Tier 2 Support” is escalation of a reported or detected issue to investigate and resolve operational issues that involve configuration of the MCP Solutions, which may include tasking Customer, Authorized User, or other third parties with resolving issues beyond the control of MCP. “Tier 3 Support” is any development work that requires code changes to the MCP Solutions. MCP will incorporate resolution of these issues into a future scheduled code release. MCP will provide immediate relief only if the code fix applies to all Customers of the specific MCP Solutions. MCP shall provide Tier 1 Support to Customer. For the avoidance of doubt, Tier 1 Support does not include any on-site support by MCP unless separately purchased by Customer. Upon Customer’s request, pursuant to a mutually agreed SOW, MCP shall provide to Customer Tier 2 Support and Tier 3 Support.

6. Fees and Payment.

6.1. Fees. Customer shall pay to MCP the Fees as set forth on the Cover Page, without offset or deduction. Customer shall make all payments hereunder in US dollars on or before the due date set forth on the Cover Page or, if not specified, within thirty days of the date of the applicable invoice. If Customer fails to make any

payment when due, without limiting MCP's other rights and remedies: (a) MCP may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; and (b) if such failure continues for thirty days or more, MCP may suspend Customer's and its Authorized Users' access to any portion or all of the MCP Solutions until such amounts are paid in full. In the event that this Agreement terminates prior to the end of the Term for any reason other than an uncured material breach by MCP, Customer shall pay to MCP all outstanding Fees that would have otherwise been due had the Agreement continued until the end of the Term.

6.2. **Taxes.** All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on MCP's (or its licensors') income.

7. **Confidential Information.** From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information that is marked, designated or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and reasonably cooperated with the disclosing Party to keep the applicable Confidential Information non-public; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

8. **Intellectual Property Ownership; Feedback.**

8.1. **MCP IP.** MCP, or its licensors, own all right, title, and interest, including all copyrights, trade secrets, and other intellectual property rights, in and to the MCP IP and, with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all copyrights and other intellectual property rights, in and to the Third-Party Products.

8.2. **Customer Data.** Customer owns all right, title, and interest, including all copyrights, trade secrets, and other intellectual property rights, in and to the Customer Data. Customer hereby grants to MCP a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for MCP (and its licensors and vendors) to provide the MCP Solutions and related services to Customer and its Authorized Users. Customer Data may be imported from different source systems that Customer uses. Customer shall comply with all data protection laws and regulations, including by obtaining all necessary consents to use, process, and share the Customer Data, and with the terms and conditions governing the use of each of the different source systems used by Customer. Without limiting the foregoing, Customer shall maintain and enforce technical and organizational safeguards against accidental, unlawful, or unauthorized access to, disclosure, or use of the MCP Solutions in a manner that ensures a level of security appropriate to the risks presented by the Customer Data, consistent with best industry practice and standards. Customer acknowledges and agrees that Customer will be solely responsible for backing-up, and taking all appropriate measures to protect and secure, the Customer Data.

8.3. **Third-Party Data.** Customer has secured or will secure all necessary authorizations, credentials and rights to access and hold Third-Party Data for purposes of using the MCP Solutions and permitting MCP to perform under this Agreement.

8.4. **Non-Identifiable Information.** MCP (and its licensors and vendors) may monitor Customer's use of the MCP Solutions and collect and compile Non-Identifiable Information, including information relating to statistical and performance information relating to the provision and operation of the MCP Solutions. All right, title, and interest in Non-Identifiable Information belong to and are retained solely by MCP. Customer acknowledges and agrees that MCP may (a) compile Non-Identifiable Information based on Customer Data input into the MCP Solutions; (b) use the Non-Identifiable Information to improve the performance of the MCP Solutions, including to pre-populate fields and other information-gathering sections of the MCP Solutions; and (c) use Non-Identifiable Information to the extent and in the manner permitted under applicable law; provided that such Non-Identifiable Information does not identify any specific individual or entity, including Customer or any Authorized User.

8.5. **Feedback.** If Customer or any of its employees or contractors, including any Authorized User, sends or transmits any communications or materials to MCP (or its licensors) by mail, email, telephone, or otherwise, suggesting or recommending changes to the MCP IP, including, without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), MCP and its licensors are free to use such Feedback irrespective of any other

obligation or limitation between the Parties governing such Feedback, without any attribution or compensation to any party, although MCP is not required to use any Feedback.

8.6. **Modifications.** MCP and its licensors may update, upgrade, or modify the MCP IP at any time, including the removal or modification of previously available functionality. The inclusion of any functionality at a particular time does not imply or warrant that these abilities or services will be available at a later time. Any updates, upgrades, enhancements and/or modifications provided to Customer will automatically be considered part of the MCP Solutions and will be subject to the terms of this Agreement.

9. Limited Warranties and Warranty Disclaimer.

9.1. **Limited Warranty.** MCP warrants that the MCP Solutions will substantially conform to the specifications set forth in the Documentation. In the event that Customer discovers a material malfunction in the MCP Solutions, Customer shall notify MCP in writing and MCP shall use commercially reasonable efforts to correct, cure, or otherwise remedy such malfunction. Customer shall cooperate with MCP in a prompt and reasonable manner in connection with such correction efforts. The foregoing obligation of MCP does not apply (a) to the extent the MCP Solutions is combined with any unauthorized software, processes or materials where the material malfunction would not have occurred without such combination; (b) where the material malfunction continues after Customer has been informed of modifications that would have avoided the malfunction; (c) where Customer's use of the MCP Solutions is not for the purposes set forth in this Agreement; and (d) to any material malfunction arising from any content, information or data provided by Customer or any third party. THE FOREGOING WARRANTY DOES NOT APPLY, AND MCP STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS OR ANY CONNECTIVITY INFRASTRUCTURE.

9.2. **Disclaimer.** EXCEPT AS EXPRESSLY WARRANTED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE MCP IP AND RELATED SERVICES ARE PROVIDED "AS IS" AND MCP (AND ITS LICENSORS) HEREBY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. MCP (AND ITS LICENSORS) SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT AS EXPRESSLY WARRANTED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MCP (AND ITS LICENSORS) MAKE NO WARRANTY OF ANY KIND THAT THE MCP IP, SERVICES, OR ANY RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

10. Indemnification.

10.1. MCP Indemnification.

10.1.1. MCP shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the MCP Solutions, or any use of the MCP Solutions in accordance with this Agreement, infringes or misappropriates such third party's US patents, copyrights, or trade secrets, provided that Customer promptly notifies MCP in writing of the claim, reasonably cooperates with MCP in connection with the claim, and allows MCP sole authority to control the defense and settlement of such claim.

10.1.2. If such a claim is made or appears possible, Customer agrees to permit MCP, at MCP's sole discretion, to (a) modify or replace the MCP Solutions, or component or part thereof, to make it non-infringing, or (b) obtain the right for Customer to continue use. If MCP determines that neither alternative is reasonably available, MCP may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately upon written notice to Customer.

10.1.3. This **Section 10.1** will not apply to the extent that the alleged infringement arises from: (a) use of the MCP Solutions in combination with data, software, hardware, equipment, or technology not provided by MCP or authorized by MCP in writing; (b) modifications to the MCP Solutions not made by MCP; (c) Customer Data; (d) Third-Party Products; or (e) Connectivity Infrastructure.

10.2. **Sole Remedy.** THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE REMEDIES AND MCP'S (AND ITS LICENSORS') SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE MCP IP OR SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

11. Limitations of Liability. IN NO EVENT WILL MCP (OR ITS LICENSORS) BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (EXCLUDING NEGLIGENCE), AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER MCP (OR ITS LICENSOR) WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL MCP'S (OR ITS

LICENSOR) AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (EXCLUDING NEGLIGENCE) AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO MCP UNDER THIS AGREEMENT IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

12. Termination.

12.1. Termination. In addition to any other express termination right set forth in this Agreement:

12.1.1. MCP may terminate this Agreement, effective on written notice to Customer, if Customer: (a) fails to pay any amount when due hereunder, and such failure continues more than thirty days after MCP's delivery of written notice thereof; or (b) breaches any of its obligations under Section 2.2, Section 5, or Section 7;

12.1.2. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (a) is incapable of cure; or (b) being capable of cure, remains uncured thirty days after the non-breaching Party provides the breaching Party with written notice of such breach; or

12.1.3. Either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (b) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (c) makes or seeks to make a general assignment for the benefit of its creditors; or (d) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

12.2. Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of the MCP IP and, without limiting Customer's obligations under Section 7, MCP will, via remote connection, remove the MCP Solutions, including all related code, from Customer's systems and site. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund.

12.3. Survival. This Section 12.3 and Sections 1, 6, 7, 8, 9.2, 10, 11, and 13 shall survive any termination or expiration of this Agreement. No other provisions of this Agreement will survive the expiration or earlier termination of this Agreement.

13. Miscellaneous.

13.1. Entire Agreement. This Agreement, which includes the Cover Page and these terms and conditions, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and

representations and warranties, both written and oral, with respect to such subject matter.

13.2. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") must be in writing and addressed to the Parties at the addresses set forth on the Cover Page (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section. The Parties acknowledge and agree that the terms and conditions of this Section shall apply notwithstanding any other notice requirements under applicable law.

13.3. Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to natural hazards outside of human control for which no person or persons can be held responsible, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

13.4. Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (a) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (b) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

13.5. Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to affect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13.6. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule that would require or permit the application

of the laws of any jurisdiction other than those of the State of North Carolina. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of North Carolina in each case located in Wake County, North Carolina and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

13.7. Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of MCP. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

13.8. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

13.9. Anti-Human Trafficking. MCP warrants and agrees that no labor supplied by MCP or MCP's subcontractors in the performance of this Agreement shall be obtained by means of

deception, co-ercion, 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.

13.10. Nondiscrimination. Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, MCP hereby warrants and agrees that MCP will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement "protected class" includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

13.11. Nonappropriation. Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the Customer are from appropriations and monies from the Town of Apex Town Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the Customer to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the Customer.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Amanda Grogan, Director

Department(s): Budget & Performance Management

Requested Motion

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

Approval Recommended?

Yes

Item Details

Budget Ordinance Amendment No. 6 reduces the tax revenue in the General Fund and transfers out expenses. Respective tax revenue lines are increased in both funds to account for the direct allocation of revenues to the Debt Service and Affordable Housing Fund. The Finance Department posts tax distributions directly to the related fund ensuring actual distributions and not original estimates are deposited.

Town Council elected to cover Affordable Housing operating expenses from the Fiscal Year 2025 Budget from the Affordable Housing Fund. Previously the transfer was reduced to offset this amount. This amendment also reduces allocations for this in the General Fund and increases the respective lines in the Affordable Housing Fund.

Lastly, the budget amendment and corresponding Capital Project Ordinance Amendment 2025-5 reduces the revenues and expenses from the Affordable Housing Fund and increases them the same \$2.9 million in the ARPA Fund at the request of the Finance Department. Due to financing timing Finance conveyed a preference to account for the affordable housing land purchase with the \$3 million allocation for ARPA Funds.

Attachments

- CN6-A1: Budget Ordinance Amendment No. 6 - Debt Service Payments and Affordable Housing Land Purchase

- CN6-A2: Capital Project Ordinance Amendment 2025-5 - Debt Service Payments and Affordable Housing Land Purchase



Town of Apex

Budget Ordinance Amendment No. 6

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

General Fund

Section 1. Revenues:

31010	Current Year	(10,268,000)
31015	Vehicle Taxes	(524,100)
31040	Penalties and Interest	(9,400)
Total Revenues		-\$10,801,500

Section 2. Expenditures:

49621	Transfer to Affordable Housing	(1,315,700)
49720	Transfer to Debt Service Fund	(8,835,800)
4800	CDNC - Affordable Housing Personnel/ Operations	(650,000)
Total Expenditures		-\$10,801,500

Affordable Housing Fund

Section 3. Revenues:

31010	Current Year	1,817,200
31015	Vehicle Taxes	111,400
31020	Prior Years	500
31025	Vehicles Unregistered	100
31040	Penalties and Interest	1,400
39107	Installment Purchase Agreement	(2,900,000)
39710	Transfer from General Fund	(1,315,700)
Total Revenues		-\$2,285,100

Section 4. Expenditures:

21-4800	Affordable Housing Personnel & Operations	\$650,000
21-4900	Reserved for future expenditures	(35,100.00)
21-4900	Capital Outlay Land	(2,900,000)
Total Expenditures		-\$2,285,100

General Debt Service Fund

Section 5. Revenues:

31010	Current Year	8,345,100
31015	Vehicle Taxes	613,100
31020	Prior Years	3,200
31025	Vehicles Unregistered	400

31040	Penalties and Interest	8,000
39710	Transfer from General Fund	(8,835,800)
Total Revenues		\$134,000

Section 6. Expenditures:

40-4400	Wake County Collection Fees	134,000
Total Expenditures		\$134,000

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

Adopted this the 14th day of January 2025.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk



Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2025-5

28-ARPA Capital Project Fund

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

SECTION I: The project authorized by this ordinance consists of general town capital projects.

SECTION II: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

SECTION III: The following revenues are anticipated to be available to complete these projects:

36100: Interest Earned	311,500
39107: Installment Purchase Agreement	4,088,000
33240: State Grants	11,500,000
39732: Transfer from Water & Sewer Fund	1,250,000
Total Revenues	\$17,149,500

SECTION IV: The following amounts are appropriated for the project funds:

General ARPA Projects	17,149,500
Total Expenditures	\$17,149,500

SECTION V: The Finance Officer hereby directed to maintain within the project funds detailed accounting records.

SECTION VI: The Budget Officer is directed to include a detailed analysis of the past and future costs and revenues on this capital project in every budget submission made to the Town Council.

SECTION VII: The Town Manager is authorized to amend expenditures within the fund for expenditures that are authorized per section I of this ordinance that do not change the total appropriation within the fund.

SECTION VIII: Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

SECTION IX: All ordinances in conflict with this ordinance are hereby repealed or amended to reflect the controlling nature of this Ordinance.

Adopted this the 14th day of January, 2025.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Mary Beth Manville, Director

Department(s): Human Resources

Requested Motion

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

Approval Recommended?

Yes

Item Details

Town staff are requesting the following updates to the Town's Position Authorization List, increasing FTEs (full-time equivalent) for the following departments:

Information Technology Department - Additional one (1) FTE

The Information Technology Department had identified the need for an Innovations position prior to the ERP kick off, but replaced the Innovations position with a Project Manager to ensure the ERP project had the proper resources. The need for an Innovations position was brought up at a Council Retreat, identified as a Smart Cities Manager which are the duties the Innovations position would hold. Due to the priority of the Council request, the Innovations position has been identified as a priority and approving this position will drive forward-looking projects and oversee the implementation of advanced technology solutions. This role is essential for enhancing organizational efficiency, service delivery, and technological capabilities, with a particular focus on Smart Cities initiatives that include the Parks and Recreation Field and Court occupancy, Saunders Street Parking Pilot in progress along with Gen AI projects in the works.

Human Resources Department - Additional one (1) FTE

The Human Resources Department identified the need for a Human Resources Analyst for FY25 in their 3-year staffing plan but it was unable to be funded in the FY25 budget. The position was slated for the FY26 budget, but the recently implemented town-wide Career Path/Progression program as well as the

increased demand for salary equity reviews has led to a need to bring the position on prior to July 1, 2025. Approving this position now will allow the department to recruit and fill the position in time to assist with the annual position study implementation as well as the classification & job description creation of new positions that will be approved with the FY26 budget.

Community Connections & Neighborhood Development Department - Additional one-half (0.5) FTE

The FY25 approved budget included two, 30-hour (.75 FTE) Town Services Specialist positions. Based on workload demands, the department is requesting that each of these positions be increased to 40-hour positions, resulting in an overall increase of 0.5 FTEs for the department.

The Personnel Committee reviewed and approved these position authorization requests at the December 6, 2024 Personnel Committee Meeting.

Attachments

- CN7-A1: FY25 Position Authorization List
- CN7-A2: Budget Ordinance Amendment No. 7



FY25 Authorizations By



Administration

8

	FT	PT	FTE	Grade
Town Manager	1		1	N/A
Deputy Town Manager	1		1	SL305
Assistant Town Manager	2		2	SL304
Senior Capital Projects Manager	1		1	M13
Administration Project Manager	1		1	M13
Senior Executive Assistant (Town Administration)	1		1	M09
Receptionist	1		1	M05

Budget & Performance Management

7

	FT	PT	FTE	Grade
Budget & Performance Management Director	1		1	SL301
Budget Manager	1		1	M13
Budget & Performance Analyst I/II	3		3	M10/M10
Sustainability Program Coordinator	1		1	M09
Sustainability Specialist I/II	1		1	M08/M08

Communications

5

	FT	PT	FTE	Grade
Communications Director	1		1	SL301
Communications Manager	1		1	M12
Public Information Officer I/II	1		1	M10/M10
Digital Media Specialist I/II	1		1	M08/M08
Multimedia Specialist I/II	1		1	M08/M08

Community Development & Neighborhood Connections

12

	FT	PT	FTE	Grade
Community Development and Neighborhood Connections Director	1		1	SL302
Housing Program Manager	1		1	M13
Community Connection Center Manager	1		1	M12
Community Engagement Manager	1		1	M12
Housing Specialist/Senior	2		2	M08/M12
Community Engagement Specialist	1		1	M08
Town Services Specialist	5		5	M05

Diversity, Equity, and Inclusion

3

	FT	PT	FTE	Grade
Diversity, Equity, and Inclusion Director	1		1	SL301
Senior DEI Consultant	1		1	M12
DEI Specialist I/II	1		1	M10/M10

Economic Development

4

	FT	PT	FTE	Grade
Economic Development Director	1		1	SL301
Small Business Manager	1		1	M10
Small Business Specialist I/II	1		1	M07/M07
Economic Development Specialist I/II	1		1	M05/M05

Electric

46

	FT	PT	FTE	Grade
Electric Utilities Director	1		1	SL302
Assistant Electric Utilities Director	1		1	E15
Electric Programs & Tech Coordinator I/II	1		1	M07/M07
Program Support Specialist	1		1	M05
Electric Line Technician Apprentice/I/II/III/Journey	18		18	E6/E8/E9/E10/E11
Utility Locate Technician - Lead	1		1	E7
Powerline Right of Way Technician I/II	4		4	E7/E7
Utility Locate Technician I/II	3		3	E6/E6
Senior Electric Engineer	1		1	E14
Electric Technical Services Manager	1		1	E14
Electric Operations Manager	1		1	E14
Electric Crew Field Supervisor	4		4	E12
Electric Engineering Assistant	2		2	E12
Electric Operations Assistant	1		1	E12
Electric Technical Services Specialist I/II	2		2	E10/E11
Electric Utilities Specialist I/II	1		1	E11/E11
Powerline Forester	1		1	E11
Powerline Trainee/Arborist	2		2	E9/E10

Finance

23.88

	FT	PT	FTE	Grade
Finance Director	1		1	SL302
Assistant Finance Director	1		1	M15
Accounting Manager	1		1	M12
Purchasing and Contracts Manager	1		1	M11
Customer Service & Billing Manager	1		1	M11
Accountant	1		1	M10
Finance & Utility Accountant	1		1	M10
Purchasing Contracts & MWBE Administrator	1		1	M09
Customer Service & Billing Coordinator	1		1	M08
Payroll Administrator	1		1	M08
Accounting Specialist	0	1	0.75	M07
Buyer	1		1	M07
Senior Utility Customer Service Specialist	5		5	M06
Accounts Payable Technician	1		1	M05
Utility Customer Service Specialist	3		3	M05
Inventory & Warehouse Specialist	2		2	M05
Utility Billing Clerk	0	1	0.50	M04
Mail Courier	0	1	0.63	M04

Fire & Rescue

116

	FT	PT	FTE	Grade
Fire Chief	1		1	SL303
Assistant Fire Chief	3		3	M14
Fire Battalion Chief	6		6	F109
Fire Marshal	1		1	F109
Fire Captain I/II	24		24	F105/107
Deputy Fire Marshal	1		1	F107
Fire Training Coordinator I/II	2		2	F107/F107
Emergency Management Coordinator I/II	1		1	F107/F107
Fire Engineer	24		24	F103
Cadet/Firefighter/Senior Firefighter	48		48	F99/F100/F102
Community Risk Reduction Coordinator I/II	1		1	F102/F102
Accreditation Specialist I/II	1		1	F102/F102
Fire Inspector I/II/III	1		1	F104/F104/F104
Admin Logistics Coordinator I/II	1		1	M07/M07
Executive Assistant	1		1	M07

Human Resources

13

	FT	PT	FTE	Grade
Human Resources Director	1		1	SL302
Assistant Human Resources Director	1		1	M15
Benefits & Wellness Manager	1		1	M13
Talent Acquisition Manager	1		1	M13
Safety & Risk Manager	1		1	M13
Senior Training & Development Consultant	1		1	M12
Human Resources Compensation Analyst I/II	1		1	M11
Human Resources Data & Systems Administrator I/II	1		1	M10
Talent Acquisition Consultant I/II	1		1	M09
Human Resources Consultant I/II	2		2	M09
Executive Assistant I/II	1		1	M07
Human Resources Technician I/II	1		1	M07

Information Technology

23

	FT	PT	FTE	Grade
IT Director	1		1	SL302
IT Manager	2		2	M13
GIS Administrator	1		1	M12
Information Technology Supervisor	3		3	M12
IT Security & Compliance Analyst I/II	1		1	M11
IT Analyst I/II	5		5	M11
IT Specialist I/II	7		7	M10/M10
GIS Analyst I/II	1		1	M10/M10
GIS Specialist I/II	2		2	M09/M09

Building Inspections & Permits

27

	FT	PT	FTE	Grade
Inspections & Permits Director	1		1	SL301
Building Code Supervisor	2		2	M12
Plans and Permits Supervisor	1		1	M12
Building Code Official I/II/III	14		14	M08/M10/M11
Plans Examiner I/II/Senior	5		5	M08/M08/M11
Permit Specialist I/II	3		3	M06/M06
Senior Program Support Specialist	1		1	M06

Legal Services

5

	FT	PT	FTE	Grade
Town Attorney	1		1	N/A
Deputy Town Attorney	1		1	M16
Assistant Town Attorney	2		2	M14
Legal Assistant I/II	1		1	M07/M07

Parks, Recreation, and Cultural Resources

69.25

	FT	PT	FTE	Grade
Parks, Rec and CR Director	1		1	SL301
Assistant Parks, Recreation, and Cultural Resources Director	1		1	M15
Parks Planning Manager	1		1	M13
Park Manager	1		1	M12
Parks Operations Manager	1		1	M12
Special Events Manager	1		1	M12
Senior Parks Project Supervisor	1		1	M12
PRCR Center Manager (JMBCC, Senior, Cultural Arts)	3		3	M11
Parks Operations Supervisor	1		1	M10
Athletics & Grounds Supervisor	1		1	M09
Recreation Program Supervisor	4		4	M09
Parks & Greenways Planning Tech I/II	1		1	M08/M08
Cultural Arts Specialist I/II	1		1	M08/M08
Recreation Program Specialist I/II	2		2	M08/M08
Special Events Specialist I/II	1		1	M08/M08
Executive Assistant I/II	1		1	M07
Athletics & Grounds Team Leader	3		3	M07
Cultural Arts Marketing and Event Coordinator I/II	1		1	M07/M07
Parks Operations Team Leader	3		3	M07
Parks Attendant Team Leader	1		1	M07
Marketing & Programs Coordinator I/II	1		1	M07/M07
Camp Director (PT30)		2	1.5	M07
Volunteer Coordinator I/II	1		1	M07/M07
Recreation Customer Service Specialist I/II	5	4	8	M06/M06
Parks Operations Senior Worker I/II	2		2	M06/M06
Athletic & Grounds Technician I/II	1		1	M05/M05
Parks Operations Worker I/II	2		2	M05/M05
Pleasant Park Operations Worker I/II	3		3	M05/M05
Parks Operations Logistics Specialist		1	0.75	M05
Park Attendant I/II	8		8	M04/M04
Pleasant Park Attendant I/II	2	2	3.5	M04
Facility Attendant I/II		2	1.5	M04/M04
Athletics & Grounds Worker I/II	6		6	M04/M04

Planning

24

	FT	PT	FTE	Grade
Planning Director	1		1	SL302
Planning Manager	1		1	M13
Long Range Planning Manager	1		1	M13
Planner I/Planner II/Senior Planner	9		9	M09/M10/M12
Senior GIS Analyst	1		1	M11
Zoning Compliance Supervisor	1		1	M11
Sr Zoning Compl. Officer-Lndscpg	1		1	M10
Environmental Programs Coordinator	1		1	TBD
Lead Planning Technician	1		1	M09
GIS Specialist I/II	2		2	M09/M09
Zoning Compliance Officer/Senior Zoning Compliance Officer	3		3	M08/M09
Planning Technician I/II	2		2	M08/M08

Police

142.75

	FT	PT	FTE	Grade
Police Chief	1		1	SL303
Deputy Police Chief	1		1	M16
Police Captain	4		4	P207
Police Lieutenant	7		7	P206
Police Sergeant	16		16	P205
Police Corporal	3		3	P204
Police Officers (I/II/III/Senior)	80		80	P200/P201/P202/P203
Compliance Manager	1		1	M12
Communications Center Manager	1		1	M12
Compliance Specialist I/II	1		1	M10/M10
Intelligence Analyst	1		1	TBD
Crime Scene Technician I/II	1		1	M09/M09
Accreditation Specialist I/II	1		1	M08/M08
Police Records Supervisor	1		1	M08
Police Crisis Counselor I/II	1		1	M09/M09
Crime Analyst I/II	1		1	M08/M08
Victim Advocate I/II	1		1	M09/M09
Executive Assistant I/II	1		1	M07
Communications Shift Supervisor	4		4	M09
Senior Program Support Specialist		1	0.75	M06
Telecommunicator I/II/Senior	10		10	M06/M06/M07
Evidence Tech/Quartermaster	2		2	M06
Police Records Technician I/II	3		3	M05/M05

Public Works

56.5

	FT	PT	FTE	Grade
Public Works Director	1		1	SL301
Fleet Services Manager	1		1	M13
Public Works Operations Manager	1		1	M12
Facilities & Grounds Manager	1		1	M11
Solid Waste Operations Supervisor	1		1	M10
Facility Services Supervisor	1		1	M10

Public Works Cont'd

Fleet Services Supervisor	1	1	M10	
Streets Operations Supervisor	1	1	M10	
PW Data Operations Analyst I/II	1	1	M10/M10	
Grounds Maintenance Supervisor	1	1	M08	
PW Systems Data Specialist I/II	1	1	M08/M08	
Fleet Crew Leader	1	1	M07	
Street Maintenance Field Crew Supervisor	3	3	M07	
Solid Waste Field Crew Supv.	1	1	M07	
Facility Maintenance Mechanic/Senior	6	6	M06/M07	
Senior Program Support Specialist	1	1	M06	
Street Signs Technician I/II	1	1	M06/M06/M07	
Fleet Services Mechanic/II/Senior	4	4	M06/M06/M07	
Program Support Specialist	1	1	M05	
Heavy Equipment Operator I/II	1	1	M07/M07	
Solid Waste Equipment Operator I/II	12	12	M05/M05	
Street Maintenance Worker I/II/Senior	8	8	M04/M04/M05	
General Maintenance Worker I/II	4	4	M04/M04	
Street Signs Worker I/II	1	1	M04/M04	
Public Works Attendant	1	0.5	1.5	M04

Town Clerk

5

	FT	PT	FTE	Grade
Town Clerk	1		1	SL300
Deputy Town Clerk I/II	1		1	M09/M09
Public Records Coordinator I/II	1		1	TBD
Legislative Assistant I/II	1		1	M07/M07
Legislative Procedures and Policy Coordinator	1		1	TBD

Transportation & Infrastructure

22

	FT	PT	FTE	Grade
Transportation & Infrastructure Development Director	1		1	SL302
Transportation Engineering Mgr	1		1	M14
Traffic Engineering Manager	1		1	M14
Professional Engineer/Traffic Safety Engineer I/II	2		2	M12/M12
Development Services Manager	1		1	M12
Infrastructure Inspections Manager	1		1	M12
Capital Projects Inspector I/II	3		3	M11/M11
Real Estate Acquisition Specialist I/II	1		1	M11/M11
Utilities Acquisition Specialist I/II	1		1	M11
Engineering Projects Coordinator I/II	1		1	M10/M10
Infrastructure Inspector I/II (Senior)	5		5	M09/M10
Engineering Specialist I/II	1		1	M10/M10
Development Services Specialist I/II	1		1	M09/M09
Development Services Technician I/II	1		1	M06/M06
Senior Program Support Specialist	1		1	M06
Program Support Specialist	0		0	M05

Water Resources

76

	FT	PT	FTE	Grade
Water Resources Director	1		1	SL303
Assistant Water Resources Director	1		1	M15
Utilities Engineering Manager	1		1	M14
Stormwater Engineering Manager	1		1	M14
Senior Engineer	1		1	M13
Utilities Operations Manager	1		1	M13
WRF Manager	1		1	M13
Stormwater Field Services Supervisor	1		1	M12
Stormwater Engineer I/II	1		1	M12/M12
WRF Supervisor	1		1	M11
Utilities Specialist I/II	2		2	M11/M11/M12/M12
Water Quality Supervisor	1		1	M11
Utilities Engineer Intern I/II	2		2	M11/M11
Water Resources Specialist I/II	1		1	M11/M11/M12/M12
Stormwater Compliance Specialist I/II	1		1	M10/M10
Stormwater Specialist I/II	4		4	M09/M09
Collections System Supervisor	1		1	M10
Laboratory Supervisor	1		1	M10
Utility Maintenance Supervisor	1		1	M10
Pump Maintenance Supervisor	1		1	M10
Water Resources Program Coordinator	1		1	M09
Utility Field Crew Supervisor	6		6	M09
GIS Specialist I/II	1		1	M09/M09
Stormwater Utility Coordinator I/II	1		1	M09/M09
Meter Services Supervisor	1		1	M09
WRF Operator/Mechanic I/II/III/IV	4		4	M07/M07/M08/M09
Stormwater Maintenance Crew Leader	1		1	M07
Heavy Equipment Operator I/II	2		2	M07/M07
Pump Maintenance Mechanic I/II	3		3	M07/M07
Laboratory Analyst/Senior Laboratory Analyst	1		1	M07/M07
Grounds Maintenance Team Lead	1		1	M06
Stormwater Maintenance Worker	1		1	M05
Utility Maintenance Worker/Senior/Technician	20		20	M05/M06/M06
Senior Program Support Specialist	2		2	M06
Meter Technician/Senior	4		4	M05/M06
Grounds Maintenance Technician I/II	2		2	M04/M04



Town of Apex

Budget Ordinance Amendment No. 7

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

General Fund

Section 1. Revenues:

35049	Field Rentals	18,600
37100	Miscellaneous Revenue	55,000
39101	Sale of Capital Assets	30,500
Total Revenues		\$104,100

Section 2. Expenditures:

4210	Personnel	37,200
4220	Personnel	43,700
4800	Personnel	23,200
Total Expenditures		\$104,100

Water & Sewer Fund

Section 3. Revenues:

35411	Sewer Charges	25,100
Total Revenues		\$25,100

Section 4. Expenditures:

32-8010	Personnel	25,100
Total Expenditures		\$25,100

Electric Fund

Section 5. Revenues:

37100	Miscellaneous Revenue	25,100
Total Revenues		\$25,100

Section 6. Expenditures:

30-8300	Personnel	25,100
Total Expenditures		\$25,100

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

Adopted this the 14th day of January 2025.

Attest:

Jacques K. Gilbert, Mayor

Allen L. C
Town Cle

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| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Trevor Materasso, Interim Chief of Police

Department(s): Police

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Apex Police Department is seeking to significantly improve its operational investigative capabilities by purchasing and implementing License Plate Reader devices and technology. License plate reader technology can significantly enhance the Department's ability to gather and analyze data. This will greatly improve the ability to analyze data sets that include traffic volume, traffic patterns, and vehicle speeds. Additionally, the Department will be much more efficient in closing investigations and identifying and impacting criminal activity. The use of License Plate Readers systems is governed by Article 3D of Chapter 20 of the North Carolina General Statutes. The agreement is for two years at a cost of \$36,750.00 in year one and \$35,000.00 in year two, for a total cost of \$71,750.00.

The Town Council approved a similar agreement at its June 27, 2023 meeting. However, due to licensing issues with Flock the instituting of that agreement was delayed. Those issues have been resolved. This agreement will replace and update that previous agreement.

Attachments

- CN8-A1: Master Services Agreement between Flock Group, Inc. and Town of Apex
- CN8-A2: Order Form for Flock Platforms: FlockOS; Flock Safety Falcon Flex; Flock Safety Falcon; Flock Safety Advanced Search
- CN8-A3: 2023.06.27 - Regular Council Meeting Minutes Excerpt



Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”). This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**.

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

NOW THEREFORE, Flock and Customer agree as follows and agree that this Agreement replaces and supersedes all prior agreements, term sheets, purchase orders, correspondence, and negotiations between the parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agreement**” means the order form (to be provided as Exhibit A, “Order Form”), these terms and conditions, and any document therein incorporated by reference in section 11.4.

1.2 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.3 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.4 “**Customer Data**” means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.5. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.6 “**Effective Date**” means the date this Agreement is mutually executed (valid and enforceable) by both Parties.

1.7 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.8 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.

1.9 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.10 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.11 “**Footage**” means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Permitted Purpose**” means for legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.

1.14 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form. Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices.

1.15 “**Term**” means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.

1.16 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Customer shall be responsible for all acts and omissions of Authorized End Users.

Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “*Support Services*”).

2.4 Updates to Platform. Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for

malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“***Service Interruption***”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer’s account (“***Service Suspension***”). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up-to-date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “***Customer Obligations***”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data to perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information,

content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“***Customer Generated Data***”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services to Customer. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “***Receiving Party***”) understands that the other Party (the “***Disclosing Party***”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “***Proprietary Information***” of the Disclosing Party).

Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) is a public record under North Carolina law; or (d) was rightfully disclosed to it without restriction by a third party; or (e) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium) to the extent permitted by Customer's Records Retention Schedule and in accordance with North Carolina law, together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, and if permitted by North Carolina law, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. In the event of any changes to fees, Flock shall provide Customer with sixty (60) days' notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 Taxes. To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net

amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement may be renewed for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”).

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“**Cure Period**”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the **Cure Period**, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. OTHER THAN TERMINATION AND PRO-RATA REFUND AS DESCRIBED IN SECTION 7.2, THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND

FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT

ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan (“***Deployment Plan***”). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock’s Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock’s use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock’s obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the

chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.15 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

11.16. **E-Verify.** Flock shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). Flock shall require all of Flock's subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify).

11.17 **Anti-Human Trafficking.** Flock warrants and agrees that no labor supplied by Flock or Flock'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.

11.18 **Nondiscrimination.** Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, Flock hereby warrants and agrees that Flock will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement

“protected class” includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

11.19 Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement 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 Agreement and any related documents. If electronic signatures are used the Agreement shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees. For the avoidance of doubt, all required insurance limits by Customer can be met through a combination of primary and excess/umbrella coverage.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).

Flock Safety + NC - Apex PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Taylor Ellison
taylor.ellison@flocksafety.com
704-942-632



EXHIBIT A
ORDER FORM

Customer: NC - Apex PD
Legal Entity Name: NC - Apex PD
Accounts Payable Email: trevor.materasso@apexnc.org
Address: 205 Saunders St Apex, North Carolina 27502

Initial Term: 24 Months
Renewal Term: 24 Months (if renewed)
Payment Terms: Net 30
Billing Frequency: Annual
Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$35,000.00
Flock Safety Flock OS			
FlockOS TM	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon ® Flex	Included	5	Included
Flock Safety Falcon ®	Included	5	Included
Flock Safety FlockOS Add Ons			
Flock Safety Advanced Search	Included	1	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$350.00	5	\$1,750.00

Subtotal Year 1:	\$36,750.00
Annual Recurring Subtotal:	\$35,000.00
Discounts:	\$1,500.00
Estimated Tax:	\$5,201.88
Contract Total:	\$71,750.00

The Term for Flock Safety Falcon Hardware shall commence upon first installation and validation. The Term for Flock Safety Falcon Flex shall commence upon execution of this Order Form.

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement may be renewed for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**").*

Special Terms:

- This Agreement supersedes and replaces any and all previously executed agreement between the Parties, relating to the provision of services by Flock to

Customer and any exhibits attached thereto or incorporated therein by reference. To the extent Customer made payment pursuant to a previously executed agreement or Order Form, that payment will be credited to Customer toward the \$36,750 Subtotal Year 1 total, as described in this Order Form.

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$36,750.00 (minus credit)
Annual Recurring after Year 1	\$35,000.00
Contract Total	\$71,750.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$0.00
Flock Safety Add-ons	\$0.00
Flock Safety Professional Services	\$1,500.00

Product and Services Description

Flock Safety Platform Items	Product Description
Flock Safety Falcon ® Flex	Law enforcement grade tactical deployment (portable + LTE) license plate recognition camera with Vehicle Fingerprint™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
FlockOS™	
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Flock Safety Advanced Search	Advanced Search is an optional upgrade for Law Enforcement Grade Falcon cameras. Advanced Search includes Convoy Analysis, Multi Geo Search, and Visual Search.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.

FlockOS Features & Description

FlockOS Features	Description
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By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: Town of Apex

By: _____

By: _____

Name: _____

Name: Randal E. Vosburg

Title: _____

Title: Town Manager

Date: _____

Date: _____

PO Number: _____

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

Antwan Morrison, Finance Director

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING TUESDAY, JUNE 27,
2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, June 27, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=uhaEULsZynE>

[ATTENDANCE]

Elected Body

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

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Budget and Performance Management Director Amanda Grogan
Finance Director Antwan Morrison
Planning Director Dianne Khin

All other staff members will be identified appropriately below

[SLIDE 1]



[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and led those in attendance in a brief moment of silence. He then invited everyone to join him in a recitation of the Pledge of Allegiance.

[CONSENT AGENDA]

Mayor Gilbert noted that there was a staff request to remove Consent Item 9 - Encroachment Agreement - 1251 Burma Drive.

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Zegerman**, to approve the Consent Agenda, with Consent Item 9 removed.

VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent

CN1 Annexation No. 752 - Castleberry Assemblage - 89.90 acres (REF: RES-2023-038, RES-2023-039, and OTHER-2023-060)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 8, 2023, on the Question of Annexation - Apex Town Council's intent to annex 90.24 acres Castleberry Assemblage, Annexation No. 752 into the Town Corporate limits.

CN2 Budget Ordinance Amendment No. 19 and Capital Project Ordinance Amendment No. 2023-15 - Reedy Branch Greenway (REF: ORD-2023-048, ORD-2023-049, and CONT-2023-175)

Council voted to approve a Master Agreement for On-Call Professional Services for Reedy Branch Greenway Project (Sweetwater), and to approve corresponding Budget Ordinance Amendment No. 19 and Capital Project Ordinance Amendment 2023-15, and to authorize the Town Manager to execute the agreement on behalf of the Town.

APPROVED

CN3 Budget Ordinance Amendment No. 21 and Capital Project Ordinance Amendment No. 2023-16 - Capital Project Grant Allocations and Annual Shop-With-A-Cop Program Allocation (REF: ORD-2023-050 and ORD-2023-051)

Council voted to approve a Budget Ordinance Amendment No. 21 for Grant Allocations and Capital Project Ordinance Amendment No. 2023-16 for Shop-With-A-Cop Program.

CN4 Contract Multi-Year - Flock Safety Inc. - License Plate Reader Technology - July 1, 2023 through June 30, 2025 (REF: CONT-2023-176)

Council voted to approve a Master Services Agreement (MSA), effective July 1, 2023 through June 30, 2025, with Flock Safety Inc. for technology and software support for the following in the Apex Police Department (APD): FlockOS, Flock Safety Falcon, Flock Safety Falcon Flex, Flock Safety Advanced Search and authorize the Town Manager to execute the agreement(s) on behalf of the Town.

CN5 Contract Multi-Year - HT Stormwater Management - Monthly Maintenance All Town-Owned Stormwater Control Measures (SCMs) - July 1, 2023 through June 30, 2026 (REF: CONT-2023-177)

Council voted to approve a Master Services Agreement (MSA) between the Town of Apex and HT Stormwater Management for monthly maintenance of all Town-owned Stormwater Control Measures (SCMs) for a three-year period, effective July 1, 2023 through June 30, 2026, with the option to approve two additional one-year contract extensions after that date and authorize the Town Manager to execute on behalf of the Town.

CN6 Contract Multi-Year - IPKeys Power Partners Inc. - Meter Data Management System (MDMS) - July 1, 2023 through June 30, 2028 (REF: CONT-2023-183)

Council voted to approve an Agreement for IPKEYS Meter Data Management System (MDMS) between the Town of Apex and IPKeys Power Partners, Inc., effective July 1, 2023 through June 30, 2028 for professional services with the meter data management system (MDMS) that supports the meter system upgrade (MSU), and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN7 Council Meeting Minutes - Multiple

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:
June 13, 2023 - Town Council Regular Meeting
June 20, 2023 - Town Council Work Session

CN8 Debt Service Fund Ordinances - General, Electric, and Water & Sewer (REF: ORD-2023-052, ORD-2023-053, ORD-2023-054, and ORD-2023-055)

Council voted to adopt ordinances which establish Debt Service Funds for General Government, Electric, and Water and Sewer; and approve Budget Ordinance Amendment No. 22 associated with this new fund structure.

~~CN9 Encroachment Agreement - 1251 Burma Drive~~

This item was removed from the Consent Agenda, per Council vote.

CN10 Encroachment Agreement - 2210 Winston Circle, Lot 3. (REF: CONT-2023-179)

Council voted to approve an Encroachment Agreement between the Town of Apex and Swigart Construction, Inc. to install a driveway located at, 2218 Winston Circle, that will encroach 199 square feet (SF) onto the Town of Apex 30' Public Utility Easement (Sewer) and authorize the Town Manager to execute the agreement on behalf of the Town.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

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

- November 19, 2024 - Town Council Work Session Minutes
- November 21, 2024 - Regular Town Council Meeting Minutes
- December 10, 2024 - Regular Town Council Meeting Minutes
- December 17, 2024 - Town Council Work Session Minutes

Approval Recommended?

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

Item Details

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

Attachments

- CN7-A1: **DRAFT** Minutes - November 19, 2024 - Town Council Work Session Minutes
- CN7-A2: **DRAFT** Minutes - November 21, 2024 - Regular Town Council Meeting Minutes
- CN7-A3: **DRAFT** Minutes - December 10, 2024 - Regular Town Council Meeting Minutes
- CN7-A4: **DRAFT** Minutes - December 17, 2024 - Town Council Work Session Minutes



DRAFT MEETING MINUTES

TOWN OF APEX SPECIAL TOWN COUNCIL WORK SESSION TUESDAY, NOVEMBER 19, 2024 3:00 P.M.

The Apex Town Council met for a Special Work Session on Tuesday, November 19, 2024 at 3:00 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

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

<https://www.youtube.com/watch?v=Q08tBz7ybYI>

CLERK NOTE: The November 19, 2024, Town Council Work Session was originally scheduled to begin at 3:30 p.m. and duly noticed as part of the Annual Meeting Schedule. The Governing Body were given the opportunity to meet the finalist for the Police Chief position beginning at 3:00 p.m., therefore the meeting notice was adjusted to begin at 3:00 p.m. since a quorum of the elected body would be present.

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)

Mayor Pro-Tempore Ed Gray

Councilmember Brett Gantt

Councilmember Arno Zegerman

Councilmember Audra Killingsworth

Councilmember Terry Mahaffey

Absent: None

Town Staff

Town Manager Randy Vosburg

Deputy Town Manager Shawn Purvis

Assistant Town Manager Demetria John

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

Interim Police Chief Trevor Materasso

Fire Chief Tim Herman

All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert opened the meeting, and said the beginning portion would be an informal time for Council to meet with some of the candidates for the vacant Chief of Police role.

Town Manager Vosburg introduced Trevor Materasso, Interim Police Chief of Apex and said that the Mayor and Council are welcome to mingle and interact with Interim Chief Materasso. He said that after 5:00 p.m. there would be introductions for another candidate.

Mayor Gilbert called the formal portion of the meeting to order at 3:30 p.m., welcomed everyone, and led everyone in the pledge of allegiance.

Mayor Gilbert asked Town Manager Vosburg to give Apex Police Department Updates.

[APEX POLICE DEPARTMENT UPDATES]


Town Manager Vosburg asked Chief Materasso to give updates on the Apex Police Department.

Interim Chief Materasso introduced **Megan Simpson**, Compliance Manager, and **Tom Klatt**, Executive Director, WakeMed Behavioral Health Network, who gave the following presentation:

[SLIDE 1]



1 **[SLIDE 2]**

A UNIQUE OPPORTUNITY 

"One thing that law enforcement and emergency care have in common is that in our society where we have disinvested in so many systems and structures of care ...
... the challenges, particularly that vulnerable people face, often end up in the hands of law enforcement or in the emergency room, or both." ¹

— LDI Fellow Elinore Kaufman, MD, MSHP

Mobile Conference Hall 2

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3 **[SLIDE 3]**

A UNIQUE OPPORTUNITY 

Public Safety Partnership with WakeMed Behavioral Health Network

The Town of Apex (TOA) Strategic Plan includes the following initiatives:

-  A Welcoming Community – Expanding the reach of behavioral health response by TOA public safety
-  High Performing Government – Creating beneficial public-private partnerships

The Police Department's CART program – *also supporting the Apex Fire Department and Wake County EMS* – in partnership with WakeMed Behavioral Health Network (WMBHN) is a pilot program that leverages an WakeMed's accountable behavioral health network and referral platform.

This TOA - WakeMed partnership will be an innovative, first of its kind program in North Carolina and the United States and can scale to include additional cities.

Mobile Conference Hall 3

4
5 **[SLIDE 4]**

THE CHALLENGE 

The Need for Timely Access, Improved Referrals, and Follow-through

Many patients have difficulty accessing quality behavioral healthcare on a timely basis, and yet these same individuals are those with many times the most urgent need. This is particularly true of patients who are in crisis such as those served by Public Safety and CART Program. The volume of behavioral health-related calls is growing year over year.

A collaboration between the WakeMed Behavioral Health Network and Town of Apex Public Safety addresses the following identified needs:

- CART staff are often challenged with identifying and obtaining timely access to behavioral resources for the patients they assess when in the field and spend significant man-hours in researching referrals.
- Once resources have been identified and a referral is made, very often CART staff have no resources to follow the referral to confirm whether the individual has been accepted for treatment and if the patient attended the appointment, and the outcome of the treatment.

Mobile Conference Hall 4

6

[SLIDE 5]

THE SOLUTION

The WakeMed Behavioral Health Clinically Integrated Network of Care

- ✓ Access to WakeMed Behavioral Health Network of over 45 behavioral health organizations covering most of the state of North Carolina.
- ✓ All participating organizations are held accountable to key performance metrics focused on referral response time, timely patient access to appointments, and follow up communication.
- ✓ Access to the WakeMed Behavioral Health Network's 'CareMatch' Referral & Care Management Platform, including set up, initial and ongoing training.
- ✓ WakeMed Behavioral Health Network management support to provide oversight and support to CART team members & referrals.
- ✓ Oversight on performance management of the provider network including providing data reports and performance analytics on referrals.
- ✓ Executive management of the provider Network, reporting and administration.

[SLIDE 6]

RAPID RESPONSE, TIMELY ACCESS, CAREMATCHED REFERRALS

The WakeMed Behavioral Health Clinically Integrated Network of Care is a curated network of community-based provider organizations with expertise in serving patients with behavioral health disorders optimized to meet the community's needs for timely access to care.

- Rapid access – via telehealth and face-to-face**
- Timely access to services**
- Ease of referrals with a centralized and managed referral system**
- Care-matching logic ensures members are referred to the right service the first time**
- Ongoing, data-driven performance and quality management of all service delivery**

Councilmember Gantt asked what is happening right now without this process.

Ms. Simpson said when a call comes in and it involves the crisis response team, a social worker and officer who are involved respond to the scene, after it is secured, and the crisis counselor establishes a clinical relationship with the person, if possible, to see what the person's needs are. She said Khea Morton, the crisis counselor, would connect the distressed person to resources after the response.

Councilmember Gantt asked if it was common for there not to be any resources.

Ms. Simpson said that is correct, lack of availability is common. She said often resources are needed immediately for the person in crisis, and that can be difficult with this framework.

Councilmember Zegerman asked if victims of crime were separate or if they were part of this process.

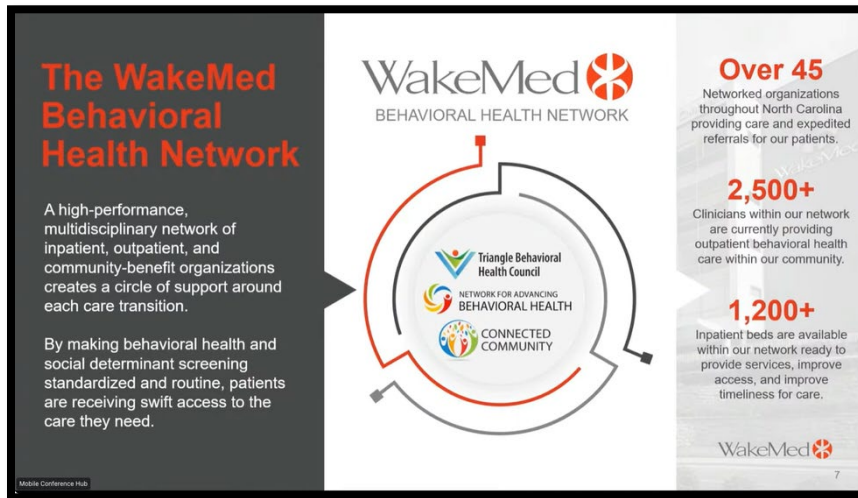
Ms. Simpson said that there can be some overlap. She said the Victim Advocate for the town can work with the Crisis Counselor, if needed, and they could establish a clinical

relationship. She said they want to keep that aspect with the Crisis Counselor for clinical privacy and relationships.

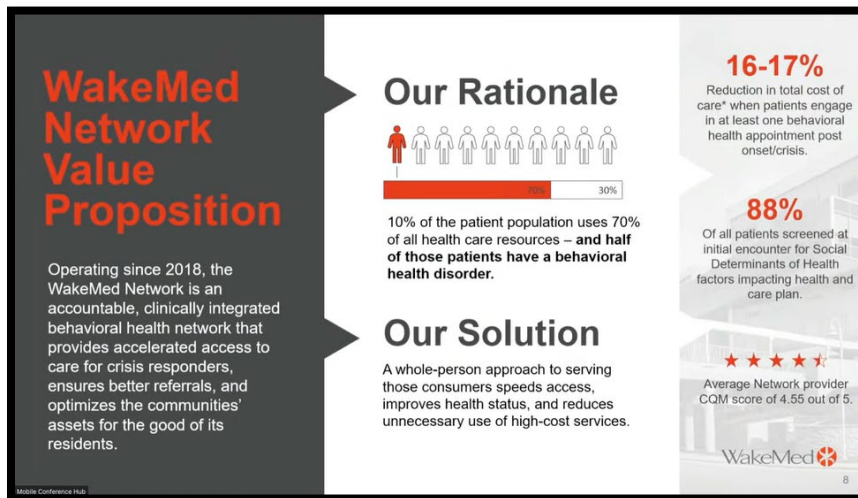
Interim Chief Materasso said that they triage cases through the Victim Advocate to see if more support is needed from the Crisis Counselor and other agencies.

Mr. Klatt said this platform would help with scheduling and appointments, and also to be able to see information regarding follow-up and data.

[SLIDE 7]



[SLIDE 8]



[SLIDE 9]



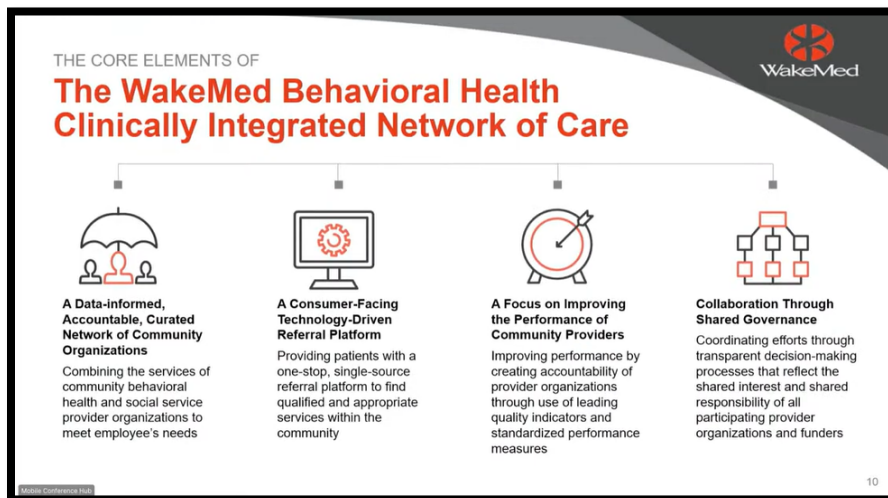
Councilmember Gantt asked what the geographic scope of this network was.

Mr. Klatt said that is across most of the State right now. He said that they have people who utilize their programming from Asheville to Wilmington.

Councilmember Zegerman asked what types of partners were involved.

Mr. Klatt gave some examples of partners. He said there was a combination of community partners and private. He said that these are operators outside of the WakeMed system, and they do not own or manage any of them. He said this is a collaborative network of providers and resources.

[SLIDE 10]



1 **[SLIDE 11]**

A Full Continuum of Behavioral Care			WakeMed		
IN PARTNERSHIP WITH PRIMARY CARE					
SERVICE	ADULT	CHILD & ADOLESCENT	SERVICE	ADULT	CHILD & ADOLESCENT
Assertive Community Treatment (ACT)	■		Opioid Treatment Program	■	■
Child & Adolescent Day Treatment		■	Opioidmed Care	■	
Clinical Assessments	■	■	Outpatient Plus	■	
Couples Therapy	■		Partial Hospitalization	■	■
Dialectical Behavioral Therapy	■		Peer Support	■	
Domestic Violence Counseling	■		Private Duty Nursing	■	■
Family Centered Treatment	■	■	Psychiatric Evaluations	■	■
Family Therapy	■	■	Psychoeducation	■	■
Group Therapy	■	■	Psychological Assessments	■	■
In-Home Therapy Services		■	Psychosocial Rehab	■	■
Intensive I-Home/Multisystemic Therapy		■	Residential Options	■	
Intensive Outpatient Services	■	■	School-Based Therapy		■
Marriage Counseling	■		Substance Abuse Counseling & IOP	■	■
Medication Assisted Treatment (MAT)	■	■	Transitional Care	■	
Medication Management	■	■	Trauma Informed Care	■	■
Non-Hospital Detox	■				

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3 **[SLIDE 12]**

THE REIMBURSEMENT MODEL

Access to the WakeMed BH Network “CareMatch” Referral Platform:

- ✓ Provide on-going training resources to CART Case Managers on how to utilize the WMBHN CareMatch platform.
- ✓ License and Subscription for all identified CART staff requiring access.
- ✓ Access to WMBHN CareMatch platform, to include clinical matching logic algorithm, secure direct messaging feature to allow seamless communication with accepting Provider’s care management staff and complete line-of-sight on all referrals and their real-time status to all WMBHN Network for Advancing Behavioral Health providers (“NABH”).
- ✓ Provide live access to key performance metrics dashboard.
- ✓ Provide technical support and on-going maintenance.

Cost for CareMatch Access \$15,000

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5 **[SLIDE 13]**

THE REIMBURSEMENT MODEL, Continued

Management Services for CART Referrals

- ✓ WMBHN will build a solution around Town of Apex Public Safety to meet the needs of the community.
- ✓ WMBHN management to provide oversight to network referrals, providing communication and support between NABH providers CART clinicians.
- ✓ Organize and lead bi-weekly progress calls with key stakeholders, review of key performance indicators (e.g. referral response time, time from referral to first service appointment, and other agreed upon key performance indicators).
- ✓ Provide monthly outcome reports for review; Quarterly check-ins with Apex leadership.
- ✓ Instituting the WMBHN Quality Program.
- ✓ Provide on-going management for the provider network, reporting and administration.

Cost for Management Services \$35,000

1 **[SLIDE 14]**

THE REIMBURSEMENT MODEL, Continued

Referral Cost Matrix

Monthly Referral Fee
Based on the number of patient referrals per month

Number of Referrals	Cost Per Month	Cost Per Year
0 - 20	\$625.00	\$7,500
21 - 40	\$833.33	\$10,000
41 - 60	\$1,041.33	\$12,500
61 - 80	\$1,250.00	\$15,000
81 - 100	\$1,458.33	\$17,500
101 - plus	\$1,666.33	\$20,000

WakeMed

14

2
3 **[SLIDE 15]**

Thank You

Thomas W. Klatt
Executive Director, WakeMed Behavioral Health Network
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Raleigh, NC 27610
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WakeMed

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5 **Councilmember Zegerman** asked to go back to the Case Management Services
6 slide. He asked how large the case management staff was.

7 **Mr. Klatt** asked if Councilmember Zegerman was asking about the agencies receiving
8 referrals.

9 **Councilmember Zegerman** asked who was currently doing the case management.
10 He said that he would like there to be other case managers.

11 **Mr. Klatt** said the case management in this program would be done by the providers
12 in this system. He said WakeMed would oversee and manage the program, and assist Ms.
13 Morton with her coordination of it on Apex's end.

14 **Interim Police Chief Materasso** said they agreed that they do not want to have a
15 single person on the Police Department that would be responsible for all of this. He said that
16 they are starting with one as they step into this. He said that she would be the liaison and if
17 she needed any support that Wake Med would be there to give that support. He said this

1 would make her more of a liaison rather than a case manager, as that role would fall more to
2 the outside agencies, with Ms. Morton coordinating.

3 **Councilmember Zegerman** said that he would want her to do the social work
4 because that is what she was hired for, but he did not want her to be doing case management
5 that would prevent her from servicing the Community.

6 **Interim Chief Materasso** said the Police Department is adjusting to the CART
7 program. He said that Ms. Morton is a clinician that is in school logging hours for certain
8 certifications. He said that they were previously sending police officers to respond to
9 behavioral crises and that is not their expertise, Ms. Morton has much more expertise to
10 respond to a person in crisis and she now goes into the Community for the person in crisis at
11 the moment they need it. He said previously it was more focused on the social work
12 component, and that is where the inclusion of this program comes into play.

13 **Councilmember Zegerman** said that when the Community is dealing with a person in
14 distress that is where he sees Ms. Morton's value. He said that Ms. Morton doesn't scale by
15 herself, and asked if there were opportunities for volunteer program with other licensed
16 clinicians that can operate independently out in the Community in addition to Ms. Morton.

17 **Ms. Simpson** said that they do have a partnership with Avance Health. She said they
18 have established a mirror position to Ms. Morton's that she is able to work with. She said that
19 WakeMed was not the singular partnership. She said that this was just one and there are other
20 proposals and things in the works.

21 **Councilmember Zegerman** asked for a follow up conversation.

22 **Ms. Simpson** said that there was potentially individual dialogue. He said that if there
23 was a good proposal that Council would like to proceed. He said that there was not a budget
24 for this year so it would be something to work through with dialogue, get a proposal ready,
25 and come back to Council.

26 **Mayor Gilbert** asked for a follow up conversation with Council.

27 **Mr. Klatt** said they could do that.

28 **Mayor Gilbert** thanked them for the information and asked what the next steps were.

29 **Mr. Klatt** said the next step would be finalizing the proposal.

30 **Councilmember Mahaffey** said this program is a platform for case management for
31 mental health professional cases.

32 **Mr. Klatt** said that is correct, and it offers much more with the collaborative
33 relationships that WakeMed has developed.

34 **Councilmember Mahaffey** asked what the history of the platform was.

35 **Mr. Klatt** said WakeMed has developed this program over the last 6 years. He said
36 prior to the program, they had far more beds taken up by people who needed medical care,
37 but then needed to be transitioned to mental health care. He said now they are much more
38 efficient with transitioning people to the mental health care they need through this.

39 **Councilmember Mahaffey** asked if this was the platform the WakeMed ER in Apex
40 used.

41 **Mr. Klatt** said yes. He said this would be adapted to suit the needs of the Police
42 Department.

Town Manager Vosburg said it seemed like there was some additional individual dialogue that needed to occur. He said he assumed that Council would like to proceed as soon as possible if a good proposal could be reached. He said it was not budgeted for this year, so a budget amendment would be needed if it was this fiscal year.

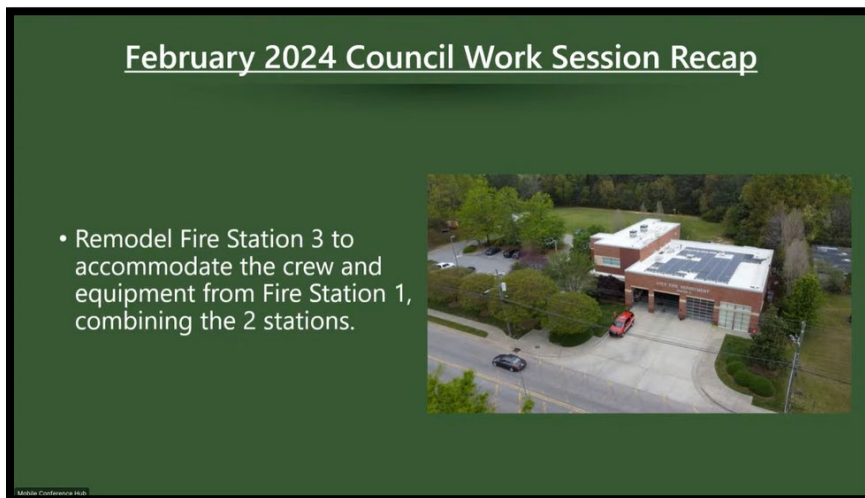
[APEX FIRE DEPARTMENT UPDATES]

Town Manager Vosburg introduced Timothy Herman, Fire Chief of Apex.
Chief Herman gave the following presentation:

[SLIDE 1]



[SLIDE 2]



1 [SLIDE 3]

February 2024 Council Work Session Recap

- Build Fire Administration with educational space downtown on ½ of the current station 1 property, maintaining and enhancing the AFD “presence” in downtown.



*public private partnership (PPP)


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3 [SLIDE 4]

At the same work session...

4
5 [SLIDE 5]

Affordable housing option was presented

- **Apex Fire station #3**
 - Important Unanswered Questions
 - Site access from Hunter St.?
 - LIHTC road design guidelines?
 - Fire department needs?
 - Environmental hazards?
 - Potential costs?
 - Other unknowns?




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1 [SLIDE 6]

A water tower option was presented

Tank Site Evaluation


- Existing Water Availability
- Stormwater Infrastructure Availability
- FAA/FCC Requirements
- Tank Height
- Site Work
- Screening
- Setback/Height Restrictions
- Land Purchase Price
- Anticipated Adjacent Property Concerns



2
3 [SLIDE 7]

Fast-forward 9 months...where are we now and what has changed?

- Affordable housing is not recommended on this site.
- A water tower is not recommended on this site.
- Creech & Associates, PLLC completes a town-wide space needs study, outlining space needs for all town departments to include fire stations and fire administration.
- At the Feb. 2024 Council Work Session, Council suggests to explore options to address space needs during any upcoming projects.



4
5 [SLIDE 8]



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1 **[SLIDE 12]**



2
3 **[SLIDE 13]**

Public/Private/Partnership Discussion

Approved Apex Downtown Master Plan:

- Top Project #6 "Re-envision Fire Station as a civic and mixed use development".
- Key Goal # 8 "Honor the History of Downtown – Reimagined Fire Station on Salem Street".

APEX NORTH CAROLINA

4
5 **[SLIDE 14]**

Public/Private/Partnership Discussion

Potential uses for the space:

- AFD Interactive learning center/museum (includes the "Hunter" antique fire truck)
- Retail and restaurants
- Open concept space for community events
- Professional offices
- Maker space/incubator (light manufacturing)
- Rooftop gathering space

APEX NORTH CAROLINA

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1 **[SLIDE 15]**


Action steps/Timelines

Station 3

- Q4 2024 – selected Davis Kane to design the Station 3 remodel/addition (process started).
- Q3 2025 – Start construction at station 3 (12-14 months).
- Q4 2026 – Station 3 completed, Station 1 closed.

Downtown (PPP)

- Q1 2025 – Feasibility Study of 210 Salem St.
- Q3 2025 – Request for Proposals.
- Q1 2026 – Start design/planning/permits.
- Q1 2027 – Start construction.




2
3 **[SLIDE 16]**

Action steps/Timelines

Fire Administration Building

- Q3 2025 – design/planning/permits.
- Q3 2026 – start construction on Hunter St.
- Q1 2027 – Fire Administration building completed.



4
5 **[SLIDE 17]**

Thank you, Questions?

• Click to add text





6

1 **Chief Herman** asked if there were any questions.

2 **Councilmember Zegerman** asked about the sufficiency of having 4 apparatus bays.

3 **Chief Herman** said that space needs study recommended that they build an 18,000-
4 foot fire station which includes three bays and living quarters, and that falls into the square
5 footage of 2 Company Battalion Chief Fire Station.

6 **Councilmember Zegerman** asked roughly what the square footage for the
7 Administration Building.

8 **Chief Herman** said that the space study recommended that currently needed is 7,800
9 square feet, and in 20 years that need would be 10,000 for Fire Administration.

10 **Councilmember Zegerman** said he was also thinking about PD and Parks and Rec
11 needing additional space, and that in the grand scheme of things this seemed like a small
12 building.

13 **Daniel Edwards**, Senior Capital Projects Manager, said that there are constraints on
14 the site, and the maximum size for the building is 14,000 square feet.

15 **Councilmember Zegerman** said it addresses the Fire Department needs but no other
16 needs.

17 **Assistant Town Manager Stone** said that there are some innovative things that could
18 be looked at and this is the first look. He said that there may be options with storm water
19 going under the parking lot. He said with that they may be able to go up another story to
20 three stories.

21 **Councilmember Zegerman** said that previously when they spoke that they potentially
22 would go vertically on the existing building, and that it would give more room for the
23 administrative functions.

24 **Assistant Town Manager Stone** said that they are just getting the contract put
25 together. He said in the master planning stage it will be looked at going out and up at the
26 existing facility.

27 **Councilmember Zegerman** said that the space looks small for what they may need
28 for the future. He said he wants to prepare for the needs 10-15 years down the road, and not
29 just the current needs.

30 **Chief Herman** said that he did not think this property would solve everyone's needs.

31 **Councilmember Zegerman** said since it's a fairly large property they already own, it's
32 a good place to try and solve as many issues as they can.

33 **Assistant Town Manager Stone** said that they would see how they could construct
34 storm water and parking infrastructure to maximize the size of the building.

35 **Mr. Edwards** said that there are other departments that have space needs and there is
36 an existing building south of the property.

37 **Town Manager Vosburg** said that they were looking at expanding the current Police
38 Department and some options at the upcoming Environmental Education Center. He said
39 that they are looking at all the options simultaneously.

40 **Councilmember Killingsworth** clarified that storm water was one of the biggest
41 issues at the site, and they would need to look at things like permeable pavers.

1 **Assistant Town Manager Stone** said yes, they were going to maximize this site, and
2 that they would be addressing storm water and finding ways to do this as efficiently as
3 possible.

4 **Councilmember Zegerman** said that he has seen overseas where parking is basically
5 grass, but still has structural supports.

6 **Assistant Town Manager Stone** said they will be installing one of those at Pleasant
7 Park.

8 **Councilmember Zegerman** said that was a great idea, and would love to see it here.

9 **Mayor Pro Tempore Gray** said that the old Administration Building is still town
10 property and that gives some development space there. He said that he supports the idea for
11 the campus. He liked the idea of a public, private relationship and maximizing the use of
12 property. He asked if having a business would create a sense of betrayal for the Community.
13 He said he is supportive of the idea, but that is a concern he has.

14 **Councilmember Gantt** said he thinks that will definitely be the case, and that is a
15 known con.

16 **Chief Herman** said that this is trying to meet in the middle. He said that some of the
17 staff volunteers are excited about this. He said that it would be like 2 stations under one roof,
18 so some staff do have reservations. He said he thinks if this is done right, it can attract people
19 to the downtown area.

20 **Councilmember Killingsworth** said she loved the ideas.

21 **Mayor Gilbert** agreed.

22 **Councilmember Zegerman** agreed as well, and said that he supported the idea of
23 keeping the same look of the building. He said that he would like more input from Economic
24 Development regarding what may be best to go there. He said that he would like to reserve
25 some space in the building for community events, in addition to the museum piece.

26 **Councilmember Killingsworth** said that the whole area would eventually be
27 different, with The Depot space being considered for more public space as well.

28 **Mayor Gilbert** thanked them for speaking with the volunteers as well. He asked if
29 there would still be presence from the community risk reduction staff.

30 **Chief Herman** said yes, and he said that they want to be very intentional on the hours
31 of volunteers and offer classes along with fun stuff for kids.

32 **Councilmember Mahaffey** asked what the purpose of putting Administration
33 downtown.

34 **Chief Herman** said the initial vision of the office moving here was because it was the
35 available space, and that he would love to have his office down there as well. He said that
36 when he was challenged to look at it from a different lens, he understood there were different
37 needs in other departments as well. He said they would need 20 parking spots, but it would
38 be challenging. He said operationally, the campus location may be more functional, but he
39 does think there should be some staff here.

40 **Town Manager Vosburg** asked the Council if they were good with the parameters of
41 the project.

Director Helms said to keep an open mind to feasibility of the market and let the market dictate some of the decisions.

Councilmember Gantt asked if they are looking at 3 stories.

Chief Herman said it depends a lot on the developer, but they had most recently discussed having 3 stories with the top floor offset. He said it would be allowed to go up to 4 stories per Town ordinance.

Director Helms said that the developer would have to have a working business model, and that it was mostly to need 3 stories to do that.

Town Manager Vosburg encouraged the Council to be open with options.

Councilmember Killingsworth said that she was fine with private business, but she didn't want to have too much office space to where the public couldn't utilize the building. She said she would hope the top floor space could be used for people to sit and enjoy views of downtown.

Councilmember Gantt said he would expect that the 2nd floor would be for the office uses and the 1st and 3rd floors would be for public use.

Councilmember Killingsworth agreed.

Councilmember Mahaffey said the hope would be to sell the building to a developer for them to build out, with an agreement for the town to be able to utilize portions of it. He said he would love some new uses to come in here. He said maker spaces would be cool, but they also wouldn't be utilized a lot of the time.

Councilmember Zegerman said that he would love to see a maker space but that may not be the best use of this space.

Director Helms suggested that it could be an interactive business, like wine and design. She said that could pair well with the museum aspect of the building.

Mayor Gilbert thanked **Chief Herman** and called a recess at **4:47 p.m.**

Mayor Gilbert reconvened the meeting at 5:00p.m.

Mayor Gilbert announced that the Town Council would have the opportunity to informally met with another one of the candidates for the Police Chief vacancy.

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **5:27 p.m.**

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC

Town Clerk to the Apex Town Council

Submitted for approval by Apex Town Clerk Allen Coleman

Minutes approved on _____ of _____, 2025.

DRAFT MEETING MINUTES

1 **TOWN OF APEX**
2 **REGULAR TOWN COUNCIL MEETING**
3 **THURSDAY, NOVEMBER 21, 2024**
4 **6:00 PM**

5 The Apex Town Council met for a Regular Town Council Meeting on Thursday, November 21,
6 2024 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in
7 Apex, North Carolina.

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

11 <https://www.youtube.com/live/3V2ESGVjlow>
12

13 **[ATTENDANCE]**

14 Elected Body

15 Mayor Jacques K. Gilbert (presiding)
16 Mayor Pro Tempore Ed Gray
17 Councilmember Audra Killingsworth
18 Councilmember Terry Mahaffey
19 Councilmember Brett Gantt
20 Councilmember Arno Zegerman

21 Town Staff

22 Town Manager Randy Vosburg
23 Deputy Town Manager Shawn Purvis
24 Assistant Town Manager Marty Stone
25 Assistant Town Manager Demetria John
26 Town Attorney Laurie Hohe
27 Town Clerk Allen Coleman
28 All other staff members will be identified appropriately below
29

30 **[COMMENCEMENT]**

31 **Mayor Gilbert** called the meeting to order and welcomed all who were in attendance
32 and watching on livestream.

33 **Mayor Gilbert** then took a moment of silence for the invocation, and invited
34 attendees to join in a moment of giving thanks. He led those in attendance in the Pledge of
35 Allegiance.
36

[CONSENT AGENDA]

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

VOTE: UNANIMOUS (5-0)

CN1 Agreements - Wake Transit Funding Agreements - Go Apex Funding FY25 - General Operating Agreement for Bus Operations - Community Funding Area Program Wake Transit FY 2025 and General Capital Funding Agreement Community Funding Area Program for Bus Infrastructure Wake Transit FY25 (REF: CONT-2024-345 and CONT-2024-346)

Council voted to approve a General Operating Agreement between Research Triangle Regional Public Transportation Authority (Go Triangle) and Capital Area Metropolitan Planning Organization (CAMPO) and the Town of Apex, effective until December 31, 2025, for Bus Operations - Community Funding Area Program Wake Transit FY 2025 and to authorize the Town Manager, or their designee, to sign on behalf of the Town.

AND

Council voted to approve a General Capital Funding Agreement between Research Triangle Regional Public Transportation Authority (Go Triangle) and Capital Area Metropolitan Planning Organization (CAMPO) and the Town of Apex, effective until December 31, 2027, for Bus Infrastructure - Community Funding Area Program Wake Transit FY 2025 and to authorize the Town Manager, or their designee, to sign on behalf of the Town.

CN2 Agreement - Sontiq, Inc. dba Identify Force - Identity Theft/Credit Report Monitoring - Employees and Post-65 Retirees - Eligible for Auto Renew Annually (REF: CONT-2024-347)

Council voted to approve a Benefit Agreement between Sontiq, Inc. (dba IdentityForce) and the Town of Apex, to provide Identity Theft/Credit Report Monitoring and related services to employees and retirees not on the Town's Health Insurance Plan, and to authorize the Town Manager, or their designee, to sign on behalf of the Town.

CN3 Agreement Amendment - HireRight, LLC - Additional New Hire Services - Motor Vehicle Record Check and Reference Check (REF: CONT-2024-348)

Council voted to approve an Amendment to the Town's existing background check agreement with HireRight, LLC to include Motor Vehicle Record and Reference Checks.

CN4 Agreement - Lease Agreement - Quadient Leasing - Postage Machine Town Hall and Apex Police Department through November 30, 2027 (REF: CONT-2024-349)

Council voted to approve a lease agreement between the Town of Apex and Quadient Leasing for two (2) postage machines, IX1 and IX7, effective December 1, 2024 through

November 30, 2027 (36 months), and authorize the Town Manager, or their designee, to execute on behalf of the Town.

[PRESENTATIONS]

PR1 Emergency Management Program Overview

Mayor Gilbert invited Taylor Sanchez, Emergency Management Coordinator, Apex Fire Department, to give the following presentation.

[SLIDE 1]



[SLIDE 2]

Emergency Management

Definition
The managerial function charged with creating the framework within which communities reduce vulnerability to hazards and cope with disasters.

Mission
To protect the Town of Apex by coordinating and integrating all activities necessary to build, sustain, and improve the capability to mitigate against, prepare for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made disasters.

1 [SLIDE 3]

Legislation

- Chapter 166A, North Carolina Emergency Management Act. 1977
- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 1988
- Homeland Security Presidential Directive 5 (HSPD-5), 2003
- Post-Katrina Emergency Management Reform Act (PKEMRA), 2006
- Presidential Policy Directive 8 (PPD-8), 2011

2
3 [SLIDE 4]

Mission Areas
National Preparedness Goal

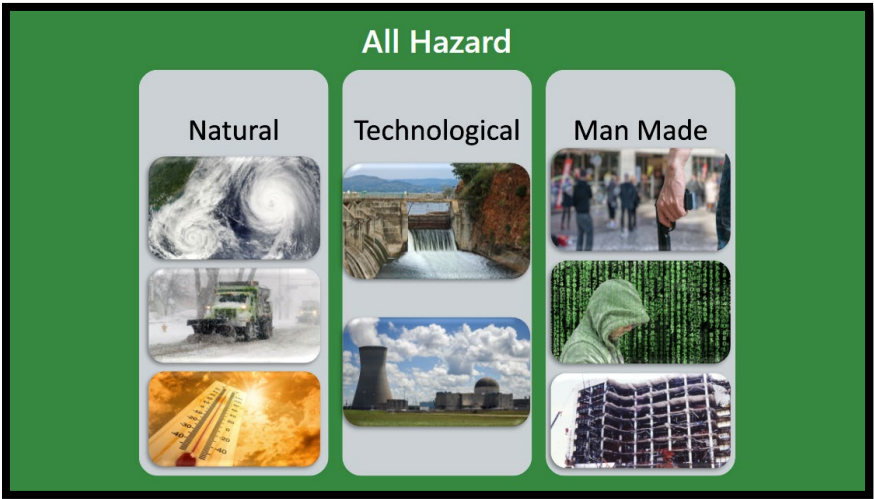
"A secure and resilient Nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk."

- Measured by 32 core capabilities
- Over 5 mission areas
- Multidisciplinary / whole community involvement*

4
5 [SLIDE 5]

Prevention	Protection	Mitigation	Response	Recovery
Planning				
Public Information and Warning				
Operational Coordination				
Intelligence and Information Sharing	Community Resilience	Long-term Vulnerability Reduction	Infrastructure Systems	
Interdiction and Disruption	Risk and Disaster Resilience Assessment	Critical Transportation	Economic Recovery	
Screening, Search, and Detection	Threats and Hazards Identification	Environmental Response/Health and Safety	Health and Social Services	
Forensics and Attribution	Access Control and Identity Verification	Fatality Management Services	Housing	
	Cybersecurity	Fire Management and Suppression	Natural and Cultural Resources	
	Physical Protective Measures	Logistics and Supply Chain Management		
	Risk Management for Protection Programs and Activities	Mass Care Services		
	Supply Chain Integrity and Security	Mass Search and Rescue Operations		
		On-scene Security, Protection, and Law Enforcement		
		Operational Communications		
		Public Health, Healthcare, and Emergency Medical Services		
		Situational Assessment		

1 [SLIDE 6]



2
3 [SLIDE 7]

Defining Scope

	Emergency	Disaster	Catastrophe
Individual	Physical Injury		
Organization / Departmental	Bomb threat	Building collapse	
Town	Cyber attack	Dixie Pipeline	
County		Localized Epidemic	Shearon Harris
Region			Hurricane Helene western NC

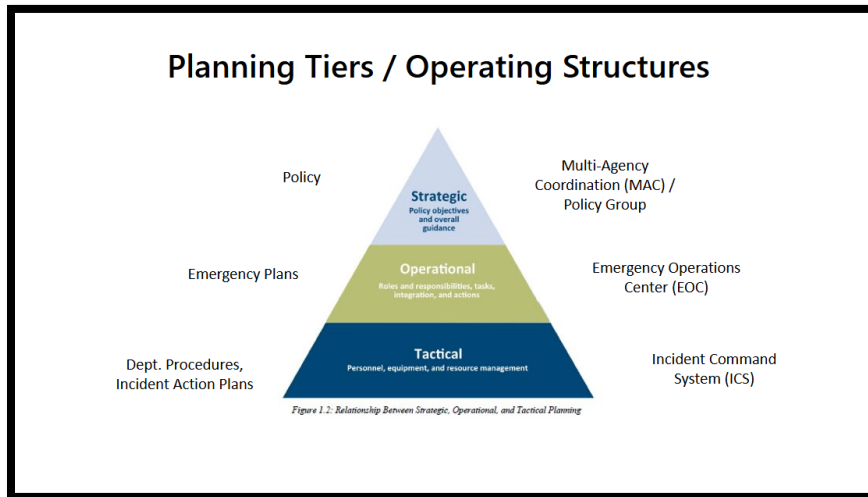
4
5 [SLIDE 8]

Types of Incidents

Incident Complexity Level: Incident Effect Indicators Summary										
Type	Resistance to stabilization or mitigation	How long does it take for resources to meet incident objectives?	Effects on population immediately surrounding the incident	Length of incident effects	Evacuations necessary during mitigation	Adverse impact on CIKR	CIKR impact / mitigation measures	Coordination required with elected/governing officials and stakeholder groups	Do conditions or actions that caused original incident persist?	Probability of cascading event or exacerbation of current incident
5	None	1-2 hours	Minimal	Minimal	Few or none	None	None	Minimal or none	No	None
4	Low	Several to 24 hours	Limited	Up to 24 hours	Few or none	Minimal	Uncomplicated within one operational period	Minimal or none	No	Low to none
3	Moderate	At least 24 hours	Moderate	Several days to over one week	Possible; may require shelter	Threatens, damages, or destroys property	Adverse; multiple operational periods	Some	Possibly	Medium
2	High	Several days	Significant	Several days to two weeks	Possible; may require shelter/housing for several days to months	Threatens, damages, or destroys property	Destructive; requires coordination over multiple operational periods	Moderate, including political organizations	Possibly	High
1	High	Numerous operational periods	Significant	Two weeks to over a month	May require shelter/housing for several days to months	Significantly threatens, damages, or destroys property	Highly destructive; requires long-term planning and extensive coordination over multiple operational periods	High, including political organizations	Yes	High

6

1 [SLIDE 9]



2
3 [SLIDE 10]



4
5 [SLIDE 11]

EM Blue Sky Responsibilities

- Develop and maintain Town wide emergency plans (EOP and Annexes)
- Conduct training and exercise of emergency plans
- Coordinate preparedness efforts with surrounding municipalities and Wake County
- Ensure operational readiness of EOC
- Develop EOC Staffing roles/responsibilities/procedures
- Develop maintain emergency Memorandums of Understanding
- Monitor potential Threats/Hazards (Weather/EM Network)

6

1 **[SLIDE 12]**

EM Blue Sky Responsibilities

- Advise TOA on emergency policy and procedure development
- Review Incident Action Plans for Town Events
- Inventory / accountability of emergency reserve equipment/supplies
- Processing reimbursement of deployed resources
- Support outreach initiatives to develop community preparedness

2
3 **[SLIDE 13]**

EM Grey Sky Responsibilities

Response (Emergency Operations Plan)

- Incident Command System (ICS) *Advisor*
 - Operational Response Planning
 - EOP Coordination
- Emergency Operation Center (EOC) *Manager*
 - Ops Sync Coordination Calls
 - EOC Activation
 - COOP Manager
 - Battle Rhythm
- Multi Agency Coordination (MAC)/ Policy Group *Liaison*
 - Situational Briefings

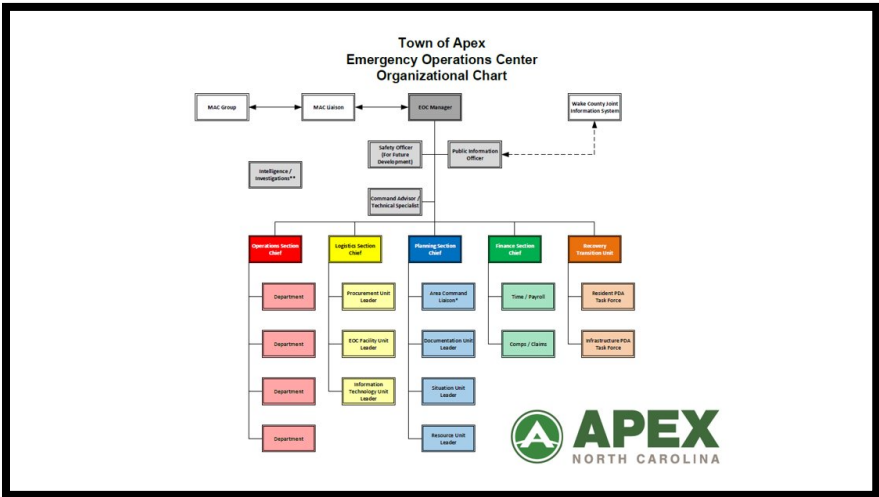
4
5 **[SLIDE 14]**

EM Grey Sky Operational Structures

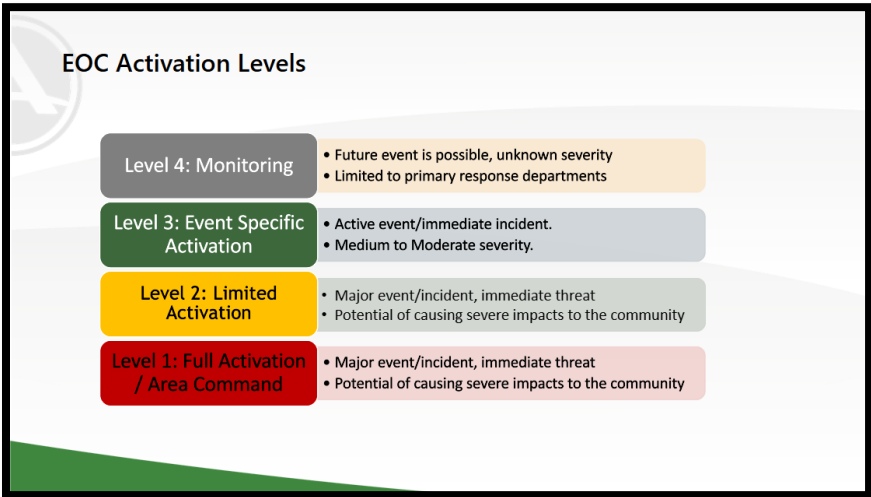
- Incident Command Structure (ICS)
 - Determine tactical objectives
 - Field Command and Control
 - Modular and Scalable
- Emergency Operations Center (EOC)
 - Coordination Center / resource, information and consequence management
 - Primary – PD HQ / Secondary – Public Safety Station #6
 - 1 monitoring level / 3 activation levels
 - Staffed by various departments
- Multi-Agency Coordination (MAC) / Policy Group
 - Establishing Goals / Priorities
 - Determine scarce resource allocations

6

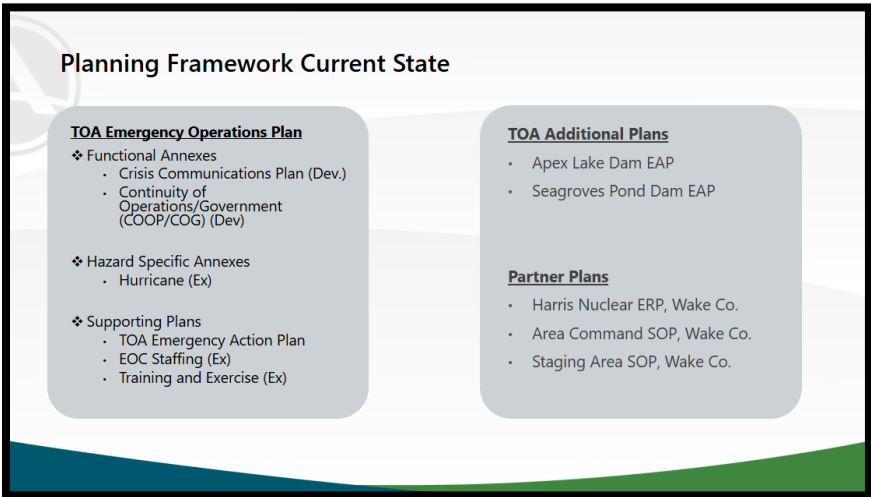
1 [SLIDE 15]



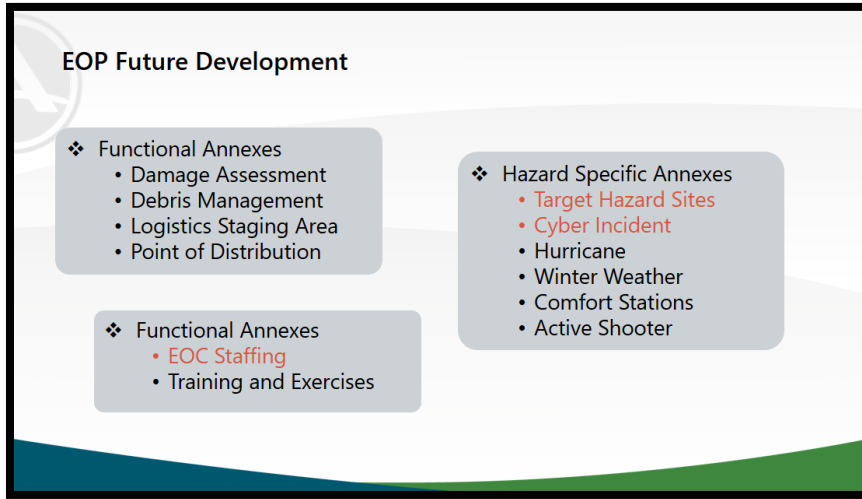
2 [SLIDE 16]
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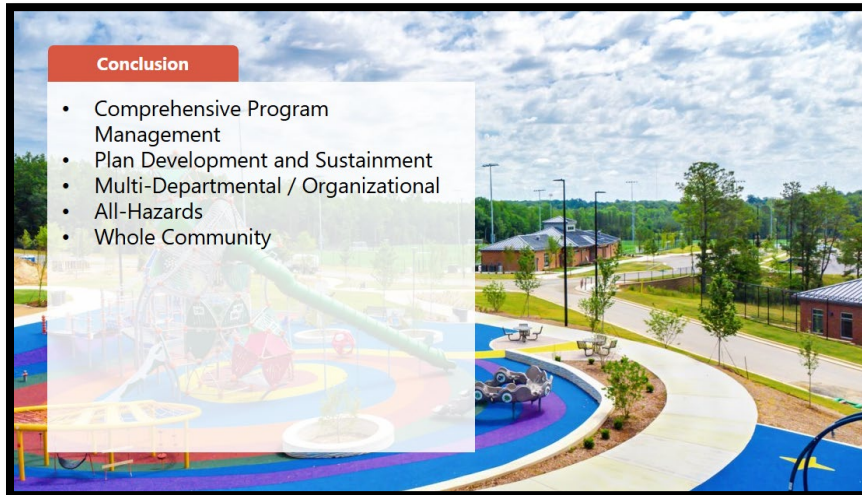
4 [SLIDE 17]
5



[SLIDE 18]



[SLIDE 19]



Mr. Sanchez asked if there were any questions.

Councilmember Zegerman asked what could be done for communications to residents in order to prepare them for different events before they may occur.

Mr. Sanchez said that the best way for the residents to stay informed is through Ready Wake alerts, which Wake County is responsible for maintaining. He said registering for that is key, as residents can get weather and emergency alerts directly. He said they plan to keep residents informed through social media, and can also plan outreach events in the future.

Councilmember Zegerman said it would be great to have people be prepared before an emergency occurs.

Mr. Sanchez said that one of the solutions is asking for volunteers during practice and exercises for emergencies.

[REGULAR MEETING AGENDA]

1 **Mayor Pro Tempore Gray** noted that New Business Item 1 was labeled as Public
2 Hearing 2 on the webpage, and offered the clarification that the Regular Agenda only has 1
3 Public Hearing Item.

4
5 A **motion** was made by **Councilmember Killingsworth**, seconded by
6 **Councilmember Zegerman**, to approve the Regular Meeting Agenda as presented.

7
8 **VOTE: UNANIMOUS (5-0)**

9
10 **[PUBLIC FORUM]**

11
12 **Mayor Gilbert** opened public forum and invited up the first speaker.

13
14 First to speak was **Elizabeth Stitt** of 3113 Friendship Road
15 "Allen's going to hand you a handout. So, as you guys know I follow tree patterns and
16 policies from other communities and what I have for you here today is the Wake Forest tree
17 policy that they are getting ready to adopt as a part of their revamp of their UDO, and what I
18 wanted to bring to your attention is how the conversation around trees are changing, so you'll
19 see on the second page they start talking about trees in the terms of tree canopy is no longer
20 just about the number of trees it's about the actual canopy, what is that particular tree going
21 to do. And so I just thought it was really interesting how they put it together and I know that
22 this information will get shared out to the EAB and the Tree CAP and the planning
23 department, but I just wanted to keep you up to speed as to what other communities are
24 doing. It seems that the City of Raleigh, with their street tree program my daughter got a tree
25 actually technically two, in the City of Raleigh's right-of-way. My son lives in downtown
26 Durham, he got trees put in his right-of-way as well, and so I know that we've had discussions
27 with the town before, but it' be nice if the town would look at putting trees in the towns right-
28 of-way, you don't have to have large trees you can still have small trees. So, with that part of
29 the community conversation I've been having is because we haven't heard any type of
30 workshop around the tree canopy study that you know came out a year ago, we're probably
31 going to own have our own workshop around trees and bring the forestry agency. I'm in the
32 final stages of getting my Forestry Certification and my controlled burn permit as well, to be
33 able to take care of underbrush. So it is something that I'm comfortable hosting out for the
34 larger community, so once we get dates and we get speakers and all I'll let you guys know but
35 I think there's a lot of people in our community that don't understand what you can do to
36 preserve the trees and like in this UDO one of the things they were talking about in certain
37 areas you wouldn't be allowed to use equipment to put in fences, you would have to do hand
38 digging instead of equipment, and why would you do that, you know it's about the root
39 structure and trying to preserve the trees because what we've heard from a lot of developers
40 is, hey we want to clearcut it because if we don't clearcut it these trees on the perimeter are
41 going to die anyways, and that is not necessarily true there are ways to preserve the trees so I
42 just wanted to share what Wake Forest was doing, Thank you.

Mayor Gilbert thanked Ms. Stitt and invited the next speaker.

Next to speak was **Panshul Aeron** at Green Level High School:

"Good evening Mayor Gilbert, Apex's respected Council Members and my fellow citizens my name is Panshul Aeron, and I am a 16-year-old 11th grader currently attending Green Level High School in Apex. I am proud to say that I've been living in the Cary / Apex area for almost 14 years now. I'm here with my childhood best friend Suayam who I've known since the third grade. Firstly, I'd like to express how grateful we are to have this opportunity to speak to you all today. We recently had the chance to speak at the Town of Cary, September Council meeting where we gathered strong support and we hope the Town of Apex will do the same. Suayam and I started off as two teenagers with a passion for teaching and helping others. We began by tutoring kids in our neighborhood hoping to make a small difference while earning volunteering hours, but as we quickly learned it wasn't easy to gather enough students, that's when we decided to take our efforts to the next level. In November 2023 we officially launched the Global Scholars Alliance, a 501c3 nonprofit dedicated to providing free and nutritious meals to WCPSS students. Since then, I am proud to say that our journey has been nothing short of remarkable. Throughout the past 10 months GSA has grown from a simple idea to a fully established nonprofit organization. We received certification from the IRS, created our own website, gathered a social media presence, launched a successful GoFundMe campaign, and even formed a team of seven student leaders. Through these efforts we've managed to raise over \$3,000 which has allowed us to expand our reach and provide ample services to our local community. Before we dive deeper I would like to introduce some of our talented student team members; Babik Kanimuri, a junior at Eno High School, Bobic is our Toastmasters public speaking instructor and a state level award-winning debater. Sadar Chakapuli is our competition math and SAT prep instructor, Sadar is a junior at Green Hope High School and a perfect scorer on the SAT, a 1600. Yasaswini Vadravu, a junior at Green level High School. Yasaswini is a website development intern dedicated to using her coding skills to help our community. Our mission extends beyond just providing free and nutritious meals, we also are advocating for increasing nutritional standards within the WCPSS. Countless students who rely on school cafeterias aren't receiving the vital nutrients that they need for proper development, energy, focus and academic performance. The main counterargument is that improved nutritional standards would decrease school lunch revenue. However, from our research concerning 330 Minnesota school districts and surveys from local teens, we found that school lunch revenue will not decrease and could potentially increase. It is up to us to minimize the gap between public and private school nutritional standards, the cost of higher quality ingredients is minimal compared to the profound impact on developing America's Future Leaders now I'll pass it off to Suayam."

Suayam Shah continued:

1 "Hello everyone, my name is Suayam Shah, and I've been living here in the Apex area
2 for the past decade. As an organization, one of our proudest accomplishments is our
3 partnership with Davis Drive Middle School. Our team started coaching their math counts and
4 science Teams and our students excelled beyond our expectations. In March, one of our math
5 count students placed third at the State level, and the Science Bowl team that we coached
6 won third place at the national competition, but we're not just about stem tutoring, GSA has a
7 mission to focus on something even closer to our hearts. Ensuring that every WCPSS student
8 has access to free and nutritious meals. How many of you in the audience have eaten at a
9 school cafeteria in the past month? Now, we invite you Mayor Gilbert and the Council
10 members to raise your hands if you have eaten inside a school cafeteria in the past month.
11 Exactly, so when was the last time you had stepped foot in the school cafeteria? Not all adults,
12 especially those who manage the education system, are able to experience the problem with
13 school meals present in WCPSS. That's why Panshul and I took the initiative to be able to
14 solve this problem ourselves as teenagers who regularly eat at its school cafeterias. We
15 believe that no student should have to worry about where their next meal is coming from, and
16 we're working hard to make this initiative a reality through a strong relationship with Council
17 Member Sarika Bansal from the Town of Cary, we were able to meet Mrs. Lindsay Mahaffey,
18 Mr. Mahaffey's wife, who is a WCPSS School Board member. She helped us research our
19 cause and learn more. From our conversation with Mrs. Lindsay Mahaffey, we learned that a
20 quality education is fueled by nutritious meals, something that not all students are able to
21 access each and every day. We learned that it takes about \$2 to sponsor one meal, right now
22 we have raised well over \$3,000 allowing us to sponsor 1,500 meals. We are looking to grow
23 this number to be able to sponsor 5,000 student meals by the end of 2024. This is an
24 ambitious goal, but we believe it's possible with your support. Throughout the past month
25 we've been working with Josh Stein, NC's Governor-elect, as well as the vice president for the
26 NCAIA, North Carolina Association of Indian Americans, both expressed their support for our
27 mission, as well as that we've already begun reaching out to local businesses for Partnerships
28 and today, we are here to request the Town of Apex's support in donating to our cause. We
29 are formally requesting the town of Apex to support our mission by donating \$10,000 to go
30 to free meals for WCPSS students. In addition, we would love to work with the town to gain
31 support to help raise nutritional standards in our local WCPSS school system. Our team wants
32 to ensure that our fellow WCPSS students can attend school knowing that they will be able to
33 eat a healthy meal each day. We know that with the support of the Town of Apex and the
34 wonderful people here, we can make a lasting impact in our community. Thank you all for
35 your time and for giving us this incredible opportunity to speak to you all today."

36
37 **Mayor Gilbert** thanked both speakers and called the next speaker.

38
39 Next to speak was **Dawn Cozzolino** of 3632 Bosco Road:

40
41 "Good evening, Town Council and Mayor Jacques. Mayor Jacques and Councilman
42 Zegerman, thank you so much for reaching out to me on the traffic safety issues that we've

1 been voicing, I really appreciate this support and look forward to working with the Council
2 and staff. So, I wanted to, I usually have a prop, so this is a new prop for tonight. This is just a
3 regular old water container, but what I'm trying to do here is represent sustainability so I'm
4 trying to practice better practices, not bringing a water bottle here and all those things. But
5 how I'm thinking about how our community could be more sustainable, and what I noticed
6 with the new traffic pattern and of course, everybody's talking about the congestion and so
7 forth, is that I'm thinking twice about what I do because of either costs or because of
8 congestion, hassle, frustration. I might not actually take a shopping trip that I might have
9 planned normally, and I wonder if other people in Apex feel the same way that I do about,
10 you know, making that decision to go out for dinner, making that decision to go to a park, to,
11 you know, make those extra trips that maybe we can't afford anymore or it's too much stress.
12 So, I was doing a little research online, and you know, there was something that was kind of
13 nagging at me: this city structure and this city vision and It's blowing up so quick, and a lot of
14 what I was reading about was something where the city goes into the suburb, right, but they
15 kind of subsidize the city through the suburb, and that's not really an adequate or good
16 growth strategy because it just leads to higher taxes for everybody. It destabilizes the
17 downtown neighborhoods. Longer-term residents relocate, and there's a decline in economic
18 productivity for the downtown, and that's your restaurants, your retail, and other businesses,
19 more in the long term. So, I hope that doesn't happen to Apex. But, again, sustainability, can
20 we think about more natural growth and think about how we treat our environment? Because
21 we're living with that environment, just like our bodies. We're in it for the long haul. Thank you
22 very much."

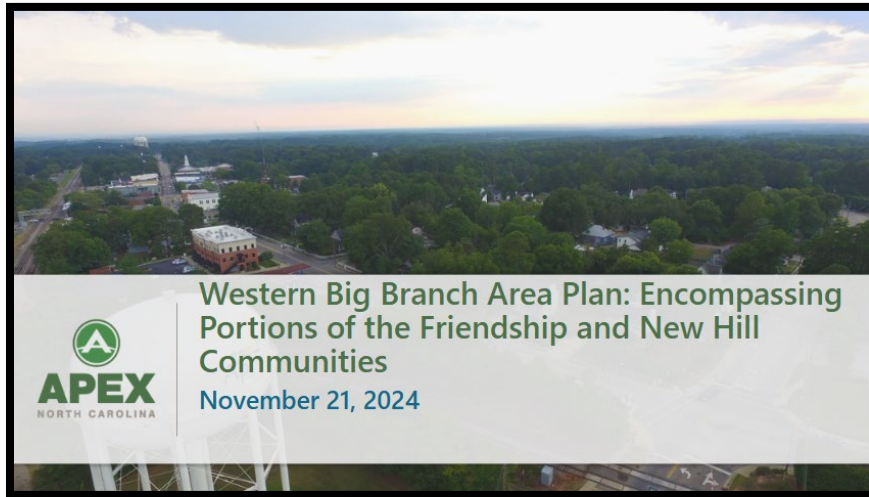
23
24 **Mayor Gilbert** thanked the speaker. He closed the Public Forum and moved to Public
25 Hearings.
26

27 **[PUBLIC HEARINGS]**

28 **PH1 Western Big Branch Area Plan: Encompassing Portions of the Friendship and**
29 **New Hill Communities**

30 **Jenna Shouse**, Senior Planner – Long Range, Planning Department gave the following
31 presentation on Western Big Branch Area Plan: Encompassing Portions of the Friendship and
32 New Hill Communities:
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1 [SLIDE 1]



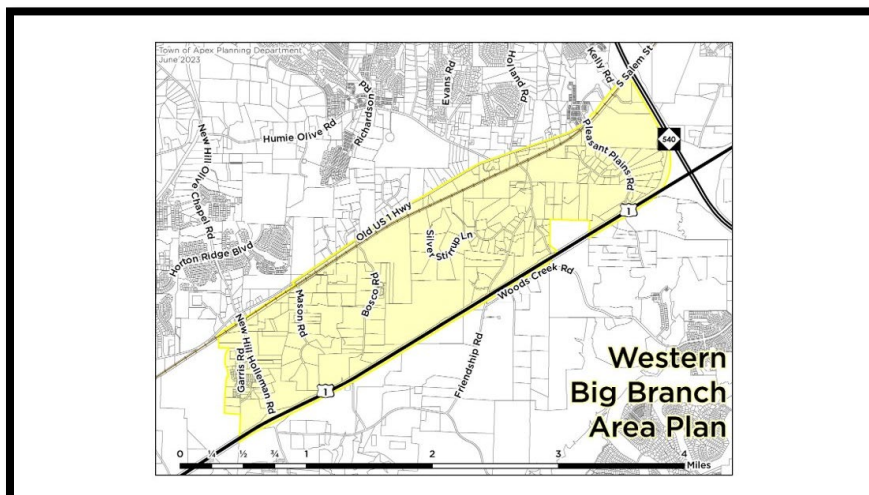
2
3 [SLIDE 2]

Overview

- Plan introduction, outcomes, and process
- Public engagement highlights
 - Planning Board & Town Council Updates in September 2023 & May 2024
- Draft Plan public input summary & resulting revisions
- Revised Draft Plan public input summary
- Staff-Recommended Plan recommendations
- Requested motion



4
5 [SLIDE 3]




6

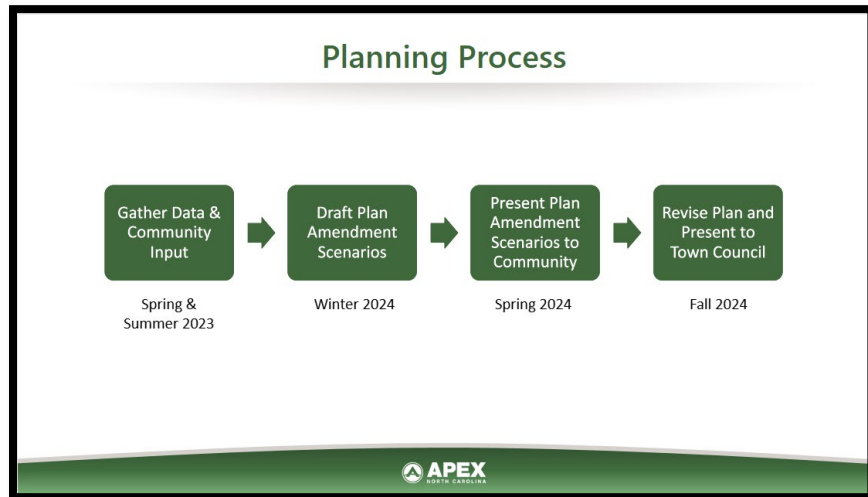
1 [SLIDE 4]

Plan Considerations & Outcomes

- Considerations
 - Substantial development around the study area
 - Property owners and residents request for involvement
 - Planning for Big Branch Pump Station and Force Main project underway
- Outcomes
 - Revisions to the 2045 Land Use Map and 2045 Transportation Plan
 - Additional Plan Recommendations




2
3 [SLIDE 5]




4
5 [SLIDE 6]

Public Engagement Statistics

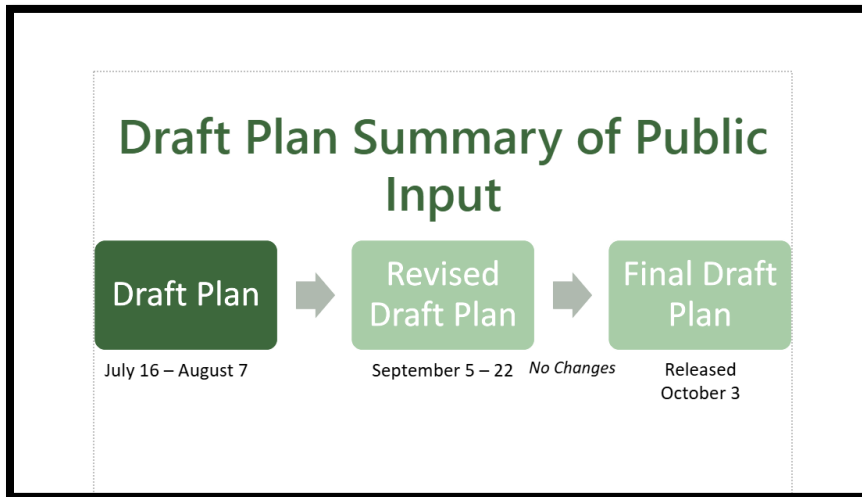


- In-Person**
 - Five in-person meetings.
 - 266 attendees at the in-person public meetings.
- Plan Development**
 - 71 participants in the online survey on the draft vision & goals.
 - 81 participants in the survey on the three plan amendment scenarios and draft additional plan amendment recommendations.
 - 474 views of the recorded presentation on YouTube describing the plan amendment scenarios.
- Plan Document Review**
 - 29 participants in the online survey on the Draft Plan.
 - Zero participants in the online survey on the Revised Draft Plan. Emailed comments from one person and petition from 78 residents.



6

1 [SLIDE 7]



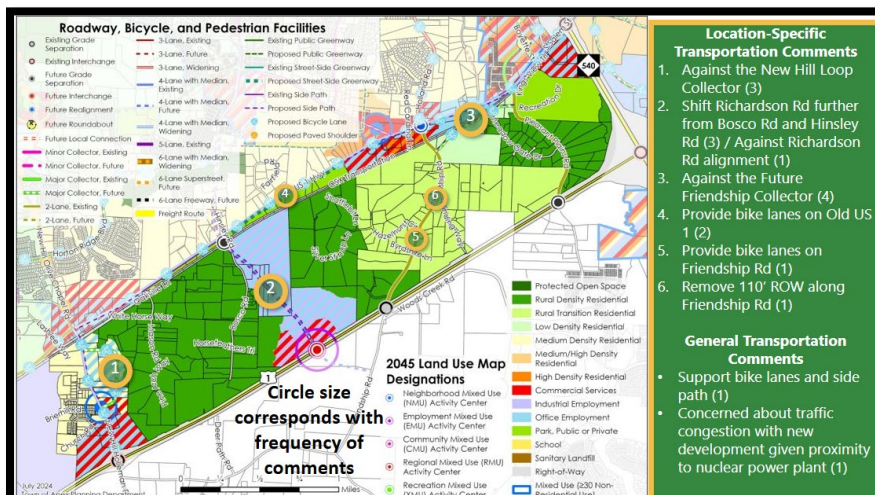
2
3 [SLIDE 8]

Comments on Additional Plan Recommendations

- Support the community-proposed overlay district
- A policy to encourage the preservation of forested areas does not address other environmental issues (climate change, impervious surface, light pollution, etc.)
- Allow VADs and EVADs in Apex
- Provide a 50-foot buffer between VADs/EVADs and new development
- Concerned about traffic and safety at the intersection of Friendship Road and Old US 1
- Economic development along the future Richardson Road corridor and at the future interchange benefits the developer rather than the community

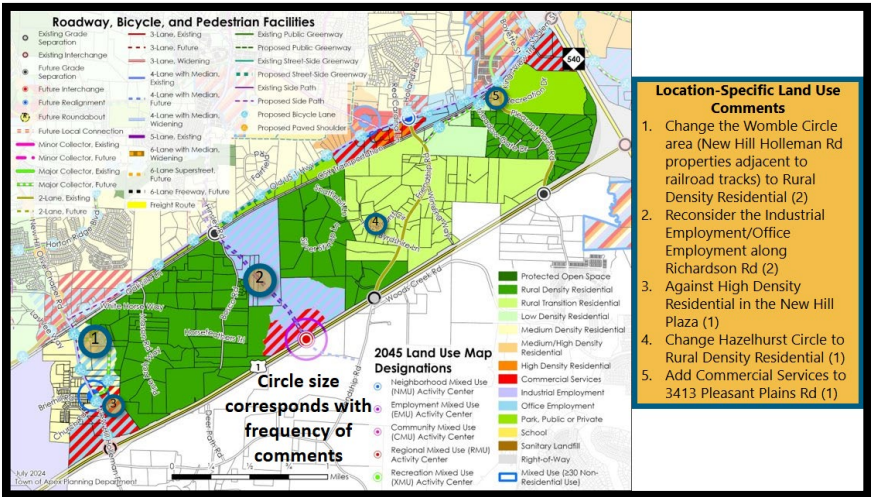
APEX NORTH CAROLINA

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5 [SLIDE 9]



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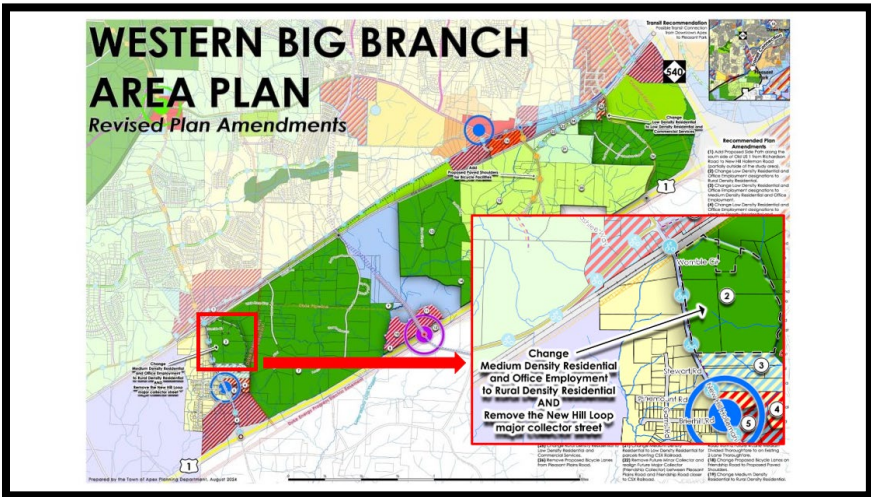
1 [SLIDE 10]



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3 [SLIDE 11]

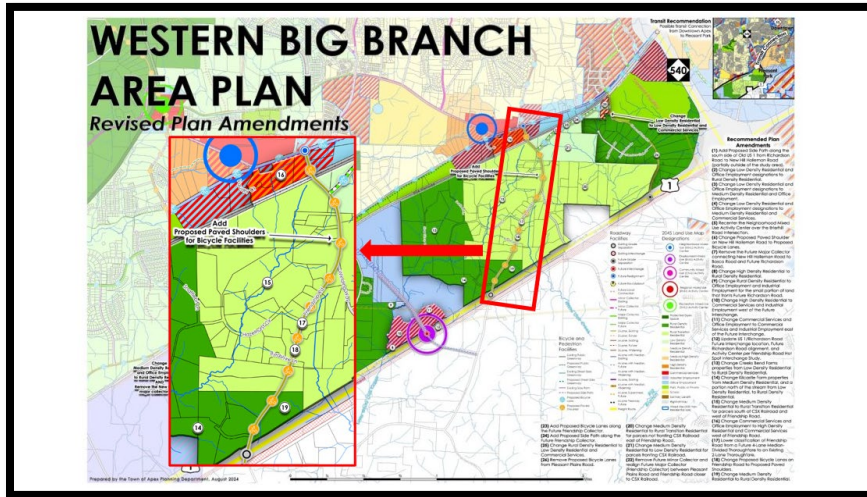
Revisions Made to the Draft Plan

4
5 [SLIDE 12]

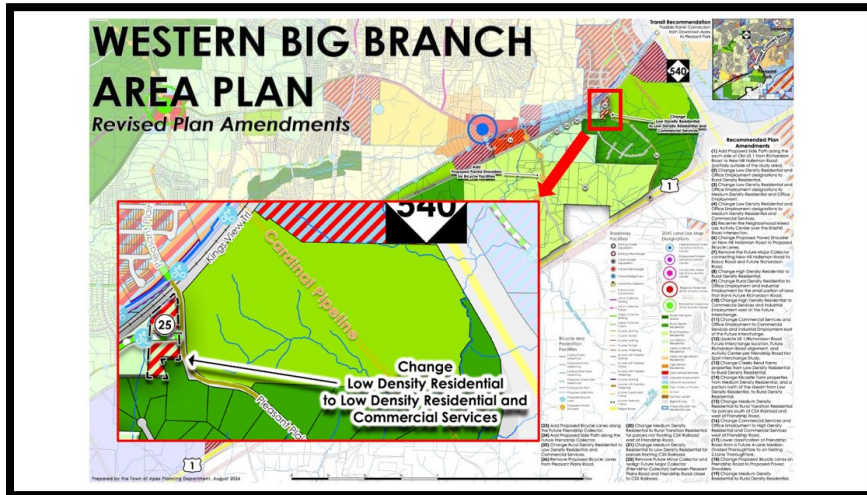


6 Page 17 of 35

1 [SLIDE 13]



2
3 [SLIDE 14]



4
5 [SLIDE 15]

Additional Plan Recommendations & Text Revisions

- Additional Plan Recommendations
 - Add 4B: Coordinate with Wake County to allow Voluntary Agricultural Districts & Enhanced Voluntary Agricultural Districts within the Apex corporate limits & ETJ
- Plan document text
 - Remove references to Town water
 - Update Figure 6. Transportation Crashes to include all crash data in the study area from July 2019 – June 2024

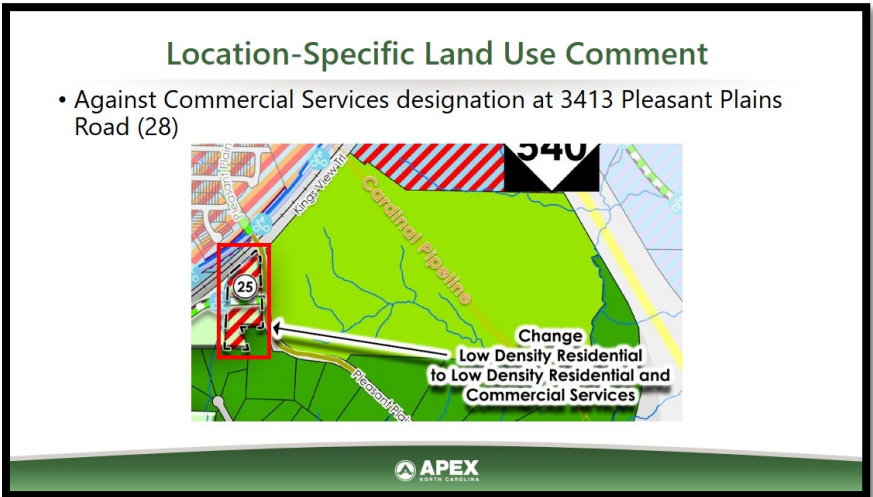
APEX
NORTH CAROLINA

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1 [SLIDE 16]



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3 [SLIDE 17]



4
5 [SLIDE 18]



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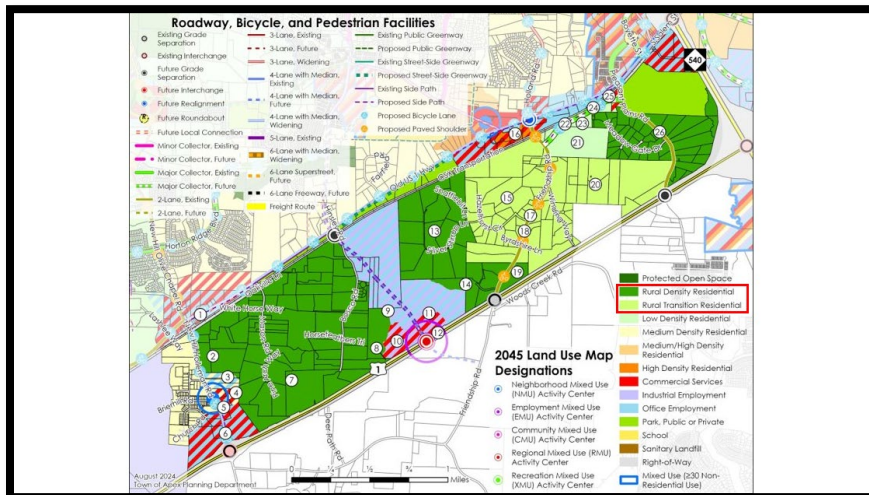
1 [SLIDE 19]

Plan Amendment Staff Recommendations

- Generally, low-intensity residential land uses, consistent with current conditions.
 - Primarily Rural Density Residential (1 unit per 5 acres) & Rural Transition Residential (1 unit per acre).
 - Where residential is recommended, lower densities than Wake County portions of study area.
- Anticipate limited roadway improvements due to land uses.
- Maintain future Richardson Road corridor as a key regional connection and economic development opportunity.
- Align Richardson Road/US 1 interchange consistent with regional Hot Spot Study.
- Revise Context Areas map, consistent with plan amendment revisions.

APEX
NORTH CAROLINA

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3 [SLIDE 20]



4
5 [SLIDE 21]

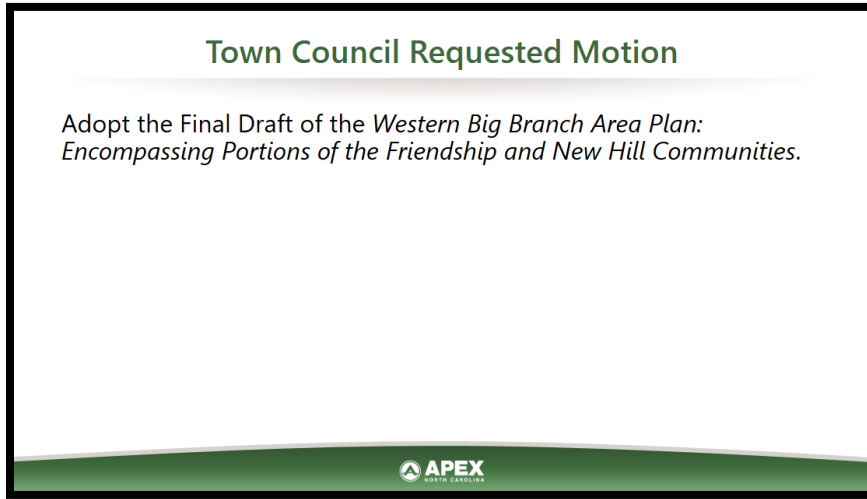
Additional Plan Recommendations

- Encourage agricultural business and agritourism.
- Encourage development of small-scale downtown near Humie Olive Road/Old US 1.
- Prepare a staff-recommended list of zoning conditions for rural areas for developers to consider.
- Study and potentially invest in turn lanes and a traffic signal at Friendship Road/Old US 1.
- Conduct a feasibility study to improve access to Pleasant Park.
- Review best practices and develop a policy to encourage the preservation of forested areas.

APEX
NORTH CAROLINA

6

[SLIDE 22]



Councilmember Zegerman asked if building Friendship Road to a lower spec than the Holly Springs side would create a bottleneck in that area.

Ms. Shouse said there was a two-lane bridge, and there was not a funded project to widen the bridge.

Councilmember Zegerman said that with the development going on the south side of the road, he was concerned having the town's side be narrower would create potential problems if the bridge is widened in the future.

Ms. Shouse said that is a fair concern, and that widening of the Friendship Road was not supported in the rural transition area, and with it being one unit per acre it is not likely that new development would widen Friendship Road.

Shannon Cox, Long Range Planning Manager, said that the Campo Hotspot study looked at Friendship Road Bridge planned to have a four-lane section on Friendship Road that would connect to Richardson Road with an interchange, and that would be the main thoroughfare with the bridge staying two-lane.

Councilmember Zegerman said that would make sense.

Councilmember Gantt said that in the presentation it was mentioned that there were three scenarios and asked if this would be considered scenario one.

Ms. Shouse said yes, they started with scenario one as a starting point based on the public input received.

Councilmember Gantt asked if it was considered removing residential use at 3413 Pleasant Plains Road to support the commercial services for the park nearby.

Ms. Shouse said that they did not discuss removing it completely, she said keeping both allows the option of low density or commercial.

Planning Director Dianne Khin said that if a developer came in and bought up the property along the railroad tracks with low density, they would be likely put the Rec Center on Pleasant Plains Road, but if it were to develop by itself it would likely be a commercial land use.

Councilmember Gantt said a Rec Center would only be for residents of that area.

1 **Director Khin** said yes, and that would be captured in the residential option for the
2 zoning.

3 **Mayor Gilbert** opened up Public Hearing and invited the first speaker.

4
5 First speaker was **Elizabeth Stitt** of 3113 Friendship Road:

6
7 "I wanted to share with you what our view of our area is. We're very appreciative of all
8 the work that we did with Jenna and the Town, but I think one of the reasons that we feel like
9 the low density is going to continue for a period of time, if you think about it from an
10 infrastructure perspective, down along US1 is where the force main is going, and so if I were
11 to extend sewer up to my property, I have to go through eight other people's property to get
12 to mine, and they are smaller residential properties, whereas I have a larger tract.
13 So, if you look at my larger tract, there's not enough developable area to pay for the cost to
14 pull the infrastructure up, and so what's highlighted in the dark blue on your map, these are
15 neighborhoods that have covenants that automatically renew where they cannot subdivide
16 and if they sell, if they change their covenants, it's like 75 to 100% of the landowners. So, if
17 you look at the geography and the lay of the land, these are our low areas. So, if you're going
18 to do gravity-fed sewer, you're going to have to go through these neighborhoods, and it's
19 going to be pretty tough. The conversations I've had with developers are that you're not
20 going to get a lot of development for a long period of time because you have to be able to
21 buy out a lot of land in order to pull the infrastructure up. And when we were working with the
22 community, we had a number of our community members who were not going to support
23 anything around the development because we were proposing one house per acre. They
24 thought that was too dense. So, this was the best compromise that we could come up with
25 our community to get the majority of them to say, "Hey, at least one acre." Most everybody
26 here has an average of three to four acres, so the thought of somebody having only one acre
27 was kind of a shock to some, so we definitely support what the town has put forth. We didn't
28 get everything we wanted, and there's still some things we want to work towards, but overall,
29 we're happy with the plan, and I just want to make sure you guys understood why the
30 infrastructure was a limiting factor and why we ended up with one house per acre. Thank
31 you."

32
33 **Mayor Gilbert** thanked Ms. Stitt and called the next speaker.

34
35 Next to speak was **Dawn Cozzolino** at 3632 Bosco Road:

36
37 "So, as Elizabeth mentioned about the covenants, I actually have one, I didn't know I
38 had one, it was discovered. So, I have eight acres, and I'm only allowed one house on that
39 eight acres. I think it was really thoughtful of the people that started the covenants to think
40 about bridging a community and keeping a community sustainable for a legacy to pass those
41 farms on to generations and generations. So, I think it's kind of interesting how it came about.

1 And the other thing I'll add is everybody is on well water and septic, we maintain it per all the
2 guidelines. It's not easy, but we do it because we enjoy where we live, we appreciate that, and
3 the tree canopy will inevitably help Apex with their forestry numbers and so forth.

4 So, I just wanted to say that as well, there were a lot of trade-offs, right? There are things that
5 people who have been living in the area a very long time are used to, and they're used to
6 living the way they're used to living. So, changes are very hard, but I think this proposal keeps
7 a lot of green on the map. So, thank you.”
8

9 **Mayor Gilbert** thanked Ms. Cozzolino and closed the public hearing, and moved the
10 item back to Council for discussion.
11

12 **Councilmember Zegerman** thanked the staff and all of the planning for the New Hill
13 and Friendship Community area.

14 **Mayor Pro Tempore Gray** commented that that this plan has had a lot of compromise
15 on both sides, and that there has been a lot of conversations about increasing the size of
16 commercial in that area because of its access and closeness to US1. He said that there has
17 been a lot of conversations about placing an overlay that would make it a lot denser in terms
18 of the amount of housing, primarily to help support residents in the Holly Springs area. He
19 said that this is a good compromise and gives those within that area the opportunity to
20 maintain this overall aesthetic and outlook for as long as possible, and when looking at the
21 practicalities, he reminded people that the land use map doesn't really get used until people
22 start selling property, and in this case, there are a lot of things that will prevent a lot of sales in
23 the short term. He said he appreciates what the staff has done, the interactions they have had
24 with the community and the comments from those within the community.

25 **Councilmember Gantt** said he would be okay with putting this on ice if people
26 wanted, but in lots of cases things like this end up getting changed if people start selling in
27 the future. He said it's better to plan for the future in case something like that happens.

28 **Councilmember Killingsworth** said that she agrees and that this is a combination of
29 staff listening to the community and compromising. She said she is in support of the plan as
30 staff has presented.

31 **Councilmember Mahaffey** said that he hopes the community feels that they have had
32 a role in shaping this plan, as it is evident, and he appreciates the efforts of staff in working
33 with them. He said that he approves of the plan and pointed it out as a compromise, and that
34 this plan reflects the priorities of Apex. He said he is in support of the plan.
35

36 A **motion** by **Mayor Pro Tempore Gray**, seconded by **Councilmember Mahaffey**, to
37 adopt the Western Big Branch Area Plan: Encompassing Portions of the Friendship and New
38 Hill Communities.
39

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

Mayor Gilbert thanked staff for the work on the plan. He then moved to New Business.

[NEW BUSINESS]

NB1 Electric Utilities Updates

Eric Neumann, Director, Electric Utilities Director gave the following presentation on Electric Utilities Updates:

[SLIDE 1]



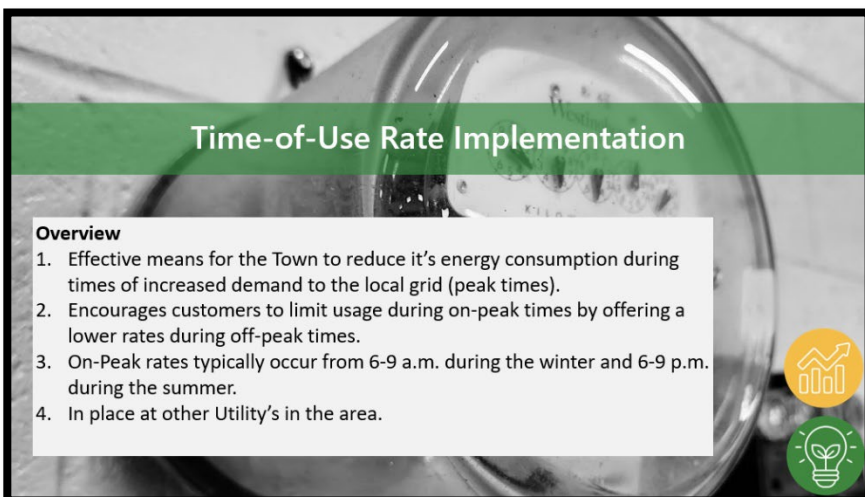
[SLIDE 2]



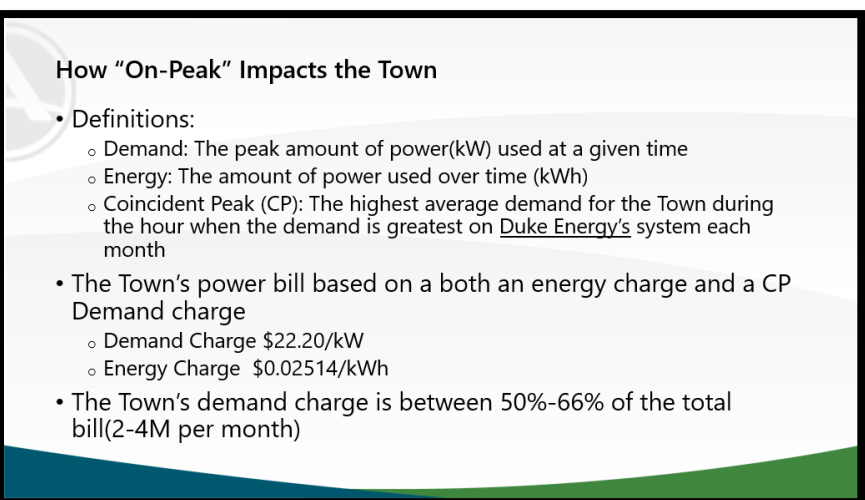
1 [SLIDE 3]



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3 [SLIDE 4]



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5 [SLIDE 5]



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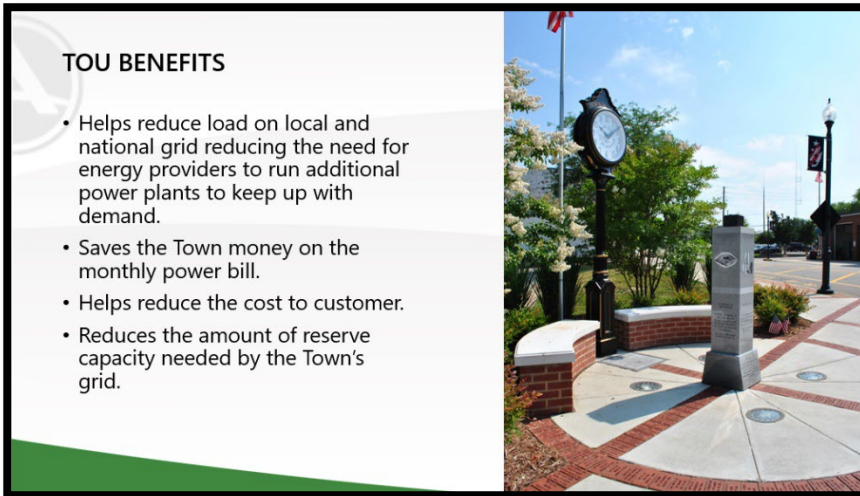
Councilmember Gantt asked if the reason for the difference in the rates in the Western part of the state was because of the power generation and that it was easier to cut on and off.

Director Neumann said they have a different Power Purchase Agreement with Duke Energy because they have the ability to generate and support energy needs in Western Carolina, so they are charged differently.

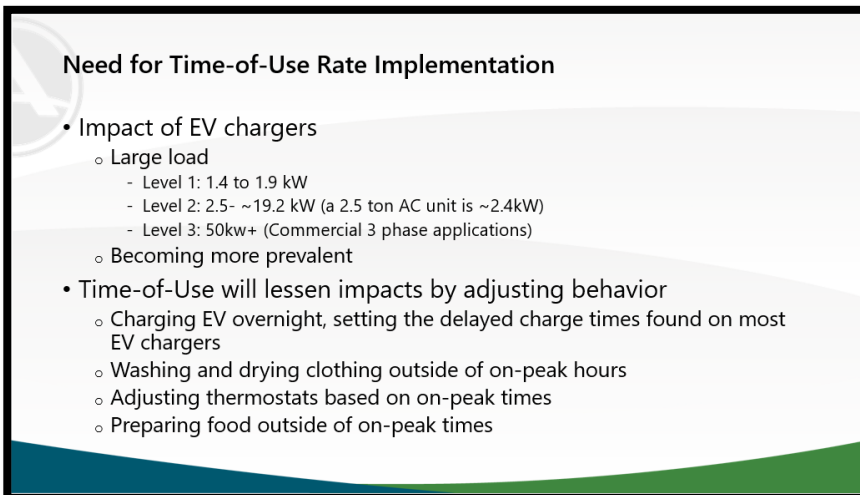
Councilmember Gantt said in our case the nuclear plant can't turn on and off.

Director Neumann said that was correct.

[SLIDE 6]



[SLIDE 7]



1 [SLIDE 8]

Proposed Time-of-Use Rate Implementation

- Proposed rate times (to be verified after rate study)
 - Summer months 6-9 p.m.
 - Winter months 6-9 a.m.
- Time frame for implementation
 - After completion of AMI meter replacement (anticipated by December 2025)
- Commercial versus residential Implementation
 - Required for residential (optional for commercial)

2
3 [SLIDE 9]

Time-of-Use Rates at other Utilities

Duke Energy

- Offers non-TOU Rates and multiple TOU rate schedules. One includes notified "critical peak days" where on-peak rates increase 186%
- On-Peak Periods
 - Summer 6:00-9:00pm
 - Winter 6:00-9:00am
- Discount Periods
 - Summer 1:00-6:00am
 - Winter 1:00-3:00am, 11:00am-4:00pm
- Include Riders on most of their rate schedules which may change a customers bill (the example on the right has 8)

TYPE OF SERVICE
The types of service to which this Schedule is applicable are alternating current, 60 hertz, either single-phase 2 or 3 wires, or three-phase 4 wires, at Company's standard voltages of 240 volts or less.

MONTHLY RATE

I. For Single-Phase Service:

A. Service used during the calendar months of May through September:	B. Service used during the calendar months of October through April:
1. Basic Customer Charge:	1. Basic Customer Charge:
\$14.00	\$14.00

NC First Revised Leaf No. 502
Effective for service rendered from October 1, 2024 through September 30, 2025
NCUC Docket No. E-2, Sub 1300, Order dated August 18, 2023
Page 4 of 4

Duke Energy Progress, LLC
(North Carolina Only)

NC First Revised Leaf No. 502
Superseding NC Original Leaf No. 502

2. kWh Energy Charge:	2. kWh Energy Charge:
28.82¢ per On-Peak kWh	28.82¢ per On-Peak kWh
10.91¢ per Off-Peak kWh	10.91¢ per Off-Peak kWh
7.10¢ per Discount kWh	7.10¢ per Discount kWh

Minimum Bill
The minimum monthly charge shall be the Basic Customer Charge.

II. For Three-Phase Service:
The bill computed for single-phase service plus \$9.00.

4
5 [SLIDE 10]

Time-of-Use Rates at other Utilities

Fayetteville Public Works

- TOU Rate is the only available option to customers
- No "discount" period
- Lower rates with higher base charge

MONTHLY RATE

Basic Facilities Charge ^a	\$23.00
Single Phase Service Charge	\$28.75
Three Phase Service Charge	
Energy Charge	
All kWh On-Peak Hours:	\$0.14042 per kWh
All kWh Off-Peak Hours:	\$0.09152 per kWh

DEFINITION OF PEAK PERIODS
Peak period is defined as daily (excluding Saturdays, Sundays, and Holidays)

1. On-Peak Hours:

Summer:	(April-October)	3:00 PM to 7:00 PM
Non-Summer:	(November-March)	6:00 AM to 10:00 AM

2. Off-Peak Hours: All other hours other than On-Peak Hours.

3. All holiday and weekend hours are deemed to be Off-Peak Hours.

POWER SUPPLY ADJUSTMENT (PSA) All stated rates are subject to a monthly power supply adjustment (PSA).

COAL ASH RIDER As specified in the Service Regulations and Charges, a monthly surcharge to recover the portion of Duke Energy Progress' cost of cleaning up coal ash that is allocated to FWC.

Coal Ash Rider	\$2.00
----------------	--------

6

[SLIDE 11]

Time-of-Use Rate Comparison with other Utilities					
Utility	Base Charge	On-Peak Rate	Off-Peak Rate	Summer Peak Hours	Winter Peak Hours
Duke Energy	\$14.00	28.82¢ / kWh	10.91¢ / kWh*	6:00pm – 9:00pm	6:00am – 9:00am
Fayetteville PWC	\$23.00	14.04¢ / kWh	9.15¢ / kWh	3:00pm – 7:00pm	6:00am – 10:00am
Apex (not in use)**	\$26.50	23.45¢ / kWh	6.23¢ / kWh	1:00pm – 6:00pm	6:00am – 9:00am

*Duke offers 7.105 ¢ / kWh rate during "discount hours" 1-6am in summer months, 1-3am and 11am to 4pm in winter months.

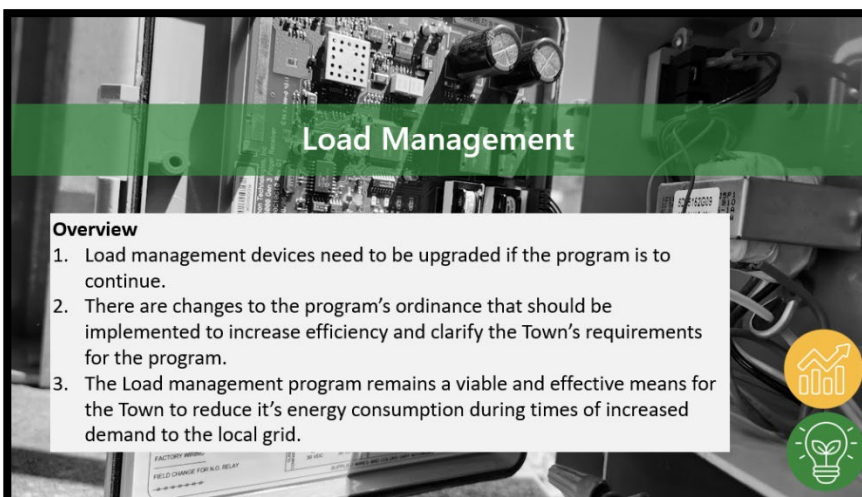
**This is the old TOU rate that Apex has but is not offered. This rate includes 3 additional peak hours during the first fifteen days of shoulder months (April and October).

[SLIDE 12]

Load Management

Overview

1. Load management devices need to be upgraded if the program is to continue.
2. There are changes to the program's ordinance that should be implemented to increase efficiency and clarify the Town's requirements for the program.
3. The Load management program remains a viable and effective means for the Town to reduce it's energy consumption during times of increased demand to the local grid.



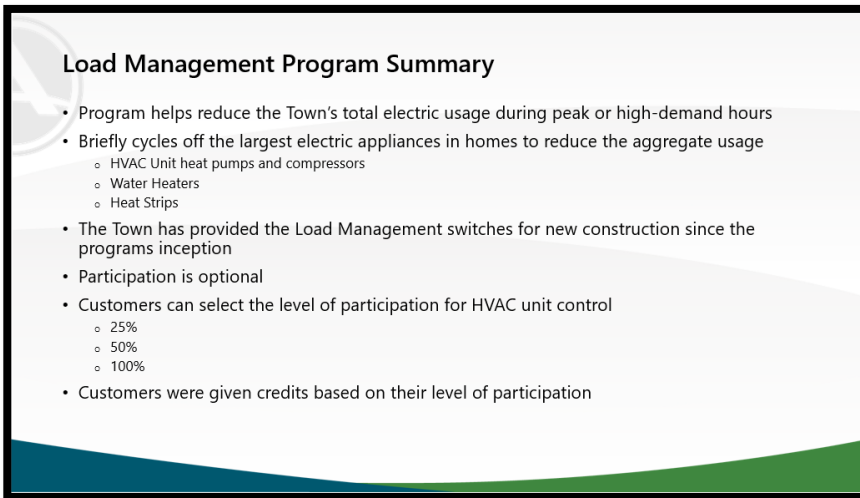
Councilmember Gantt asked if the time use decreases the need for the Load Management Program.

Director Neumann said that it would probably be the reverse if there is a success in the Load Management Program. He said time of use will encourage people to do this naturally, but the Load Management Program is more forced.

Councilmember Gantt said that there would not be a need to force them if they do it themselves based on economics.

Director Neumann said that this would be talked about.

1 **[SLIDE 13]**



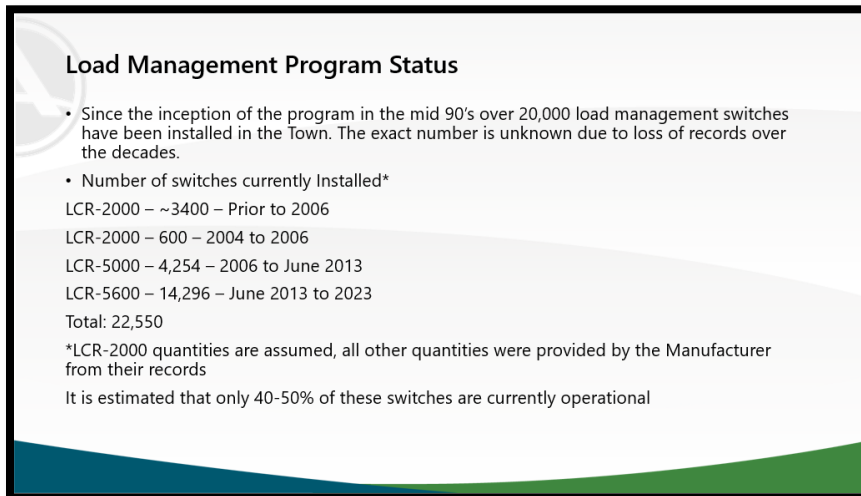
Load Management Program Summary

- Program helps reduce the Town's total electric usage during peak or high-demand hours
- Briefly cycles off the largest electric appliances in homes to reduce the aggregate usage
 - HVAC Unit heat pumps and compressors
 - Water Heaters
 - Heat Strips
- The Town has provided the Load Management switches for new construction since the programs inception
- Participation is optional
- Customers can select the level of participation for HVAC unit control
 - 25%
 - 50%
 - 100%
- Customers were given credits based on their level of participation

2
3 **Councilmember Gantt** asked if the AMI had this built in.

4 **Director Neumann** said no.

5 **[SLIDE 14]**



Load Management Program Status

- Since the inception of the program in the mid 90's over 20,000 load management switches have been installed in the Town. The exact number is unknown due to loss of records over the decades.
- Number of switches currently Installed*
 - LCR-2000 – ~3400 – Prior to 2006
 - LCR-2000 – 600 – 2004 to 2006
 - LCR-5000 – 4,254 – 2006 to June 2013
 - LCR-5600 – 14,296 – June 2013 to 2023

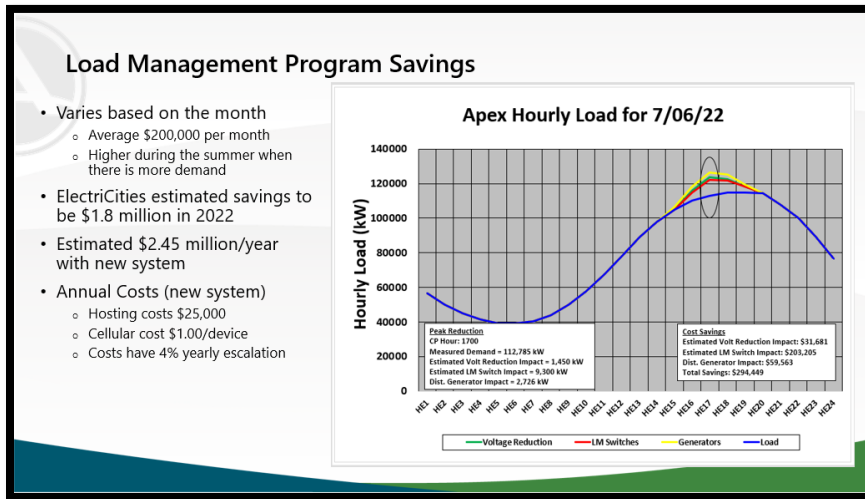
Total: 22,550

*LCR-2000 quantities are assumed, all other quantities were provided by the Manufacturer from their records

It is estimated that only 40-50% of these switches are currently operational

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1 **[SLIDE 15]**



2
3 **[SLIDE 16]**

Load Management Switch Degradation

- LCR 2000 models have been non-operational for a number of years because they were based on radio frequency technology, which has been abandoned
- The LCR 5000 and 5600 devices utilize paging signals that are slowly losing coverage as the technology is being obsoleted
- HVAC technician often bypass the switches when diagnosing problems and never reconnect the switch
- Age, some existing switches have been in service for 25+ years


4
5 **[SLIDE 17]**

New Load Management Switch

- Has two-way communications allowing the utility to monitor the devices status and confirm functionality
- Will decrease the number of bypassed switches on the system
- Will be easier to maintain and can send trouble alarms
- Pay off time is 4 -6 years
- Life expectance 15-20 years

6


1 **[SLIDE 18]**



Load Management Proposed Ordinance/Administration Changes

- Remove credits for those participating the program
- Incentivize participation in the program by having a higher rate for those who choose not to participate
- Removal of the 50 and 100% participation level options (only 25% control will be used)
 - Few residents choose these participation levels, and their removal will simplify billing and system management
- Clarification of the customer’s responsibility to maintain building wiring
- Requirement of installation of load management devices on new construction and permits over \$10,000

2
3 **[SLIDE 19]**



Load Management Proposed Infrastructure Upgrades (CIP Projects)

	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30
Professional Services	\$600,000	\$600,000	\$600,000	\$600,000	\$600,000
Equipment	\$965,000	\$965,000	\$965,000	\$965,000	\$965,000
Totals	\$1,565,000	\$1,565,000	\$1,565,000	\$1,565,000	\$1,565,000

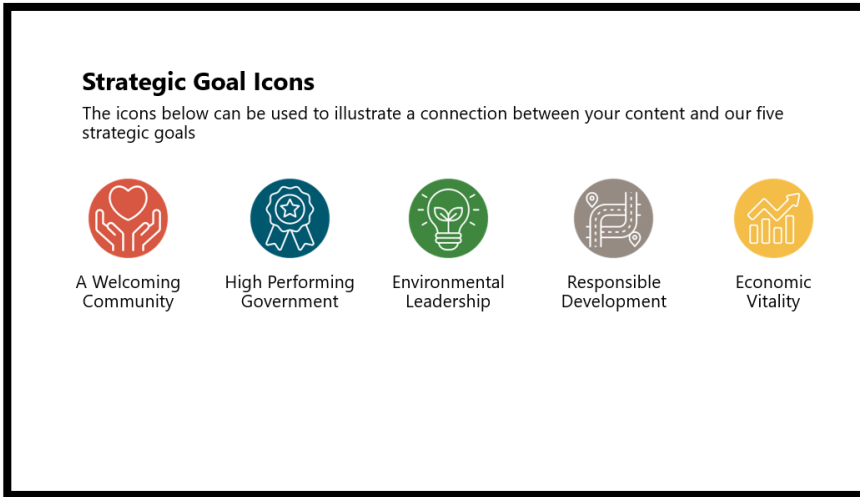
CIP Project Main points:

- The majority of the LCR 2000s are to be replaced in FY 25-26, subsequent years will replace the remaining LCR 5000 & LCR 5600s
- Number of replacements per year (~5000) and costs will be adjusted as the projects progress
- Cost of Professional services is estimated based on current labor rate averages, and the assumed 5,000 device
- Service contract could be extended to help maintain the system yearly to lesson the need for additional town personnel

4
5 **[SLIDE 20]**

Thank you

[SLIDE 21]



Director Neumann asked if there were any questions.

Councilmember Mahaffey said that he is fully in support of this. He said that Duke wants us to do this, and this would be a good investment.

Councilmember Gantt asked how the mandate in Fayetteville worked for this program and if there were any pushbacks.

Director Neumann said that there was push back initially and then it subsided. He said it his highly recommended to switch everyone to time-of-use instead of creating an opt-out system.

Councilmember Mahaffey asked if there was any way to know when Load Management is going on in their homes.

Director Neumann said that there is a light on the switch for the mode. He said that they don't run it all the time. He said that it is within a 3-hour window typically 5 days a month. He said that with the new technology there can be texts sent out to let them know when the load management would be happening. He said that they could implement that as a text alert now.

Councilmember Mahaffey asked if there was a way to ensure when people get new technology items installed at their homes to ensure they are wired to the load management system.

Director Neumann said that there is not a way in the program to connect to the load management system with alterations/additions on the house, and they have to put a separate device. He suggested that people could set up a charging cycle.

Councilmember Gantt said that hot water heater and HVAC is where the load management system would be connected.

Councilmember Mahaffey asked if there was a way to motivate people to program the charging cycle.

Director Neumann said the best way would be to set up time of use rates.

1 **Councilmember Mahaffey** said Duke Energy is giving credit for the EV chargers and
2 they are paying people to charge at certain hours. He asked if this was a model that could be
3 used for Apex.

4 **Director Neumann** said that the best way for Apex is to incentivize them not to charge
5 during the peak period.

6 **Councilmember Zegerman** said that requires a level of awareness and technical
7 understanding.

8 **Director Neumann** said that those using the EVs are usually tech savvy.

9 **Councilmember Zegerman** asked said there could be some active outreach from the
10 electric department in regards to that.

11 **Councilmember Mahaffey** said that it could be some training during the permitting
12 process.

13 **Director Neumann** said that with the new system, they will know who is using car
14 chargers based on energy usage patterns, and they could target and market to those for
15 training.

16 **Councilmember Killingsworth** said that if they decide to move to time of use that
17 there will be a marketing campaign and communication.

18 **Councilmember Gantt** said that if it stays the same throughout that would be good.

19 **Councilmember Mahaffey** said that doing comparisons with bills to show people
20 what it looks like with this program before it officially launches.

21 **Director Neumann** said that showing people how their activities impact their bills
22 would be a good way to get them interested in the program.

23 **Councilmember Zegerman** said that behaviors will adjust. He said that in the future
24 he would like updates where Apex is with evaluating the battery backup capacity cost
25 benefits. He asked if there was a way to enable smart thermostats to force load management.

26 **Director Neumann** said they could integrate thermostats similar to what Duke Energy
27 does, but they negate the load management switch on the side of homes. He said if time use
28 does what it should do, it may drive it down where the load management is no longer viable.
29 He said that then people could possibly do this naturally with smart thermostats and smart
30 programming.

31 **Mayor Gilbert** thanked Director Neumann for the presentation. He then moved to
32 Town Manager updates.
33

34 **[UPDATES BY TOWN MANAGER]**

35 **Town Manager Vosburg** gave an update on the contract that is in place with the
36 third-party related reviewers of the utility issues with Barry Dunn. He said there would be a full
37 scope completed by the end of February. He said that the Tunstall House went out for bid this
38 week. He said that Apex received the 2025 Engineering Excellence Award for Pleasant Park.
39 He said the last item was an update on the detour and Whitehall Manor. He had a report from
40 the Apex Police Department that they have employed the 5 Es: engagement, education,
41 engineering, enforcement and evaluation. He said that there is speed monitoring, and they

do not believe that there is a speeding issue. He said that the main issue being seen is stop sign violations. He said that they believe that the speed humps are effective. He said they have been meeting with the HOA and so if there are any changes to be made they are committed to that.

Councilmember Gantt said that he lives in that area and the neighbors are appreciating the enforcement and the thoughtfulness that has gone into this.

[CLOSED SESSION]

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Zegerman** to enter into Closed Session pursuant to **NCGS §143-318.11(a)(1)** and **NCGS §143-318.11(a)(6)**.

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **7:56 p.m.**

CS1 Randy Vosburg, Town Manager

NCGS §143-318.11(a)(1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

CS2 Laurie Hohe, Town Attorney

NCGS §143-318.11(a)(3):

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

CS3 Mayor Jacques K. Gilbert

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS4 Mayor Jacques K. Gilbert

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS5 Mayor Jacques K. Gilbert

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Council returned to open session at **10:43 p.m.**

ADJOURNMENT

Mayor Gilbert adjourned the meeting at **10:44 p.m.**

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on _____.

DRAFT MEETING MINUTES

TOWN OF APEX REGULAR TOWN COUNCIL MEETING THURSDAY, DECEMBER 10, 2024 6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Thursday, December 10th, 2024 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

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

https://www.youtube.com/watch?v=iqT_CiGuu5M&t=1s

[ATTENDANCE]

Elected Body

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

Town Staff

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

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and said that this was the last regular scheduled council meeting for 2024, and he wished everyone a Happy Holiday and thanked the town for always showing up, and expressed how grateful he was to live in Apex. He then took a moment of silence and then led those in attendance in the recitation of the Pledge of Allegiance.

[CONSENT AGENDA]

Mayor Gilbert noted that there was a request for Consent Item 8 to be moved to New Business 2 by Councilmember Zegerman.

A **motion** was made by **Councilmember Zegerman** seconded by **Councilmember Killingsworth**, to approve the Consent Agenda, with the change of moving Consent Item 8 to New Business 2.

VOTE: UNANIMOUS (5-0)

CN1 Agreement - Facility Encroachment Agreement - Town of Apex and CSX Transportation - Chatham Street Water Line Construction and Maintenance (REF: CONT-2024-358)

Council voted to a Facility Encroachment Agreement No. CSX884583 between the Town of Apex and CSX Transportation, Inc. related to town water line construction and maintenance at North Chatham Street in Apex, North Carolina, and authorize the Town Manager, or their designee, to execute on behalf of the Town

CN2 Agreement - North Carolina Eastern Municipal Power Agency (NCEMPA) dba ElectriCities and the Town of Apex - Load Management Services - Continuous (CONT-2024-359)

Council voted to approve an amendment to the Load Management Agreement, previously adopted by the Town Council on October 08, 2024, between the Town of Apex and North Carolina Eastern Municipal Power Agency (NCEMPA) ElectriCities and authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN3 Agreement Amendment - Interlocal Agreement between Town of Apex, Town of Cary, and Town of Morrisville - Emergency Dispatch and Communication Services (REF: CONT-2024-360)

Council voted to approve a "revised" Interlocal Agreement between the Town of Apex, Town of Cary, and Town of Morrisville (CAM Agencies) for Emergency Dispatch and Communications Services for the Town of Apex, effective three (3) years from the date listed in the first paragraph and automatically renew for up to nine (9) successive (3) year renewal terms, a total of 27 years.

CN4 Budget Ordinance Amendment No. 5 - Grant Funds, Reimbursement Payments, Affordable Housing Land Acquisition, and Debt Proceeds (REF: ORD-2024-087)

Council voted to adopt Budget Ordinance Amendment No. 5 allocating various grant funds, reimbursement payments, and debt proceeds for affordable housing land purchase.

CN5 Council Meeting Minutes - Various

Council voted to approve Meeting Minutes from the following meetings:

October 25, 2024 - Town Council Strategic Planning Session

November 12, 2024 - Town Council Meeting Minutes

CN6 Ordinance Amendment - Chapter 20 - Traffic, Article V. Traffic Control Devices, Sub-Section 20-60.1 - Traffic Schedules - Amending Traffic Schedule III, Parking Time Limits (REF: ORD-2024-088)

Council voted to approve an Ordinance amending Chapter 20 - Traffic, Article V. Traffic Control Devices, Sub-Section 20-60.1 Traffic Schedule III, Parking Time Limits, of the Town of Apex Code of Ordinances, effective January 2, 2025.

CN7 Policy Prohibiting Viewing of Pornography on Town Networks and Devices (REF: PLCY-2024-014)

Council voted to approve a policy titled "Policy Prohibiting Viewing of Pornography on Town Networks and Devices" effective January 1, 2025 to comply with North Carolina State Law.

~~**CN8 Property Acquisition - 0 South Hughes Street and 930 South Hughes Street - Apex, North Carolina**~~

This item was moved to New Business 2, per Council vote.

CN9 Resolution - Reimbursement of Real Property Acquisition (REF: RES-2024-058)

Council voted to approve a resolution authorizing a later issuance of public funding to pay for real property acquisition projects.

CN10 Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance -Correction (previously adopted February 13, 2024; CN15) (REF: ORD-2024-089)

Council voted to approve the revised Statement of the Town Council and Ordinance for Rezoning Case #23CZ20 Sweetwater PUD Amendment, David Schmidt, ExperienceOne Homes, LLC, petitioner, for the properties located at 1451 Richardson Rd; 1051 & 1075 Newland Ave; 2800, 2810 Teachey Pl, & 2820 Teachey Pl; 0 Core Banks St and 0 Little Gem Lane (PINs 0722550034, 0722544876, 0722544404, 0722457646, 0722454406, 0722443942, 0722441499, and 0722441386).

CN11 Sole Source Vendor Authorization - Safegrid - Smart Fault Indicators

Council voted to approve Safegrid as a Sole Source Vendor for smart fault indicators which utilize proprietary sensors and machine learning algorithms to help locate and predict faults on the Town's electrical distribution grid.

CN12 Tax Report - October 2024 (REF: OTHER-2024-119)

Council voted to approve the Apex Tax Report dated November 14, 2024.

[PRESENTATIONS]

PR1 Meritorious Service Recognition - Employees Deployed to Western North Carolina

Mayor Gilbert introduced key staff that participated in Hurricane Helene that relief efforts in Western North Carolina. He spoke on the horrific devastation of Hurricane Helen on September 27th. He said that at the Mayor's Metropolitan meeting he had recently attended, it was honor for him to see the Town of Apex recognized as a municipality that had sent staff and resources to assist in recovery. He said that there were 13 Fire employees, 12 Police employees, 7 Electric Utilities employees, 3 Inspections and Permitting employees, 3 Communications and Information Technology employees and 1 Public Works employee were deployed to assist. He said this was not just about the Town employees but also about the families. He said this is among the highest service recognition possible to risk their life, sacrifice time with their families and so much more to assist neighbors. He then called each person and their family up to receive the award and take pictures.

PR2 MIP - Apex Mayor's Internship Program (MIP) Update

Mayor Gilbert introduced Braxton Williams and Zachary Young to present updates regarding the Apex Mayor's Internship Program.

Mr. Williams and Mr. Young gave the following presentation:

[SLIDE 1]



Champion Apex
Fostering a welcoming community

- Finalizing a downtown Apex tour
- Logistics:
 - How to market the tour/create awareness
 - Accessibility

1 [SLIDE 2]

Environmental Sustainability


Aids in Apex's town goal of Environmental Leadership

Past Event Example:

- Local youth climate conference

Current Project:

- Pollinator Garden @ Apex UMC



2
3 [SLIDE 3]



Community Engagement

Promotes the goal of a High Performing Government

- Research Projects
 - What's troubling the community?
 - Door to door, in-person surveying, and online forms
 - New ideas: community event stand
- Presenting Potential Solutions
 - Residential Fire Sprinklers

4
5 [SLIDE 4]

Communications

The "face" of Apex MIP
Building the program's online presence

Addresses:

- How are we connecting with the community?
- How can we promote our successes/contributions?

Accomplishments:

- Created and runs MIP social media (Instagram)
- Highlights MIP accomplishments and town events/information



1 [SLIDE 5]

7 Town of Apex

Special Assignments and Policy

Positive interactions and policy brainstorming

"Quick Response Team"

- If the mayor needs ambassadors on short notice, special assignments is there

Currently Working On:

- Creating a policy to deliver cards of condolence to families of long-term residents
- Potential MIP Brochure and Newsletter
- Creating a policy focused around those who request a card for birthdays in Apex

2

3 [SLIDE 6]

What is our purpose?



"Voice" of Apex's youth

- As teenagers, we want to ensure that all of our voices are heard

Creating positive change with a new perspective.


- Though we are just starting to pick up the program, we've already made positive change
- Applications are currently open to the public!

4

5 [SLIDE 7]

9 Town of Apex

THANKYOU!



6

1 **Councilmember Zegerman** asked what they would tell someone who was interested
2 in the program as graduates of it.

3 **Mr. Young** said that the program offers creativity and an opportunity to think outside
4 the box on issues. He said it was about taking on ideas and building upon them, and provides
5 good civics experience. He said that there was a lot of freedom in doing what you are
6 interested in.

7 **Councilmember Gantt** asked what the age range was and how someone would
8 apply.

9 **Mr. Williams** said that currently the applications are online and open to freshmen,
10 sophomores and juniors in Apex-based High Schools. He said that the application is posted
11 on their website and social media. He said that there is a selection process, phone interview,
12 and in-person interview, followed by an orientation for candidates that are selected to join the
13 program.

14 **Mayor Gilbert** said that he was proud of them and to keep up the good work.

15
16 **[REGULAR MEETING AGENDA]**

17
18 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
19 **Zegerman**, to approve the Regular Meeting Agenda, with the addition of New Business Item
20 2.

21
22 **VOTE: UNANIMOUS (5-0)**

23
24 **[PUBLIC FORUM]**

25
26 **Mayor Gilbert** opened up the Public Forum and invited the first speaker up.

27
28 First speaker was **Elizabeth Stitt** of 3113 Friendship Road:

29
30 "Mayor, Town Council, good evening and happy holidays. So, coming in front of you in
31 January will be the update to the land use map for our particular area, and through some of
32 the workshops that we did with the Planning Department, one of the things that was raised to
33 us is that some of our cultural and historical elements that we value about our community are
34 not necessarily known to the greater Apex, so we've been working towards that. So, I'm just
35 going to bring you an update on that. On Saturday, we did have our 44th annual Christmas
36 parade, and the history on that parade is that the neighbors literally would block US-1 and the
37 various roads, and they would go out there and hold the parade. So obviously as the town
38 has grown, we have involved Apex fire. They've provided at least two fire trucks for the last 15
39 to 20 years, one starts in the beginning, one comes at the end, and that way all of our parade
40 participants are protected but we also had Apex police come out and help us. Wake County
41 Sheriff has jurisdiction, so they provide what they can, but as you know, they're understaffed,
42 so we greatly appreciate the resources from Apex. So maybe next year, at the 45th annual

1 parade, you will join us. We just got our first Century Farm designation. The Department of
2 Agriculture honors any farm that's been in a family for at least 100 years, and the property
3 next to my property has been owned by the Evans family since 1870, so I worked with them
4 on the history and helped with the Century Farm application. It is a very unique piece of
5 property. We have the history, the deeds, they actually deeded off one acre of the 54 acres to
6 Wake County Public Schools for the first Black school in 1883, so well before the Rosenwald
7 School, so there's some really interesting history. The plaque will come to me after the
8 holidays. The Evans family wanted to share it with their family members first, but once we
9 have it, we will post it for the local community, and we'll provide all the details to Jenna and
10 her team to be able to add that in. We also have two more Century Farms that we're working
11 on, so we'll be bringing that to you as well and we are now registering three Civil War
12 graveyards. There's a lot out in our area that the community doesn't know, so we look forward
13 to continuing to bring you those updates. Thank you."

14
15 **Mayor Gilbert** called the next speaker.

16
17 Next speaker was **Dawn Cozzolino** of 3632 Bosco Road:

18
19 "Good evening, Town Council, Mayor Gilbert. I know this is the last meeting of the
20 year, and it's a time of reflection, right? You know, for the holidays, we tend to rush everything
21 and get into the mode of things, but we really should reflect and think about what we are
22 grateful for and I'm grateful, actually, I attended the Friendship Community Christmas parade,
23 and it was wonderful. It was a small-town feel, and people were just having a great time. I just
24 want to say that's what's really unique about the Friendship Community, and I will say New Hill
25 was involved as well. So, our New Hill folks were involved in the parade as well. I just wanted
26 to mention that a lot of what I've done over the last year is put a focus, like a flashlight, on
27 some of the topics that I've brought to you in terms of infrastructure projects, road projects, a
28 lot of road projects, and traffic safety. But for next year, I'm going to be looking a little bit
29 more closely at things. And the reason is because I want to understand better how things
30 change. For example, I drive by New Holleman Road, and I drive over, and I see the utility line.
31 It's a huge expanse, there's no trees, and that's where it was planned to put the Big Branch,
32 the main, the force main, and all that back in the day and back in the history, but for some
33 reason, it was moved, and it was moved to private property. I really want to understand that
34 better—what has changed, who has changed, why is it there, what has been involved with this?
35 I think, as any responsible government, you need to be able to address questions and also
36 work with the community on answers. I think moving that Western Big Branch to the
37 Southside, as we call it, that's a win-win for everybody. It really is and earlier, the ambassadors
38 talked about environmental sustainability. Well, yeah, trees. I mean, that's everything around
39 here. So, I just want to mention that and that I wished that the community, too, be engaged
40 with us. It gets very contagious, and I just think that next year we can have real solutions for
41 real problems with the money that is from the taxpayers, the real money that is spent. I think

1 that's very important for all aspects of people's lives. So, thank you very much, and have a
2 very nice holiday.”

3
4 **Mayor Gilbert** called the next speaker.

5
6 Next speaker was **Mary Miskimon** of 3177 Retama Run:

7
8 “Good evening, Mayor Gilbert and Council Members, and thank you for the
9 opportunity to address you this evening regarding the ongoing utility billing issue that
10 resulted from the cyber-attack in early July. A little background first: five months ago, the
11 Town of Apex experienced a cyber-attack that impacted utility billing for thousands of
12 residents who received power from the town. Many received incorrect bills, including double
13 bills or bills that had not credited previous payments, as was the situation in my case. At least
14 one resident had her bank account wiped out when the town auto-drafted her payment
15 following the cyber-attack. Customers were also having difficulty reaching staff via phone for
16 assistance, phone lines were apparently overwhelmed. In my nearly three decades as an Apex
17 resident, I have never seen such a debacle, so I wrote to the Town Manager in September
18 asking for more information on how the attack happened, why the town moved ahead with
19 auto-drafting accounts, and what the town’s protocols and training are for staff. Mr. Vosberg
20 replied that, quote, “The vast majority of our bills have been correct, just not understood by
21 customers as to why they are higher than customers expected,” end quote. After another
22 month went by and Apex residents were still reporting incorrect and confusing bills, I wrote to
23 the NC Public Utilities Commission and was told to contact my State Representative, which is
24 the required State Protocol when a Town manages its own utility system. I emailed State
25 Representative Julie Von Haen for assistance, and she replied that, quote, “As a state
26 legislator, I do not have any direct information or involvement about the issue you contacted
27 me about.” The Apex Town Manager then reached back out to me with a little bit more
28 information about the cyber-attack and the difficulty the Town was having in reestablishing
29 billing for customers. Since the cyber-attack happened, I have spoken with hundreds of
30 people who continue to have issues with their bills, so I launched a petition in November,
31 which I would like to read now:

32 On July 2nd in 2024, the Town of Apex experienced a cyber-attack that impacted the electric
33 utility bills of all 25,000 households that receive its power from the Town. Despite numerous
34 complaints on social media and emails to Apex Town Council regarding inaccurate bills, as of
35 November 10th, 2024, Apex has yet to fully recover from the attack, has yet to provide a
36 timeline to recover, or even publish a strategy to recover. Apparently, resolving the issue is
37 such a low priority that the issue has not been listed as a business item on any Town Council
38 meeting agenda to date. Cyber-attacks are an unfortunate reality, but Apex’s failure to recover
39 within four months raises significant questions that must be urgently answered about the
40 competence and credibility of the Town Council, Town staff, and their contractors to prevent
41 and recover from cyber-attacks. As such, the undersigned residents of Apex demand that
42 Apex Town Council take the following actions:

1. Immediately hold a public hearing to provide transparency on the full extent of the cyber-attack. All affected systems should be disclosed, and recovery plans for each system, the progress made, and anticipated milestones for full recovery should be provided.
2. Town Council meetings until the town is fully recovered: In each Town Council meeting, as a separate agenda item, ensure that town staff provide a specific update on the recovery plan and the progress made.
3. Update the town's website on a weekly basis.
4. Community Cyber Attack Advisory Board to restore public trust: Create a community board to advise Town Council and Town staff to participate in the selection of third-party audit companies and to remain in place through the completion of all audits and full recovery.
5. Provide additional staff to dramatically reduce wait times and answer phones. Add the ability for residents to schedule time to review bills.
6. Submit to all state investigations regarding the handling of the recovery.

Respectfully requested, Apex, NC residents.

Now, we understand that the town has hired a third-party auditor to review bills. Thank you. We also see that the town has updated the utility billing page to better explain the billing process. Again, thank you. But it's been five months, and residents are entitled to more information and transparency on the scope of the cyber-attack, all billing issues, how excess charges will be addressed, and what protocols the Town will enact to better manage potential future attacks, including better coordination with the State when something like this happens. I'd like to read some of the online comments from Apex residents. They include this from Jeremy: "I want to see total transparency regarding the utility bills and the cyber-attack that occurred." From a different Mary in Apex: "I paid my July water bill by phone on July 1st, the day before the cyber-attack, and had a confirmation number. The next month, I had a \$222 bill, which I paid as well. It was the same amount as the June bill, and I was unaware of the cyber-attack, but thought it was strange. Then the next month's bill was over \$400. I was shocked, and I called the office to get an explanation, as was told that because of the attack, they had to estimate my bill for the previous month, and I owed 60 days' worth, which made no sense since I had paid the previous month's bills. Also, my supposed water usage went from 2 to 4,000 gallons a month to 15,000. I live alone. I too was told it had to be a leak but had a plumber and had my water meter changed, and it was not. By September, I finally went into the office after at least 20 phone messages. The representative still did not explain why my water usage was so high and basically said unless I can prove I had a plumbing issue, he would not reimburse my money and could not explain a 60-day bill when I paid both of the previous bills, and that bill was \$600. I'm a single person living on a limited budget, very careful about my water usage, but always pay my bills. I'm not sure what to do moving forward." Crystal writes: "Apex billing has become increasingly outrageous because of the

1 cybersecurity attack. My bill was around \$120, and now it's over a thousand. They need to fix
2 this sooner rather than later." From Brandy: "Our bills have varied greatly due to the cyber-
3 attack, and accountability is necessary." From Margaret: "The amount due on the paper
4 statement does not match the numbers on the website. I was billed twice in November; the
5 dates on the statement overlap." Kathleen writes: "Although I have a Cary address, the Town
6 of Apex provides my water. Like so many others, my billing invoice appears very inflated and
7 is impossible to figure out. Apex can and should do better for its customers." To date, the
8 petition has over 1,800 signatures. The online comments on Facebook, Nextdoor, and X are
9 now a regular occurrence. Friends of mine who work in the security industry express shock
10 and concern that it has been a full five months, and the Town hasn't recovered. I agree; it's
11 very concerning. There are even some asking if it's time for Duke Energy to take over. In all,
12 Apex hasn't been transparent or efficient and has allowed these issues to go on for too long.
13 Leadership starts at the top, and it's time that you ensure these issues are discussed during
14 official meetings to ensure accuracy and accountability versus the continuation of platitudes
15 that we've heard for the last five months. If we are heard and seen, then where is the
16 transparency, and the path to resolution? We look forward to hearing your response and
17 thank you."

18
19 **Mayor Gilbert** thanked Ms. Miskimon called the next speaker.

20
21 Next **Phil Welch** of 1471 Big Leaf Loop:

22
23 "Allen is passing out copies of my remarks. First, I congratulate Director Newman for
24 commissioning the study done by the UNC School of Government's Development Finance
25 Initiative. The DFI staff evaluated properties in Apex suitable for the development of
26 affordable housing. This led to the negotiation to purchase the property at the corner of
27 South Hughes Street and Perry Road, which is item CN8, and now moves to the New Business
28 part of the agenda. I look forward to following the development of this property into much-
29 needed homes for Apex's low to moderate-income families, including especially our essential
30 workers.

31 Second, I have some comments about the Council's Work Session next Tuesday on Apex's
32 advisory bodies. I'm sorry I won't be able to attend the work session, but I'll be viewing the
33 recording after I return from vacation. In the interest of full transparency, I'm currently the
34 chair of the Housing Advisory Board, but I am speaking tonight as an individual resident, not
35 as the board chair.

- 36 1. I believe the volunteers on advisory bodies play a crucial role in bringing public input
37 into the deliberations of our elected officials as well as offering public perspectives to
38 our hardworking town staff.
39 2. I understand that the support of the advisory bodies by town staff, especially the
40 liaisons assigned to them, requires staff time and effort. I hope we can agree that the
41 value of the public input is well worth the staff resources required.

3. It is clear that taking some time to ensure consistency in the operational guidelines of the advisory boards is warranted.

4. By the same token, better defining the roles and responsibilities of the advisory boards, the interrelationships among them, and the communications and collaborations expected between them and support staff would be very helpful.

Finally, I appreciated the opportunity to discuss the experiences that Vice Chair Rhett Fussell and I had on the Housing Advisory Board. We met with Town Clerk Allen Coleman and Deputy Clerk Ashley Gentry, as well as Director Newman and Manager Lamont Taylor. Rhett and I offered several suggestions that I believe Clerk Coleman will be sharing with you next Tuesday, if you have any questions about those suggestions, my contact information is on the sheet that you got. I wish you all a productive Work Session next Tuesday and a blessed holiday season. Thank you."

Mayor Gilbert thanked Mr. Welch and called the next speaker.

Next speaker was **Alexis Kennedy** of 106 Buckhaven Court:

"As we come into Christmas, I have a very profound disappointment in the people and the churches that celebrate this special holiday, because at this moment, Bethlehem, the birthplace of Jesus, Jesus, who is the reason we celebrate Christmas, is under siege and they all remain silent, where Bethlehem, Palestine, has been subjected to apartheid and a great wall to divide us, to divide it from the rest of the world since 2002, where civilians are unable to practice the Christian faith because Israel has blocked their permits to enter into the holy site, denied their rights to pray and attend some of the oldest Christian churches in the world. Or that Christians in this country and around the world have forgotten that Jesus was a Palestinian Jew, something our Pope has also supported by wrapping baby Jesus into a Keffiyeh at the unveiling of the nativity scene at the Vatican just two days ago. Or that the oldest Christians are Palestinian Christians. I wonder what people who have remained silent will say to our God on why they paid for our holy site to be under oppression and to spill innocent blood on the holy land. It's as if they don't know their own Bible, or the meaning of what Christmas represents. And I'm going to quote the words of Father Isaac, a Palestinian Christian who spoke at his congregation on Christmas last year, which was called *Christ Under the Rebel*. "Christmas is not about Santa, trees, gifts, lights, etc. My goodness, how we have twisted the meaning of Christmas. How we have commercialized Christmas. Instead, he says, the Christmas message is that Jesus, who miraculously survived a massacre, was born under the occupied and marginalized. He is in solidarity with us and our pain and brokenness.

So, my question to my community, when it comes our time to meet our God and he asks what we did during this time when Jesus's birthplace was being oppressed, what did you do? Were you silent or did you try everything in your power to stop the oppression of the oppressed?" Thank you and Merry Christmas."

Mayor Gilbert said thank you and Merry Christmas to Ms. Kennedy. He called the next speaker.

Next speaker was **Michele Dipreta** of 3007 Silky Dogwood Trail:

"What would it have taken, I swore to myself, to never look your way again, yet here I am. Funny how your system works, right back where we started. If I hire a third party, does that third party work for me or work for you? You tell anyone anything and have been getting away with it. Are you without consequence, or do you make sure you are insured and bonded? What have you taken? You call yourselves friends, comrades, solutions with a smirk and a smile, yet you do not show us that substance with such grace. Do you care? Do you spare that square? Will we know how this story ends? What would it have taken, Matthew 21:12."

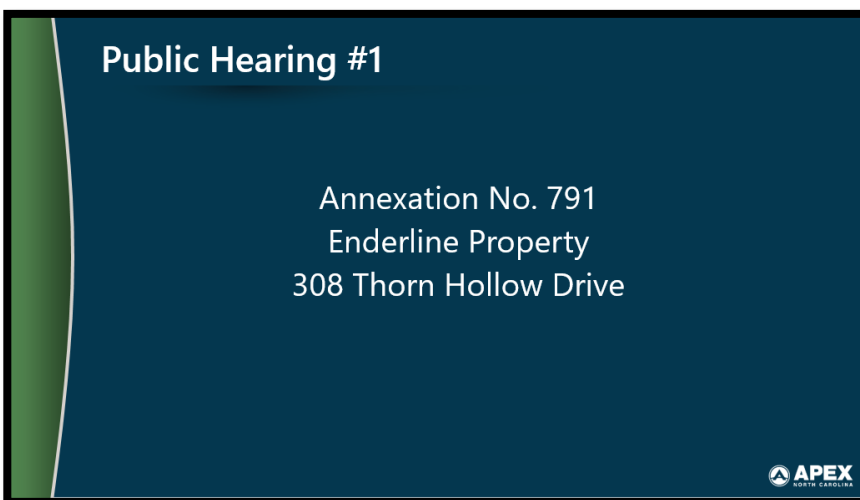
Mayor Gilbert thanked Ms. Dipreta and all that came out and spoke. With no other speakers signed up to speak, Mayor Gilbert closed the Public Forum and moved to Public Hearings.

[PUBLIC HEARING]

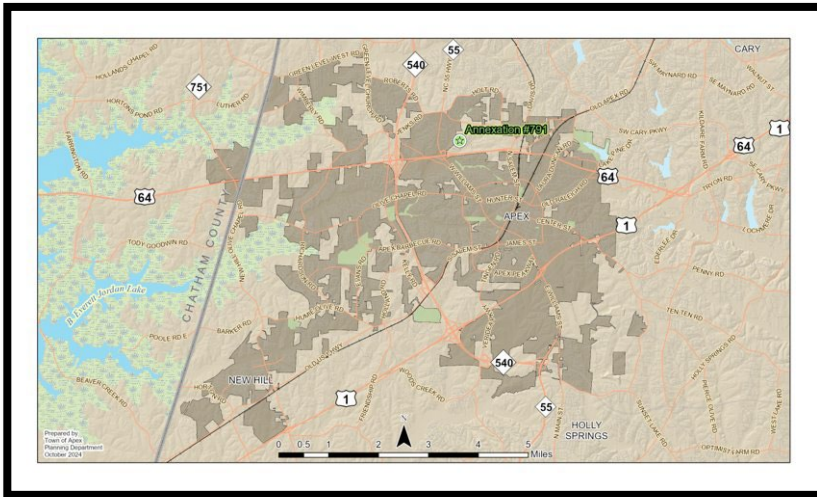
PH1 Annexation No. 791 - Enderline Property - 308 Thorn Hollow Drive - 1.1018 acres (REF: ORD-2024-090)

Dianne Khin, Planning Director, gave a presentation on Annexation No. 791 - Enderline Property - 308 Thorn Hollow Drive.

[SLIDE 1]



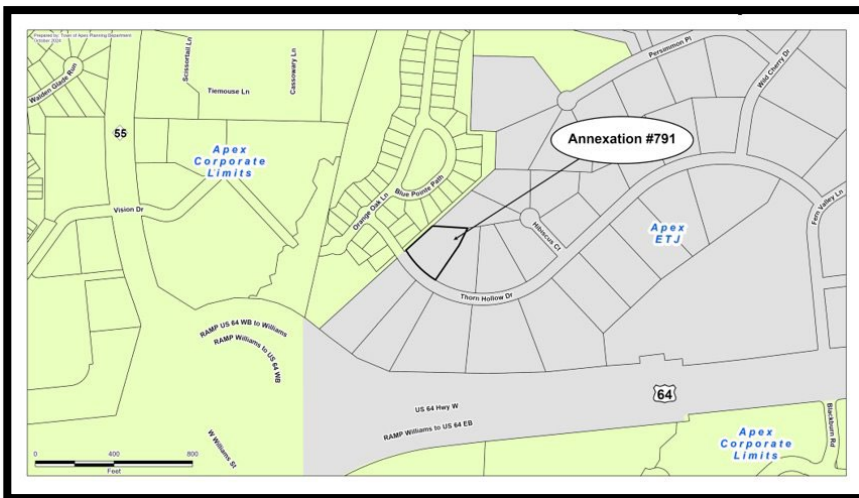
1 [SLIDE 2]



2
3 [SLIDE 3]

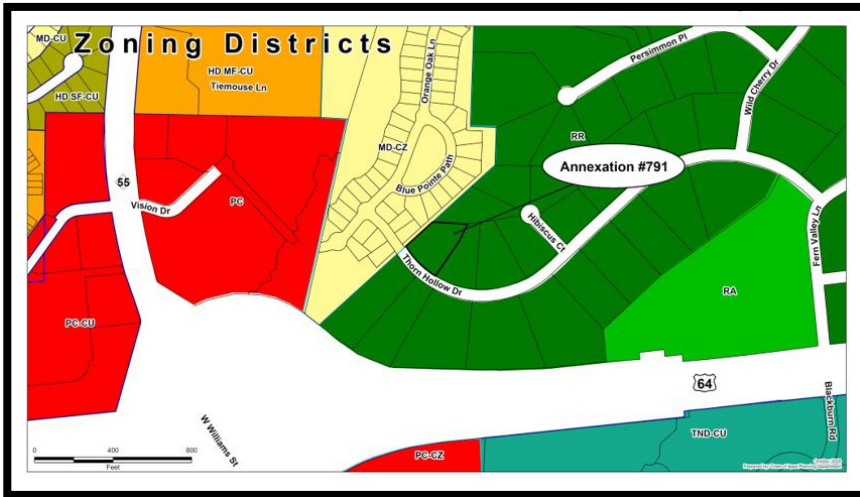


4
5 [SLIDE 4]



6

[SLIDE 5]



Mayor Gilbert asked if there were any questions and opened Public Hearing for comment. With no one signed up to speak, Mayor Gilbert closed Public Hearing and brought discussion back to Council for possible motion to approve.

A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember Gantt** to approve the Annexation No. 791 - Enderline Property - 308 Thorn Hollow Drive - 1.1018 acres.

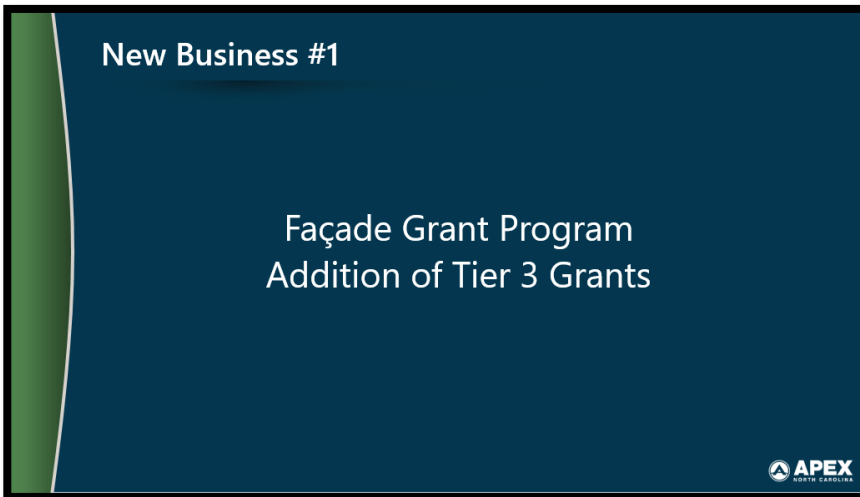
VOTE: UNANIMOUS (5-0)

[NEW BUSINESS]

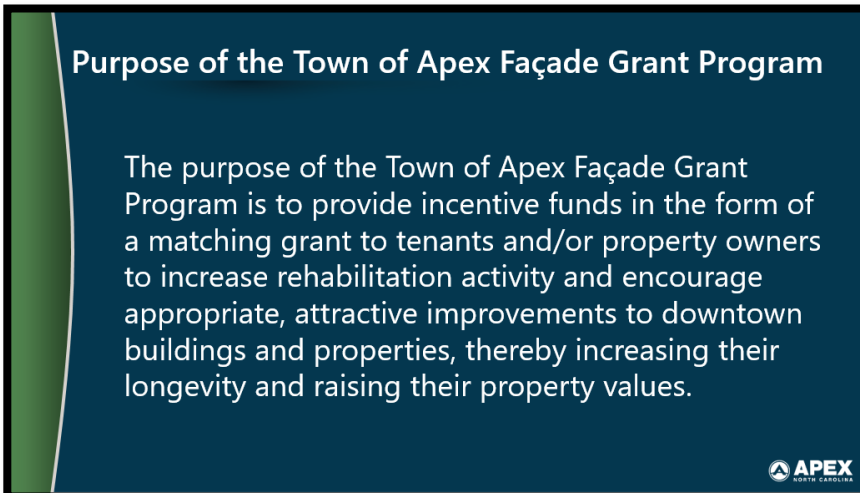
NB1 Façade Grant Program - Addition of Tier 3 Grants

Dianne Khin, Director, Planning Department gave the following presentation on the Façade Grant Program - Addition of Tier 3 Grants.

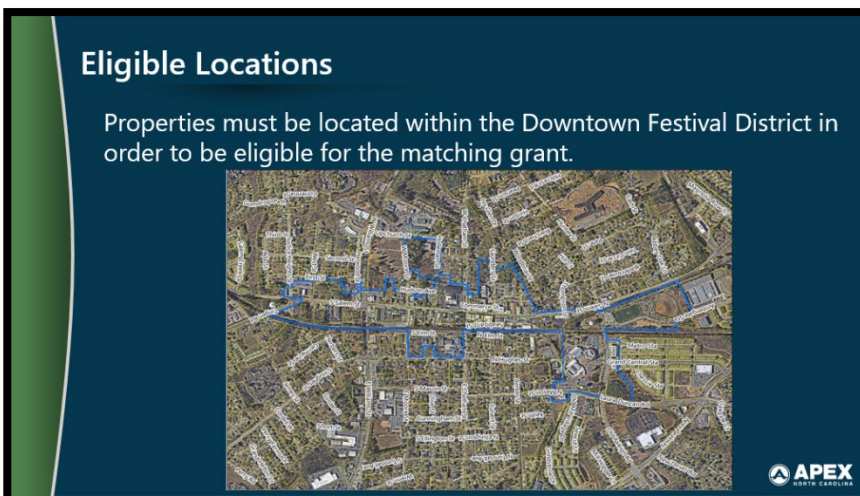
1 [SLIDE 1]



2
3 [SLIDE 2]



4
5 [SLIDE 3]




6

1 **[SLIDE 4]**

Background on Tier 3 Grant Proposal


- The addition of Tier 3 grants to the Town's Façade Grant Program was proposed by staff and discussed by Town Council at their September 17, 2024 work session.
- Tier 3 grants are for large-scale exterior improvement projects initiated by property owners.
- Staff updated the Façade Grant Application and program description and asked the Planning Committee for additional direction on details of the program at their November 14, 2024 meeting.



2
3 **[SLIDE 5]**

Proposed Grant Maximums


- The grant can provide up to 50% of the cost of the exterior improvements based on the following:
 - Up to a maximum of \$200,000 per property per fiscal year.
 - No more than \$300,000 can be issued to any one property for Tier 3 Projects within any 36-month period.



4
5 **[SLIDE 6]**

Proposed Grant Maximums

- The grant can provide up to 50% of the cost of the exterior improvements based on the following:
 - Up to a maximum of \$200,000 per property per fiscal year.
 - No more than \$300,000 can be issued to any one property for Tier 3 Projects within any 36-month period.




6

[SLIDE 7]

Eligible Improvements


- Tier 3 Projects may include elements shown in the Downtown Plan or proposed for Council consideration on publicly viewable portions of the property:
 - a. Streetscape elements matching Downtown Plan in public right-of-way.
 - b. Streetscape elements (pavers/bricks/bus stops) on private property.
 - c. Creation of patios or other outdoor service areas for public use and benefit on private property.
 - d. Permanent streetscape-style outdoor furniture (tables, chairs, benches, permanent planters not to include vegetation, etc.) for public use and benefit on public or private property.
 - e. Other Downtown Plan elements like catenary lighting, wall murals, ground murals, etc.
 - f. Public parking on private property.
 - g. Other significant improvements which in the Town Council's sole determination provide benefit to the general public or serve as a catalyst for future development.



[SLIDE 8]

Façade Easement and Easement Agreement

- A façade easement and easement agreement is a requirement of the Tier 3 grant approval. The façade easement agreement shall be worked out between Town staff and the property owner prior to Council approval. The factors to be considered in the façade easement agreement shall include but not be limited to the following considerations:
 - a. Level of financial participation by the Town.
 - b. The type of façade/property improvements being proposed.
 - c. The term of the proposed easement; a higher funding amount should require a longer easement length.
 - d. Any other public requirements the Town would need/like to have in exchange for the Town funds.
 - e. Any expenditure of public funds must be for a public purpose.



Mayor Gilbert asked if there were any questions. He asked if they wanted to provide the maximum.

Director Khin asked if the Council would want the grant to provide up to 50% of the cost of exterior improvements and if so, what would the maximum be per fiscal year and per three-year period.

Councilmember Gantt said that this number was chosen because it seemed appropriate.

Councilmember Mahaffey said that they tried to come up with some values that were consistent with the Work Session discussion. He said he hopes it achieves the goals of the façade grant/

Councilmember Gantt said that this is a new program so there could be additional discussion.

Councilmember Mahaffey said that there was some discussion in the Planning Committee about the process approval and they put this together and

brought it to Council to decide what to approve. He said it was determined they would propose meeting quarterly and approving any of the applicable proposals at that time.

Councilmember Gantt said that batching would enable the Council to have more discretion depending on the project and also be cognizant of the schedules of construction.

Councilmember Mahaffey said because of the size of the program, they wanted to bring it to the full Council to discuss.

Councilmember Zegerman asked if the cap would be set through the budgeting process.

Councilmember Mahaffey said yes, and that they could direct staff to amend the budget if needed during the year.

Councilmember Zegerman supported the recommendation of the quarterly review cycle. He said since it is a new program there isn't much precedent to the overall numbers, but these seem reasonable as a starting point and can be monitored and adjusted as needed.

Councilmember Gantt said that this amount is only for exterior infrastructure and streetscapes.

Councilmember Mahaffey said that they are gaining access to the façade or other outdoor infrastructure via an easement agreement as part of the program, in order to ensure public access.

Mayor Pro Tempore Gray clarified that they have had this façade program in place, and tier 3 is the new part of the program. He said it is a way of reinvigorating this program and giving more flexibility. He said this gives a bigger reach for businesses to be able to expand. He supported the quarterly reporting and said this is a good starting point.

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Killingsworth** to approve the Façade Grant Program - Addition of Tier 3 Grants.

VOTE: UNANIMOUS (5-0)

NB2 Property Acquisition - 0 South Hughes Street and 930 South Hughes Street - Apex, North Carolina

Councilmember Zegerman said this is a significant investment that the Town is making in affordable housing. He said it is a good use of Town funds. He said that there was support from the American Recovery Act. He said he just wanted to highlight this item.

Mayor Pro Tempore Gray thanked the staff for all of the hard work.

Councilmember Gantt said that he would be voting no on this, and that he would like to see the money go further in different ways in terms of units per dollar.

A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore Gray** to approve the Property Acquisition of 0 South Hughes Street and 930 South Hughes Street.

VOTE: (4-1) with Councilmember Gantt dissenting

[UPDATES BY TOWN MANAGER]

Town Manager Vosburg began his update by expressing gratitude to specific teams within the town of Apex, highlighting the work of the Planning team on the Facade grant, Community Development and Neighborhood Connections for Housing Investments, and the Parks team for organizing a community movie event. He acknowledges the staff's hard work and dedication in completing projects, often under tight deadlines. Next, Town Manager Vosburg announced a holiday event, it is a movie screening of *Polar Express* in Pleasant Park on December 19th. The park will open at 4:45 PM, with the movie starting at 6:00 p.m. There will be food trucks, activities led by the Apex Youth Council, and crafts such as a popcorn bar and a Jingle Bell bracelet craft. Registration for the event is already being opened on the Town's website, and parking will be limited, with overflow parking available for attendees to bring chairs and watch the movie. The event is weather dependent, and if it rains, it will be canceled.

Mayor Gilbert asked if there was any other business before moving to Closed Session.

A **motion** by **Mayor Pro Tempore Gray**, seconded by **Councilmember Killingsworth** to enter in Closed Session.

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **7:16 p.m.**

[CLOSED SESSION]

CS1 Mayor Jacques K. Gilbert

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS2 Mayor Jacquenums K. Gilbert

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

1 **[ADJOURNMENT]**

2 Council returned to Open Session at **8:26 p.m.**

3 **Mayor Gilbert** adjourned the meeting at **8:27 p.m.**

4 Jacques K. Gilbert
5 Mayor

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

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

10

11

12

DRAFT MEETING MINUTES

**TOWN OF APEX
TOWN COUNCIL WORK SESSION
TUESDAY, DECEMBER 17, 2024
3:30 P.M.**

The Apex Town Council met for a work session on Tuesday, December 17, 2024 at 3:30 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

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

<https://www.youtube.com/watch?v=SSYvrRJRpcl>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)

Councilmember Brett Gantt

Councilmember Arno Zegerman

Councilmember Audra Killingsworth

Councilmember Terry Mahaffey

Absent: Mayor Pro-Tempore Ed Gray

Town Staff

Town Manager Randy Vosburg

Deputy Town Manager Shawn Purvis

Assistant Town Manager Demetria John

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

All other staff members will be identified appropriately below.

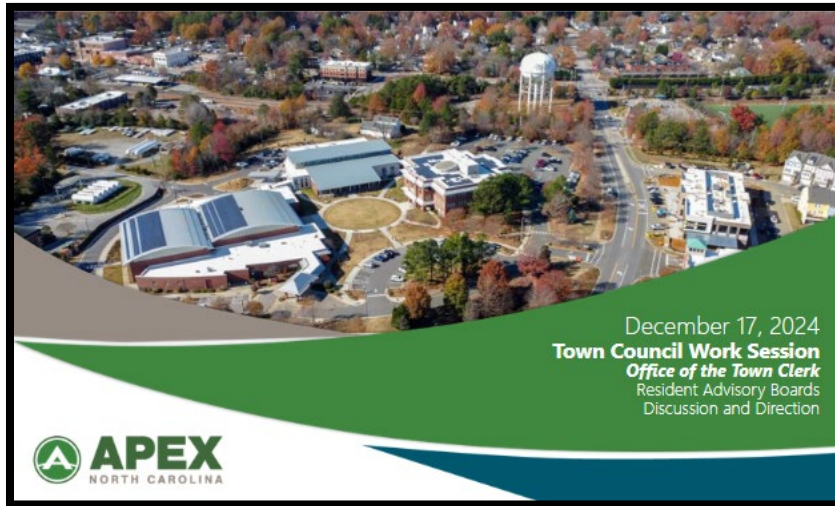
[COMMENCMENT]

Mayor Gilbert called the meeting to order at 3:30 p.m., welcomed everyone, and led everyone in the pledge of allegiance.

[RESIDENT ADVISORY BOARDS DISCUSSION AND DIRECTION]

Allen Coleman, Town Clerk and **Ashley Gentry**, Deputy Town Clerk gave the following presentation:

1 [SLIDE 1]



2
3 [SLIDE 2]



4 **Councilmember Gantt** asked how this item came up as a topic.


5 **Town Clerk Coleman** said that some of the Council Members and Advisory Boards
6 had wanted to discuss some of the roles and responsibilities to provide more direction.
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1 **[SLIDE 3]**

Who, What, When . . .

- The purpose of Town appointed boards is to provide expert advice, guidance, and recommendations to the elected body within the organization and community on a specific focus area or Town priority.
- Serving as an advisory board member is an opportunity to collaborate with local government officials and to help shape decisions and policies that impact our Town to ultimately make a difference.
- **Statutorily Required** vs. Town Established

- **Nine (9) Advisory Boards**
 - Bee City Committee (2020)
 - **Board of Adjustment**
 - Environmental Advisory Board (2019)
 - Housing Advisory Board (2021)
 - Parks & Recreation Advisory Commission (1987)
 - **Planning Board**
 - Public Art Committee (2017)
 - Transit Advisory Committee (2017 and 2019)
 - Tree CAP (2016)



2
3 **Councilmember Gantt** asked if it had been thought about the different kinds of
4 boards and how staff would not have the expertise in. He said that these boards have
5 changed over time and how the priorities for the Boards may have changed.

6 **Town Clerk Coleman** asked if he had one that staff would not have the expertise.

7 **Councilmember Gantt** said that the Arts Committee would be one. He said there a lot
8 of artists on that committee, but less staff in that area.

9 **Town Clerk Coleman** said that they need direction on expectations from the Council.
10 He said that this will be how to measure their success. He discussed how Council will be
11 deciding the future of boards and if their scope/responsibilities would be adjusted.

12 **[SLIDE 4]**

Why?

IMPACT

- The School of Government (SOG) at The University of North Carolina at Chapel Hill (UNC-CH) recommends that municipal appointed boards, commissions, and committees be reviewed on a regular basis for applicability and effectiveness.
- Purpose to understand how advisory boards are currently operating and identify opportunities for improvement.

Just the beginning . . .




1 [SLIDE 5]

Research and Discovery Process

- Surveyed neighboring municipalities and counties
- Staff Liaison and Department Director Meetings
- Chair and Vice-Chair Meetings
- Advisory Member Handbook

Themes

- Unclear roles and responsibilities
- Measurements of Success and Reporting
- Inconsistent Practices




2
3 [SLIDE 6]



**Resident Advisory Board
Administrative Policy Recommendations**

4
5 [SLIDE 7]

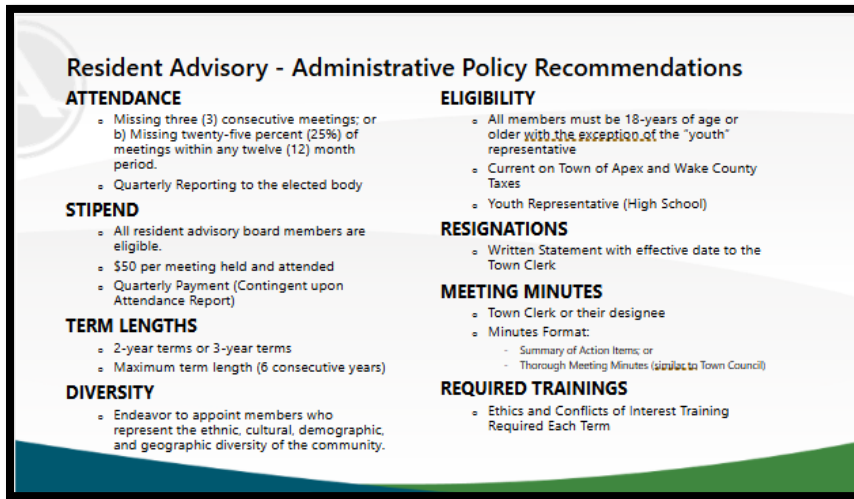
Resident Advisory - Administrative Policy Recommendations



- Attendance Guidance
- Stipend Clarification
- Membership
 - Corporate Limits
 - Non-Voting
 - Ex-Officio
 - Youth
 - ETJ and County Representation
- Term Lengths
- Meeting Minutes Format
- Resignations
- Required Trainings

6

1 [SLIDE 8]



2
3 **Councilmember Zegerman** asked if the proposal was that once a term is over, the
4 member is dismissed from the Board, instead of serving until a replacement is appointed, if
5 they had not yet been.

6 **Town Clerk Coleman** said that 90 days prior to the term expiring, the Clerk's office
7 will reach to the member to let them know and ask them if they are planning on continuing to
8 serve, and having them update their application if so. He said the goal would be to have their
9 replacement appointed before their term expires.

10 **Councilmember Zegerman** said that he would like there to be a hard cut off for most
11 cases. He said for the attendance piece, over 25% absences would be automatic dismissal.

12 **Councilmember Mahaffey** said that there should be excused absences, but if they
13 are not excused they should go towards the 25% absence policy.

14 **Deputy Town Clerk Gentry** asked if there should be excused and unexcused
15 absences established.

16 **Councilmember Mahaffey** said yes.

17 **Councilmember Killingsworth** said that she disagreed with this attendance policy of
18 excused and unexcused absences. She said that if you are not able to attend and unable to
19 give input to the meetings then you shouldn't be on the Board.

20 **Mayor Gilbert** said that he agreed with Councilmember Killingsworth.

21 **Town Clerk Coleman** said that absences would be reported in the quarterly report to
22 Council. He said if someone had been out for two meetings in that quarter, they would have
23 been contacted by the Town Clerk's office to warn them about their absence status.

24 **Councilmember Mahaffey** asked how other City or Towns implement this policy. He
25 asked if it required Council action or would it count as an automatic resignation.

26 **Town Clerk Coleman** said that it is some of both. He said some have it as a Council
27 action and some have given the Town Clerk the authority to remove the member.

28 **Councilmember Zegerman** asked if there were legal issues for this, for example in
29 the case of pregnancy of a member, and if there were any potential discrimination issues.

1 **Town Attorney Hohe** said that if there is an excused or unexcused absence it should
2 be fine. She said that as far as holdovers are concerned, it is allowed by the constitution to
3 allow holdovers to continue in their seat until their replacement is appointed. She said that is
4 to ensure the continued operations of the Board.

5 **Councilmember Zegerman** said that they should have a function to vote for
6 replacements on time unless there are specific circumstances.

7 **Town Attorney Hohe** said that the process that should be put into place is how you
8 appoint the successor, and not to remove the holdover status of the member of the body so
9 that there is not situation where the boards do not have a quorum.

10 **Councilmember Zegerman** said that making these processes more streamlined
11 would be good.

12 **Town Attorney Hohe** said that this is in this Council's control.

13 **Councilmember Gantt** said that if appointments are on time and everyone is
14 organized, this should not be a problem.

15 **Town Attorney Hohe** said she would not recommend changing the holdover status
16 with the Boards that are statutorily required, the Board of Adjustments and Planning Board.

17 **Councilmember Zegerman** said that he would like to have internal pressure on Staff
18 and Council to make sure these happen on time.

19 **Councilmember Mahaffey** said he thinks removal should be automatic if someone
20 goes over the unexcused absence threshold.

21 **Town Clerk Coleman** said that if this is set up for automatic removal, then they could
22 be reconsidered in the future. He said that getting an excuse and unexcused definition has
23 not been established. He said that if all the Council agreed that the policy would be for
24 automatic removal that would be the decision for the policy.

25 The Council was in approval for this policy as a group.

26 **Town Clerk Coleman** said that right now, the Boards are on 3-year terms. He said this
27 could be discussed, but that the Board of Adjustment would have to be a 3-year term.

28 **Councilmember Gantt** asked why it had to be a 3-year term.

29 **Assistant Town Attorney Welch** explained it's due to the Alternates being on the
30 board.

31 **Mayor Gilbert** asked Director Khin if extended terms would impact operations.

32 **Director Khin** said that 10 years is too long, and 6 years terms may not be long
33 enough. She said that for the Board of Adjustments, typically their first two to three years do
34 not have many cases, so their experience is limited even as a second-term member. She said
35 that the Planning Board has lots of agenda items. She said that 10-year terms may be too
36 long.

37 **Councilmember Zegerman** asked if there was any other Board other than Board of
38 Adjustment that has statutory requirements like that.

39 **Assistant Town Attorney Welch** said it was just Board of Adjustment.

40 **Councilmember Mahaffey** asked if they could make the two positions alternate and
41 the Board have separate terms so a term as an alternate doesn't count as a term on the Board.

1 He said that he wasn't sure what the right answer was but that he did like the idea of term
2 limits in principle.

3 **Town Clerk Coleman** said that from Ashley's surveys of other municipalities that a lot
4 have gone to 2-year terms, and some have kept 3-year terms, and some have a maximum of
5 nine years and some ten, and it can be varied. He said that this would become consistent.

6 **Councilmember Zegerman** asked if there could be a 2-year term limit as an active
7 board member with 1 term as an alternate, for a total of 9 years.

8 **Town Clerk Coleman** said that it may be easier to keep Board of Adjustments as it is.

9 **Council Member Mahaffey** said that his preference was to leave the Board of
10 Adjustments as it is.

11 **Councilmember Zegerman** said that he preferred 2-year terms to increase the
12 rotation.

13 **Councilmember Gantt** asked if there was a plan for when the youth would age out.
14 He asked if they would serve for six years as long as they are 18 years old when they start.

15 **Town Clerk Coleman** said they could start when entered High School and go until
16 they are in college.

17 **Councilmember Gantt** said that they would likely resign when they go to college
18 unless it was a local college.

19 **Councilmember Mahaffey** said it was a great resume builder. He agreed they would
20 likely resign once they were in college so rotation would happen.

21 **Councilmember Zegerman** asked about the composition of the total number of
22 board members.

23 **Councilmember Gantt** asked if they wanted to have different number of members for
24 the boards.

25 **Town Clerk Coleman** said they would discuss those topics later. He spoke about the
26 minutes and that they all became centralized to the Clerk's office back in August for
27 consistent format and structure. He said that it had been brought up if the Advisory Board
28 needs to be as thorough as Council minutes.

29 **Councilmember Mahaffey** said that they requested that minutes be sent out once
30 they have been approved by the Board so that they can be put on the Consent Agenda for
31 the Council to accept them.

32 **Councilmember Gantt** asked if the Boards accept the minutes.

33 **Councilmember Mahaffey** said he would want them included so the public could see
34 them easier.

35 **Councilmember Gantt** said that the summary at the end of the year would be more
36 appropriate.

37 **Councilmember Mahaffey** said it wouldn't do any harm.

38 **Town Attorney Hohe** said the Board of Adjustment minutes have a different standard
39 with the quasi-judicial hearing, and should be more detailed.

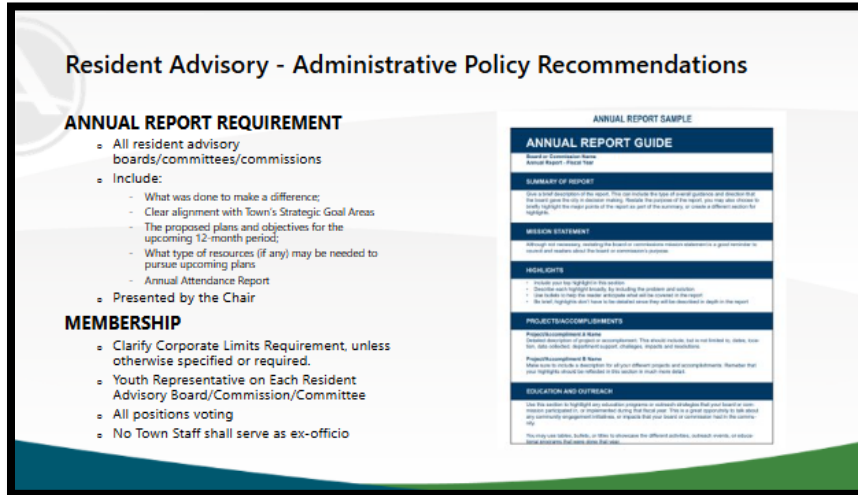
40 **Town Clerk Coleman** said that researching is much easier to do a text search when
41 meeting minutes are more detailed.

Town Manager Vosburg asked if they had talked about adding an informational section to the agenda.

Town Clerk Coleman said yes.

Town Manager Vosburg said these minutes could go there, since they didn't necessarily need to be approved by Council.

[SLIDE 9]



Councilmember Gantt asked if the annual report would be like a lightning round, if they would have 3 or 4 minutes to go over the material and each Board comes in after the other.

Councilmember Zegerman said he would prefer that each Board be staggered.

Director Khin said that Wake County resident to the Planning Board is not a statutory requirement.

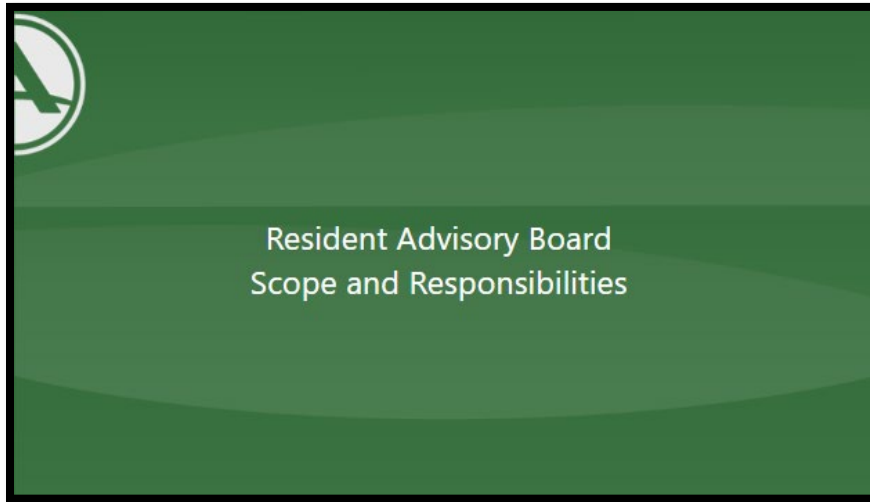
Councilmember Zegerman asked could there be an exception. He said that some other board needed an ETJ representative.

Councilmember Gantt asked which Board.

Councilmember Zegerman said he wasn't sure.

Councilmember Killingsworth said that it says that unless otherwise as part of the Charter.

1 [SLIDE 10]



2
3 [SLIDE 11]



4
5 **Councilmember Gantt** asked to be a part of that Committee you had to have a
6 committee called The Bee City Committee.

7 **Town Clerk Coleman** said that the EAB could be designated as that, and that it didn't
8 have to be solely for the purposes of Bee City.

1 **[SLIDE 12]**

Board of Adjustment – Scope of Responsibilities

PURPOSE The Board of Adjustment shall: 1) Review and approve, approve with conditions, or deny. To review, hear, consider and approve, approve with conditions, or deny: a) Applications for Variance Permits. b) Applications for Special Use Permits. 2) Appeals. To review, hear, consider, and reverse or affirm, in whole or in part, or modify: a) Written orders, decisions, interpretations, requirements, or determinations of the Planning Director or other administrative officials charged with enforcement of any other ordinance that regulates land use or development. b) Master Subdivision Plans. c) Construction Plans. d) Master Subdivision Final Plans. e) Soil Erosion and Sedimentation Control Plans. 3) Studies. To make studies of the resources, possibilities, and needs of the Town upon the authorization of the Town Council and to report its findings and recommendations with reference thereto, from time to time, to the Town Council.	DEPARTMENT ALIGNMENT • Planning / Legal DETAILS • Quasi-Judicial Format- Statutorily Required • The Board of Adjustment consists of 5 regular members and 3 alternates who are residents appointed by, and serving as a board to, the Apex Town Council on planning, zoning, and subdivision issue. • Monthly Meetings (As needed) RECOMMENDATION(S) 1. Two (2) year terms <i>(term length consistent with Planning Board)</i> 1. Maximum of three (3) consecutive years
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2
3 **Town Clerk Coleman** clarified that based on the earlier conversation, they will not be
4 changing the terms structure for the Board of Adjustment.

5 **[SLIDE 13]**

Environmental Advisory Board (EAB) – Scope of Responsibilities

PURPOSE The Environmental Advisory Board shall have the following powers and duties: 1. Advise the Planning Committee of the Apex Town Council regarding suggested changes to the Unified Development Ordinance related to the impacts of development upon the natural environment. 2. Review, with applicants, during the staff review phase of a proposal, certain requests for conditional rezoning and recommend zoning conditions to the applicant and Town Council that will mitigate anticipated impact to the natural environment as a result of the project under consideration. The following conditional rezoning requests shall be exempt from review by this Board: 1. Rezoning to amend zoning conditions which have no environmental impact on a site including but not limited to revisions to architectural standards, building height, setbacks, and uses; 2. Rezoning to resolve nonconformities; 3. Rezoning of one (1) acre or less; and 4. Rezoning within the <u>Small Town Character</u> Overlay District.	DEPARTMENT ALIGNMENT • Planning (new Environmental Programs Coordinator) DETAILS • Advisory Format and Established July 2019 • 9 members appointed for three-year terms • Achievements: a) Environmental Zoning Conditions a) Lighting Ordinance Recommendations RECOMMENDATION(S) 1. Increase number of positions to 11 seats to add one (1) Voting member from Tree CAP/Bee City and one (1) Voting Youth Rep. 2. Revise Development Review Process 3. 2-year terms (three term max)
--	--

6
7 **Councilmember Gantt** asked if he wanted discussion on whether to change the
8 development review process for EAB.

9 **Town Clerk Coleman** said that Council could discuss if there were advantages to
10 cases still going through EAB for review.

11 **Councilmember Killingsworth** said that the recommendation to remove the review
12 phase would be her preference.

13 **Councilmember Mahaffey** said that he would disagree with the recommendation. He
14 said that the review process was where there were conversations and discussions, and a lot of
15 conversations that happen at EAB would then have to be had at Council, which should be the
16 final vote. He said it may push things back further.

1 **Councilmember Gantt** said that the EAB gets projects early and not formed yet and
2 the recommendations are hard for the Developer to commit to, because they don't know
3 enough details.

4 **Councilmember Zegerman** Said the Planning Team environmental standards are set.
5 He asked if they could look at the environmental items that could be looked at during the
6 Planning Board Review meeting to free up the EAB to review more project phases and more
7 items that are more advisory in nature.

8 **Councilmember Gantt** said that the check-off list should be shorter if this is going to
9 every developer so that they can say yes or no instead of having things be open ended.

10 **Councilmember Zegerman** said that there is a standard table that comes in the staff
11 packet.

12 **Councilmember Gantt** said that the EAB makes a recommendation and fills in some
13 of the information.

14 **Councilmember Mahaffey** said that this is a negotiation, for instance some of the 25
15 items there may be more important than others based on the project, and that is what the
16 review is for.

17 **Councilmember Killingsworth** asked if the EAB influence on if they choose those
18 things would be more or less than the Planning Board.

19 **Councilmember Mahaffey** said that he wished the EAB was able to give a full
20 recommendation on the project, rather than just adding in specific conditions.

21 **Town Clerk Coleman** said that Shelly Mayo in Planning had served as the staff liaison
22 to the EAB and so Director Khin may have some input.

23 **Director Khin** said that it could be set up like the Housing Advisory Board, that they
24 have their own policy with a checklist of items they want to see for review with a staff member
25 that reviews these and then makes recommendations. She said that there is an Environmental
26 Programs Coordinator that will be starting in February, so the idea is to move away from
27 reviewing every single rezoning application. She said that they did have to do it to set up the
28 criteria, but these have been set up and they could be reviewed twice a year. She said it
29 seemed like there was too much time being spent on rezoning.

30 **Councilmember Gantt** agreed.

31 **Councilmember Zegerman** asked where to draw the line for the rezoning.

32 **Director Khin** said it may encourage people to rezone. There would be more leeway
33 on more complicated projects like PUDs, so that might could be reviewed.

34 **Councilmember Killingsworth** said that the checklist wasn't in place but it is now,
35 because the EAB put that in place. She said that it is an advisory board and that the focus
36 should be on environmental issues.

37 **Mayor Gilbert** asked who was in support of Councilmember Killingsworth's
38 suggestion.

39 **Councilmember Gantt** asked for clarification that the larger acreage or PUD would go
40 to them for review and everything else would go to the staff person and the EAB would revise
41 the broad conditions accordingly.

Councilmember Zegerman asked could the EAB make a recommendation of what they want to draw the line.

Councilmember Gantt said that they are working for the Council, and the Council should be the ones to decide.

Councilmember Zegerman said they are speaking on behalf of nine people that we believe spent too much time on re-zoning request, so what is the proper way.

Mayor Gilbert said that it can be changed when it comes in the process.

Councilmember Gantt said having the PUD map would really help the EAB evaluate those projects once they have those maps.

Councilmember Mahaffey asked if there was a threshold they don't review.

Councilmember Gantt said that he thought it was less than five acres.

Councilmember Mahaffey said that the review is positive, and the members have impact.

Councilmember Gantt asked if it could be a five-acre policy that would lower the reviews.

Councilmember Mahaffey said that they did not have to decide today.

Director Khin said that she could ask Amanda Bunce.

Councilmember Zegerman said that when they look at the scope of work, that he would like to also look at the 11 Board members, he said it seemed like a high number.

Councilmember Gantt agreed.

Town Clerk Coleman said that it seemed to be consistent to continue with the 2-year terms and a maximum 3 terms.

[SLIDE 14]

Housing Advisory Board (HAB) – Scope of Responsibilities

PURPOSE	DEPARTMENT ALIGNMENT
The Housing Advisory Board shall have the following powers and duties: 1. Recommend Policies and Funding Recommendations related to Affordable Housing to the Elected Body 2. Provide Housing Advocacy Efforts Advice to Elected Body and Planning Board 3. Assist with Annual Housing Report creation	• Community Development and Neighborhood Connections (CDNC)
	DETAILS • Advisory Format and Established July 2021 • 7 members appointed for three-year terms, plus 2 non-voting members from Council and Planning Board • Quarterly Meetings • Achievements: <ul style="list-style-type: none">• Affordable Housing Incentive Zoning Policy• Affordable Housing Report• Housing Fair
	RECOMMENDATION(S) With dedicated Housing Staff, provide clarity on scope of responsibilities.

Mayor Gilbert asked Councilmember Killingsworth to start the discussion, since she has been the Council liaison.

Councilmember Killingsworth said that the responsibilities could be turned over to staff and any decisions could be taken to Council. She said that she felt the HAB has done everything they set out to do, and she doesn't think it needs to remain.

Councilmember Zegerman said that the town has hired staff that have absorbed a lot of work that the Housing Advisory Board did. He asked if it would be possible to have an advisory committee specific to the entire department to include affordable housing as part of the scope to absorb some of the duties.

Councilmember Killingsworth suggested an ad-hoc Council Committee to be used as needed and meets as needed.

Mayor Gilbert asked staff where they were about this.

Town Manager Vosburg said that they had worked to align all of the Town Departments and functions with the new committees. He said they would talk in January or February about the concepts.

Town Clerk Coleman clarified that the Housing Board Committee would be dissolved due to this work being done by staff.

Council agreed.

[SLIDE 15]

Parks, Recreation, and Cultural Resources Advisory Commission (PRCR) Scope of Responsibilities

PURPOSE

The Parks, Recreation, and Cultural Resources Advisory Commission serves in an advisory capacity to department staff and the Town Council, providing recommendations on parks and recreation priorities in the Apex community. The commission also reviews and makes recommendations on public recreation requirements for proposed residential developments and provides input on long range plans related to parks and recreation.



DEPARTMENT ALIGNMENT

- Parks, Recreation, and Cultural Res. Dept.

DETAILS

- Advisory Format and Established 1987
- 9 members appointed for three-year terms
- Public Art is a Sub-Committee (see future slide)
- Meet Monthly

RECOMMENDATION(S)

1. Establish Term Limits – maximum of three two (2) year terms
2. Shift Cultural Arts Component to Public Art Committee

Mayor Gilbert asked if everyone approved of this. Everyone was in agreeance for this recommendation.

1 **[SLIDE 16]**

Planning Board – Scope of Responsibilities

PURPOSE

The Planning Board shall have the following powers and duties: 1) Review and make recommendations to approve or disapprove. To review, hear, consider, and make recommendations to the Town Council to approve or disapprove:

- The adoption of an ordinance to amend the Official Zoning District Map (Rezoning).
- The adoption of an ordinance to amend the text of this Ordinance (text amendment).

2) Review and make recommendations to approve, approve with conditions, or disapprove. To hear, review, consider, and make recommendations to the Town Council to approve, approve with conditions, or disapprove:

- The adoption of an ordinance to amend the Official Zoning District Map.
- The adoption of an ordinance approving a PUD-CZ, SD-CZ, TND-CZ, or MEC-CZ zoning district designation.

3) Long range plans. To consider and/or make recommendations to the Town Council to adopt or amend long range plans.

4) Make special knowledge and expertise available. To make its special knowledge and expertise available upon written request and authorization of the Town Council to any official, department, board, commission or agency of the Town.

5) Studies. To make studies of the resources, possibilities and needs of the Town upon the authorization of the Town Council, and report its findings and recommendations, with reference thereto, to the Town Council.

6) Recommendations of recognition of Appearance Awards. To consider and make recommendations on nominees for Residential, Non-Residential, and Tree Appearance Awards to the Town Council.

DEPARTMENT ALIGNMENT

- Planning

DETAILS

- Statutorily Required
- Nine (9) voting members, one (1) non-voting member (Historical Society)
- Meet Monthly

RECOMMENDATION(S)

1. Limit term lengths to three (2) year terms
2. Add Voting Youth Representative
3. Historical Rep – Voting

2
3 **Councilmember Gantt** asked if similar to the EAB, if the Planning Board was
4 spending their time on rezonings and never getting to items # 4 & 5. He also asked if they
5 were allowed to have a similar size of development that would not have to go through this
6 committee as the EAB does.

7 **Councilmember Mahaffey** said no.

8 **Director Khin** said that all rezonings had to go before Planning Board.

9 **Councilmember Gantt** said that he would like to see more ordinance suggestions
10 and policy suggestions from the Planning Board.

11 **Councilmember Zegerman** agreed.

12 **Councilmember Mahaffey** said that the Planning Board could be initiating more
13 items and opposing more rules. He said that there were so many rezonings, so in a lot of
14 cases they don't have the bandwidth to.

15 **Director Khin** said that the main things that they have done is participation in the
16 long-range planning process over the years. She said that they should be required to
17 participate and not just get updates at the meetings.

18 **Mayor Gilbert** said that this should be discussed later.

1 **[SLIDE 17]**

Apex Public Art Committee (APAC)- Scope of Responsibilities

PURPOSE

The Apex Public Art Committee (APAC) will be responsible for gathering public input through surveys, focus groups, meeting with civic groups, neighborhood groups etc. and liaising with Town Departments and other Town Committees as needed. They shall recommend projects, programs, and potential artists. They shall also evaluate submissions and advise the PRCR Advisory Commission and the Town Council on matters related to Public Art. The APAC's primary mission will be to increase community awareness and appreciation of public art.



DEPARTMENT ALIGNMENT

- Parks, Recreation, and Cultural Res. Dept.

DETAILS

- Advisory Format and Established 2017
- 7 members appointed for three-year terms
- Achievements
 - Apex Sculpture Walk
 - Wall Murals (Various Locations)
 - Bus Stop Public Art (Various Locations)

RECOMMENDATION(S)

1. Stand-Alone "Arts and Culture Advisory Board"
2. Discuss Broadening the Scope of Responsibilities
3. Add Voting Youth Representative

2 **Councilmember Gantt** asked what "broadening" means.

3 **Town Clerk Coleman** said it would include to broaden the art related initiatives.

4 **Councilmember Zegerman** asked if they were keeping the 2-year terms as previously

5 discussed.

6 **Town Clerk Coleman** said yes.

7 **Councilmember Mahaffey** said that the Arts Committee had done a great job and

8 was a great example of how an advisory board works.

9 **[SLIDE 18]**

Transit Advisory Committee (TAC)- Scope of Responsibilities

PURPOSE

The Transit Advisory Committee shall have the following powers and duties

- 1) Review transit plans and services. Review proposed local transit plans, policies, capital improvements, and service changes, and provide recommendations regarding revisions and/or approval. Review regional transit plans, policies, capital improvements, and proposed services changes relevant to the Town of Apex and provide recommendations regarding revisions and/or approval.
- 2) Recommendations to Mayor and Town Council. Recommend to the Mayor and Town Council local transit plans, policies, capital improvements, and service changes.
- 3) Provide information to the Mayor and Town Council. Provide information to the Mayor and Town Council regarding transit customer experience and stakeholder opinions and needs.

DEPARTMENT ALIGNMENT

- Planning

DETAILS

- Advisory Format and Established 2019
- 6 members appointed for three-year terms
- 3 members Ex-Officio (Staff)

RECOMMENDATION(S)

1. Incorporate Bicycle and Pedestrian – titled "Multimodal Transportation Advisory Board"
2. Discuss Broadening the Scope of Responsibilities
3. Add Voting Youth Representative and increase membership to 9 total voting members, excluding staff.

22 **Councilmember Gantt** confirmed that this was a 2-year term with 3 term maximum.

23 **Town Clerk Coleman** confirmed that was correct. He said that this was the Board with

24 the least number of seats with 3 ex-officio staff members, but the committee would benefit


25 from broader membership.

1 **[SLIDE 19]**

Tree Citizen Advisory Panel (Tree CAP)- Scope of Responsibilities

PURPOSE/MISSION

The Tree Citizen Advisory Panel (Tree CAP) is a group of appointed citizens who represent the voice of the citizen as it relates to tree programs, management and regulations. They provide guidance and feedback to the Environmental Committee (Tree Board), meeting Tree City USA standards, and help plan and guide Arbor Day and other tree planting events.



DEPARTMENT ALIGNMENT

- Electric

DETAILS

- Advisory Format and Established 2016
- 5 members appointed for one-year terms
- Currently 2 active members
- Achievements/Projects
 - Plant the Peak
 - Heritage Tree Proposal
 - Tree Archive and
 - Tree Education/Outreach

RECOMMENDATION(S)

Dissolve and responsibility consumed by the Town's Environmental Advisory Board.

2
3 **Councilmember Mahaffey** said it may be helpful to form a subcommittee for the Bee
4 City and the Tree CAP.

5 **Town Clerk Coleman** said that usually if you form an ad hoc Committee of the
6 membership then it would become a subcommittee of the non-member board and that
7 wouldn't be another set of members.

8 **[SLIDE 20]**

Resident Advisory – Summary of Recommendations

BEE CITY COMMITTEE

- Dissolve and responsibilities consumed by Apex Environmental Advisory Board

BOARD OF ADJUSTMENT (BOA)

- Reduce Terms to two (2) year terms
- Reduce Term Max to 3 consecutive (6 total)

ENVIRONMENTAL ADVISORY BOARD

- Reduce Terms to two (2) year terms
- Reduce Term Max to 3 consecutive (6 total)
- Add Voting Youth Representative
- Add one (1) seat for Tree CAP/Bee City Representation

HOUSING ADVISORY BOARD (HAB)

- Clarify roles and responsibilities

PARKS AND RECREATION ADVISORY

- Establish Term Limits
- Shift Cultural Arts and Public Art to new Committee
- Add Voting Youth Representative

PLANNING BOARD

- Reduce Terms to two (2) year terms
- Reduce Term Max to 3 consecutive (6 total)
- Add Voting Youth Representative
- Switch Non-Voting Historical Society Seat to Voting

ARTS AND CULTURE ADV. BOARD

- Clarify roles and responsibilities
- Add Voting Youth Representative
- Stand-alone separate from Parks and Rec.

MULTIMODAL TRANSPORTATION ADVISORY BOARD

- Clarify roles and responsibilities to include Bicycle and Pedestrian modes of transportation
- Add Voting Youth Representative
- Add 2 additional voting positions, remove ex-officio members

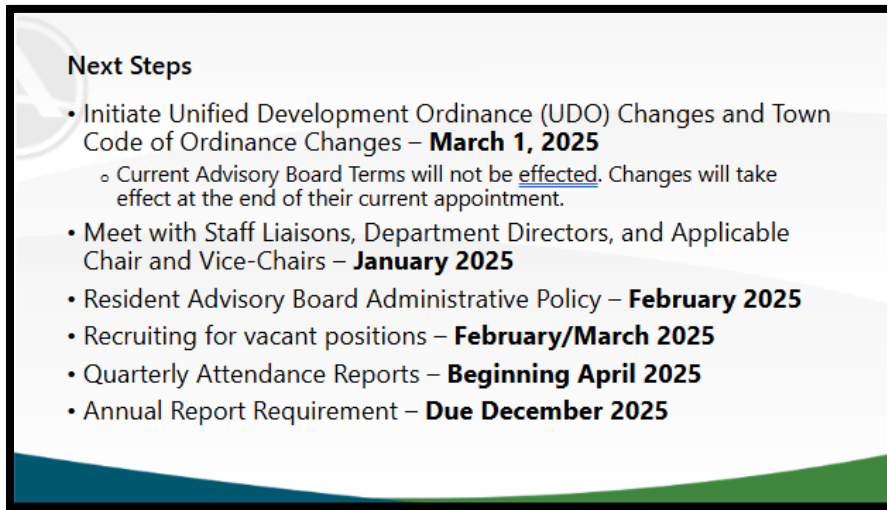
TREE CITIZEN ADVISORY PANEL (CAP)

- Dissolve and responsibilities consumed by Apex Environmental Advisory Board

9
10 **Councilmember Zegerman** asked if this comes back in February.

11 **Town Clerk Coleman** said yes, and that some of the Committees are referenced in
12 the UDO and Town Code. He said that they would be communicating with the Department
13 Directors that are affected by the feedback from Council.

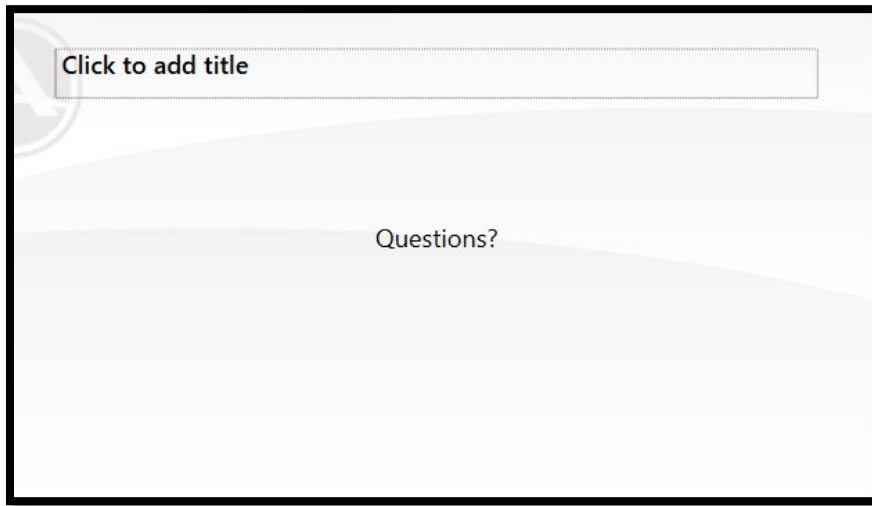
1 **[SLIDE 21]**



Next Steps

- Initiate Unified Development Ordinance (UDO) Changes and Town Code of Ordinance Changes – **March 1, 2025**
 - Current Advisory Board Terms will not be effected. Changes will take effect at the end of their current appointment.
- Meet with Staff Liaisons, Department Directors, and Applicable Chair and Vice-Chairs – **January 2025**
- Resident Advisory Board Administrative Policy – **February 2025**
- Recruiting for vacant positions – **February/March 2025**
- Quarterly Attendance Reports – **Beginning April 2025**
- Annual Report Requirement – **Due December 2025**

2
3 **[SLIDE 22]**



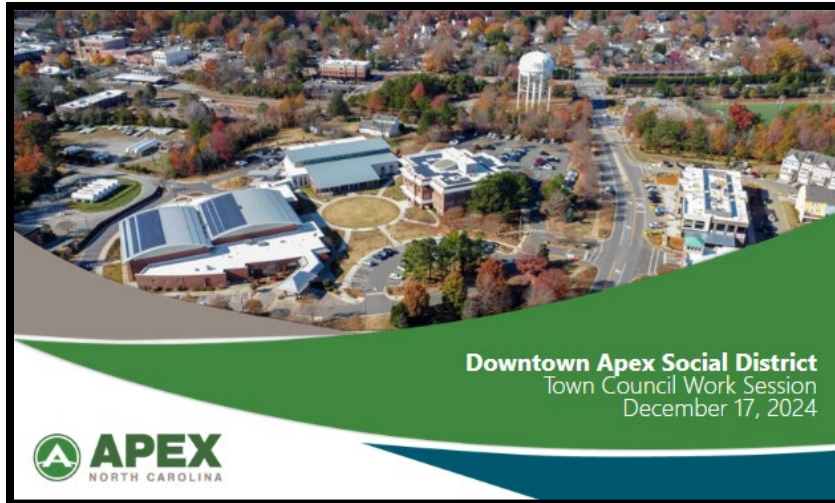
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Questions?

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5
6 **[DOWNTOWN APEX SOCIAL DISTRICT]**

7
8 **Joanna Helms**, Economic Development Director gave the following presentation:

9 **[SLIDE 1]**



[SLIDE 2]

Background on a Proposed Social District in Downtown Apex

Overview

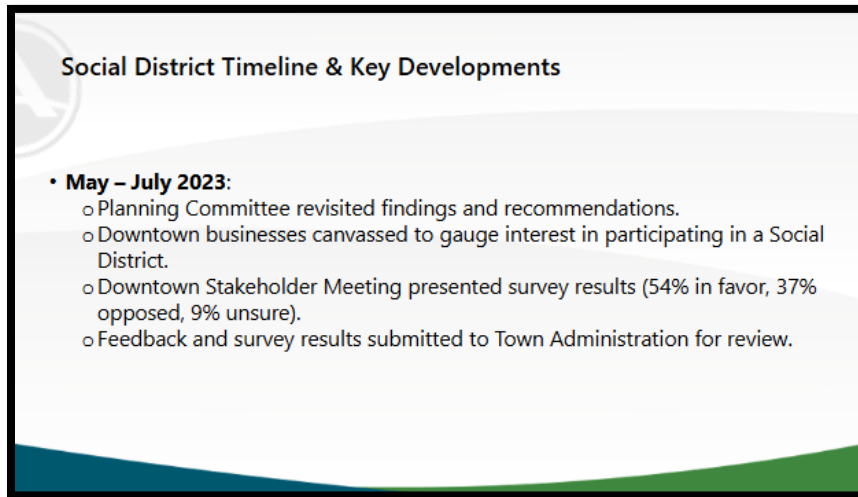
- Purpose: Allows open consumption of alcoholic beverages within a designated area and during specific hours, potentially enhancing vibrancy and economic growth.
- History: The concept of a social district in downtown Apex has been under consideration since September 2021, involving multiple stages of research, public input, and legislative updates.
- Scope: May include privately owned properties (ABC-permittee and non-permittee businesses), multi-tenant establishments, and public spaces (streets, crosswalks, parking areas).

[SLIDE 3]

Social District Timeline & Key Developments

- **September 2021:**
 - NC ratified Session Law 2021-150, allowing municipalities to create Social Districts for alcohol consumption in designated areas.
 - Council members initiated discussions on establishing a Social District in downtown Apex.
- **February - August 2022**
 - Research on Social District implementation in Apex.
 - Special Project Team formed.
 - Special Project Team met with NC ABC staff.
 - NC House Bill 211 passed, revising Social District rules.
 - Special Project Team presented findings and recommendations to Town Administration.

1 **[SLIDE 4]**



2

3

Councilmember Gantt asked about the feedback on the Social Districts.

4

Director Helms said they had done some research in several communities and all of the feedback was positive.

6

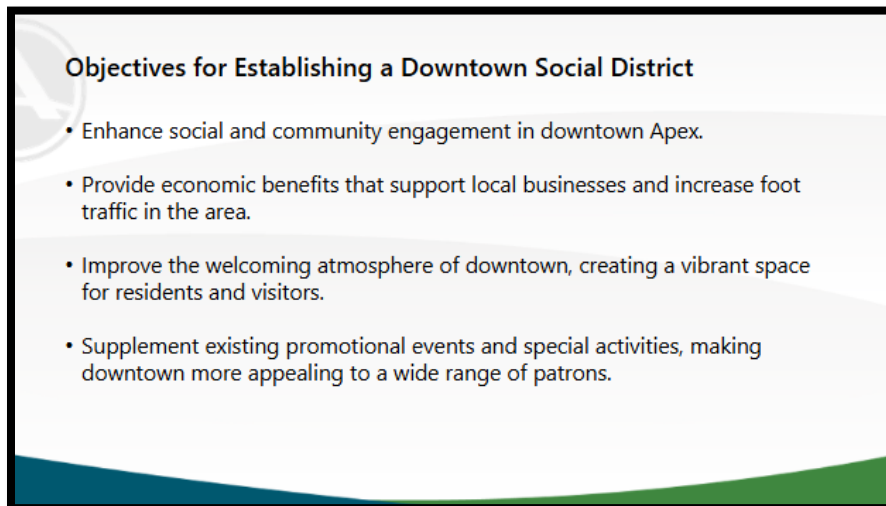
Councilmember Gantt asked if sales and socializing have gone up in these types of areas?

8

Director Helms said some areas, Cary for example, haven't had negative comments. She said that she could get the survey to Council.

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[SLIDE 5]



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1 [SLIDE 6]

Proposed Social District Boundaries

- **Salem Street** (Salem Heritage Plaza to Williams Street)
- **Chatham Street** (Elm Street to 202 W. Chatham Street)
- **Elm Street** (E Chatham Street to Olive Street)
- **Saunders Street** (N Salem Street to 215 Saunders Street)



2
3 [SLIDE 7]

The proposed Downtown Apex Social District would allow the consumption of alcoholic beverages within district boundaries Monday through Sunday.

Proposed Hours of Operation						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.	11:00 a.m. 10:00 p.m.

4
5 [SLIDE 8]

ABC-Permitted & Non-Permitted Businesses in Social District

Opt-In/Opt-Out: Businesses within Social District boundaries can choose to "opt in" or "opt out" of participation. No action is required to "opt out."

ABC-Permitted Businesses (Opt-In):

- **Selling & Serving:** Can sell and serve alcoholic beverages only on licensed premises.
- **Designated Container Criteria:**
 - Must clearly identify the permittee from which the beverage was purchased.
 - Must display a logo or mark indicating it's part of the Social District.
 - Must be made of non-glass material.
 - Must include the statement "Drink Responsibly – Be 21" in at least 12-point font.
 - Must not exceed 16 fluid ounces.

6

1 [SLIDE 9]

Non-Permitted Businesses (Opt-In)

- **Alcohol Consumption:** May allow alcoholic beverages purchased from an ABC-permittee within the Social District to be consumed on their premises.
- **Alcoholic Beverage Requirements:**
 - Must be in designated Social District containers.
 - Must be consumed within designated hours (11:00 a.m. to 10:00 p.m. daily).
- **Signage:** Must display signs at exits which do not open to the social district indicating alcohol cannot be taken beyond that point.
- **Law Enforcement Access:** Must grant law enforcement access to customer-accessible areas during Social District operating hours.

2
3 [SLIDE 10]

Patron Responsibilities

General Rules for Patrons:


- Alcoholic beverages consumed within the Social District must be purchased from an ABC-permitted business located within the district.
- Alcoholic beverages must:
 - Be in designated Social District containers.
 - Be consumed during the specified hours (11:00 a.m. to 10:00 p.m. daily).
- A patron may not be sold or delivered more than:
 - Maximum of 2 alcoholic beverages (beer or wine) at one time.
 - Maximum of 1 alcoholic beverage (liquor) at a time.
- Patrons must dispose of any alcoholic beverages before exiting the Social District, unless entering a participating business within the district.

4
5 [SLIDE 11]

Social District Designated Containers

For Discussion:

- Who will provide/purchase the social district designated container that meets the requirement of NC law?
- In Cary, the Town provides/purchases the cups. The businesses reimburse the Town for the cost of a standard 16oz. plastic cup. The Town subsidizes the remaining expense.



6

1 **[SLIDE 12]**

Town Responsibilities

Enforcement & Oversight:

- The Town of Apex Police Department will be responsible for enforcing the rules of the Social District.
- The Town reserves the right to prohibit an ABC permittee from participating in the district if they violate the Social District management plan.

2
3 **[SLIDE 13]**

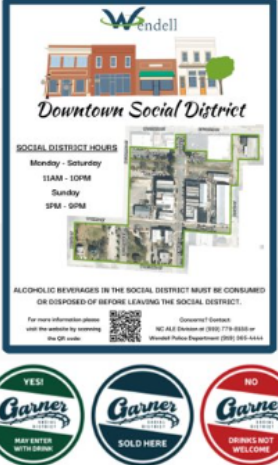
Signage & Communication

The Town will:

- Create a logo for the Social District
- Install boundary markers to clearly define the area.
- Design, order, and distribute the designated cups.
- Design, print, and distribute signage and window clings to businesses within the district.

Required signage to indicate a status:

- **SOLD HERE** – Social District drinks available for purchase.
- **YES!** – Social District drinks allowed on premises.
- **NO!** – No Social District drinks allowed for purchase or consumption. ("No" sign is optional, but recommended)




4
5 **Councilmember Gantt** asked if the signs helped having the signs for "No Social
6 District" helped with businesses having to tell customers that they were not participating.

7 **Director Helms** said that this is why they recommended the "NO!" signs.
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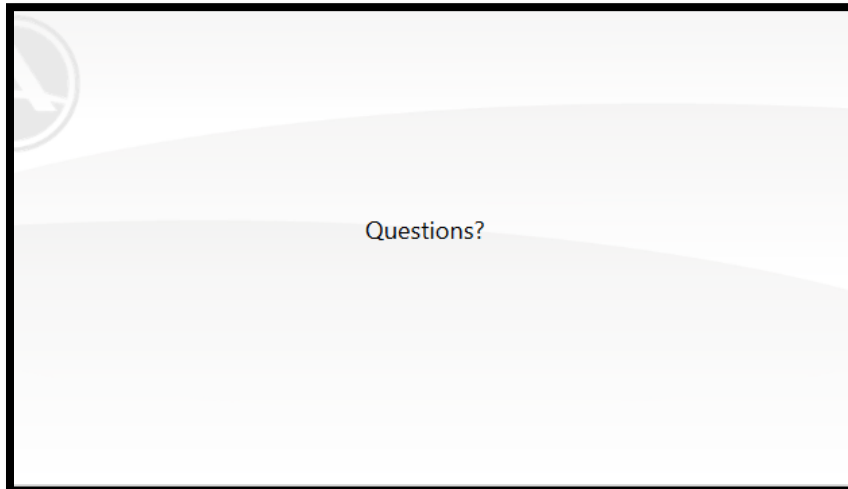
1 **[SLIDE 14]**

Special Events in the Social District

- The ABC Commission can issue permits for one-time special events within or partially within the Social District boundaries.
- If the event occurs during Social District operating hours:
 - The event permittee must notify the ABC Commission and law enforcement.
 - The event must comply with Social District regulations.



2
3 **[SLIDE 15]**



4
5 **Councilmember Gantt** asked if the festivals such as Peak Fest could opt out of alcohol
6 in that area.

7 **Director Helms** asked Chris Welch for information.

8 **Mayor Gilbert** said that they could ask staff.

9 **Town Manager Vosburg** said that they needed general consensus about this and
10 some guidance if there is any at this time.

11 **Mayor Gilbert** said that there were a lot of positive reviews and there has been a lot
12 of staff time on this, and that they needed to make some decisions.

13 **Councilmember Zegerman** said he did not agree. He said that he would like to get
14 feedback again from the businesses. He said he isn't opposed, but he wants to be fleshed out
15 more.

16 **Mayor Gilbert** asked what percentage of the businesses he would be looking for to
17 move forward with this.

1 **Councilmember Zegerman** said more than 50%. He said that there were things to
2 work out on this. He agreed that he wanted to make forward momentum, but he doesn't think
3 downtown has changed much in the past year.

4 **Mayor Gilbert** said that Cary, Holly Springs, Fuquay, and Garner do this.

5 **Councilmember Killingsworth** said that it will be 6 months' worth of looking at what
6 the percentage is.

7 **Councilmember Mahaffey** said that he would rather do the survey again and we may
8 have better results. He said that there may be a more positive experience. He said that ideally,
9 we want to build consensus, so everyone opts in. He said some businesses have had changed
10 in ownership too. He added he thinks this should move forward eventually, but he wants to
11 reach out to owners again. He said it would be really awkward if the district was created but
12 most shops opted out.

13 **Mayor Gilbert** said he agreed to a point. He said that he had spoken to several
14 Mayors from other municipalities and talks to several downtown businesses. He asked what
15 we were waiting for to make the decision.

16 **Councilmember Gantt** said that they can do it now, work out the kinks, then it will be
17 ready for the streetscape.

18 **Mayor Gilbert** said that a lot of business owners are nervous when construction
19 comes up. He said this will help people come to downtown.

20 **Councilmember Zegerman** said there is nowhere to go, no parks to sit in, no
21 benches on the streets, and not any destinations.

22 **Councilmember Gantt** said stores, and there would be more later.

23 **Councilmember Zegerman** said he prefers a slow roll out and asked if things have
24 changed now. He said that a year ago it was 50-50.

25 **Councilmember Gantt** said that nothing has changed and probably would be the
26 same result.

27 **Councilmember Mahaffey** said he just wanted to do the homework making sure that
28 we get the survey.

29 **Mayor Gilbert** said that he understands. He said he had talked to some of the
30 business owners, and they are ready to go with this. He asked if there was a motion.

31 **Councilmember Mahaffey** asked to make an amendment to the motion to do a two-
32 question survey regarding if they wanted to do this, and if they would opt in or out if it
33 happened.

34 **Mayor Gilbert** said that would delay more.

35 **Councilmember Zegerman** asked what the rush was.

36 **Councilmember Gantt** asked if they wanted to tie the results to the metrics and say if
37 it is more than 55% that it would move forward.

38 **Mayor Gilbert** asked why a decision would not be made.

39 **Councilmember Mahaffey** said that the survey was done 12 or so months before and
40 people said that they would not opt in, so it was stopped.

41 **Mayor Gilbert** asked when the last survey was done.

42 **Director Helms** said in June of 2023.

Councilmember Mahaffey said that the survey could be done in one month. He said it would not be a good look if we went forward and they did not want to do it.

Councilmember Gantt said 55% said yes and 35% said they did not want it.

Mayor Gilbert said that if people do not want this they can opt out of this.

Councilmember Mahaffey said if everyone opts out it wouldn't be much of a social district.

A motion was made by **Councilmember Killingsworth**, seconded by **Councilmember Gantt** to approve the creation of a Social District in Downtown Apex.

VOTE: (2-2); with Councilmember Mahaffey and Councilmember Zegerman dissenting, and Mayor Pro Tempore Gray absent

Per Town of Apex Charter, **Mayor Gilbert** voted in the affirmative in order to break the tie. **Motion passed.**

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **5:14 p.m.**

Jacques K. Gilbert
Apex, Mayor

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

Submitted for approval by Apex Town Clerk Allen Coleman

Minutes approved on _____ of _____, 2025.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION
Meeting Date: January 14, 2025

Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Town does not currently have a documented internal control policy.

An internal control policy formalizes and documents operational procedures that protect and safeguard the town's assets. In addition, it helps the organization to further its objectives and meet our commitment to ensure that public funds are protect and that we maintain the public trust.

Internal controls function to minimize risks and protects assets, ensure accuracy of records, promote operational efficiencies, and encourage adherence to policies, rules, regulations and laws. These controls help to promote accountability and prevent waste, fraud, abuse and misappropriation of funds. They also assist with ensuring that information is accurate, reliable and timely.

The external auditors will assist in identifying control weaknesses, however, the ultimate responsibility for the organization's internal controls rests with management and the governing board.

Attachments

- CN10-A1: Finance Policy - Internal Control Policy
- CN10-A2: Resolution - Internal Control Policy

TOWN OF APEX	DRAFT Fiscal Policy			
<u>PROCEDURE:</u>	NUMBER FIN - 002		EFFECTIVE DATE 01/14/2025	SUPERSEDES n/a
DRAFT Internal Control Policy	PREPARED BY: Antwan Morrison, Finance Director	REVIEWED BY: Finance Department	APPROVED BY: Randy Vosburg, Town Manager APPROVED BY: TOWN COUNCIL TBD	

Purpose: To document how the management of the Town of Apex has fulfilled their responsibility for implementing and maintaining a sound and comprehensive framework of internal control. Internal controls are vital for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse, and mismanagement.

Internal Control Framework: The Town of Apex's internal controls are modeled after the internal control framework set forth in the Government Accountability Office's Standards for Internal Control in the Federal Government (the "Green Book"). As described in the Green Book, Management is responsible for establishing and maintaining the internal control system in compliance with the duties outlined in the this policy. The Oversight Body's primary role is to ensure management performs its internal control responsibilities. However, every employee bears some responsibility for the internal control process.

Definition: Internal Control is a process which is designed by an entity's management to provide reasonable, but not absolute, assurance regarding the achievement of organizational objectives in the categories of: (1) reliability of financial reporting; (2) effectiveness and efficiency of operations; and (3) compliance with applicable laws and regulations.

Components of Internal Control: Understanding of the five components of the process is vital to properly structuring, implementing, and maintaining cost-effective internal controls.

1. *Control environment* provides the cultural atmosphere for human behavior within an organization. It is the foundation for all other components of internal control, providing discipline and structure.

Several key factors expected of management include:

- a. *Integrity and ethical values* of managers and staff. Management plays a key role in providing standards of behavior, removing temptations for unethical behavior, and providing discipline when required.
 - b. *Commitment to competence* so that all personnel receive the training, counseling, and performance evaluations required to perform their duties and understand the importance of maintaining good internal controls.
 - c. *Management's philosophy and operating style* will impact the amount of risk tolerated and what behavior is rewarded or disciplined.
 - d. *Organizational structure* impacts how internal control functions are communicated, respected, and reported.
 - e. *Assignment of authority and responsibilities* for operations and control functions establishes accountability for results.
 - f. *Human resource policies and practices* impact the control environment by establishing proper hiring, on-boarding, training, evaluating, counseling, promoting, compensating, and disciplinary guidelines.
2. *Risk Assessment* is necessary after management establishes certain objectives in order to anticipate and compensate for factors which may prevent management from fulfilling their responsibilities and goals. This involves management evaluating the risks the entity faces that could negatively impact its ability to achieve its objectives.
- a. *Operational objectives: all assets are appropriately safeguarded against risks of fraud, theft, loss, or abuse.*
 - b. *Reporting objectives: finance systems and processes produce accurate and reliable financial reporting.*
 - c. *Compliance objectives: for federal and state award, funds are expended in compliance with the award terms and conditions, federal and state law, and U.S. Treasury guidance.*
 - i. *The unit will evaluate risks of non-compliance in the following areas:*
 - 1. *Eligibility*
 - 2. *Allowable costs/cost principles*
 - 3. *Period of performance*
 - 4. *Financial management*
 - 5. *Property management*
 - 6. *Procurement*
 - 7. *Subrecipient monitoring*
 - 8. *Program income*
3. *Control activities* are those procedures, actions, or activities that help ensure that management's directives are carried out. These are actions taken by management to respond to risks that may prevent the town from achieving its objectives. These activities are either preventative or detective.

The town uses a variety of control activities that support strong internal controls, including, but not limited to the following:

- a. *Written policies and procedures*
 - b. *Segregation of duties: separating authorization, custody, record-keeping, and reconciliation functions*
 - c. *Authorizations to undertake projects/programs/expenditure*
 - d. *Reconciliation of accounts and records*
 - e. *Documentation and record-keeping*
 - f. *Physical controls, including locks, physical barriers, and security systems to protect physical assets*
 - g. *IT controls, including passwords, access logs, and firewalls to protect sensitive data and restrict access to electronic data and files*
 - h. *Staff training*
4. *Information and communication* of internal control features focus on the entity's human and technological systems to ensure that the right information is presented to the right individuals at the right time and in the right format.

Communication plays an integral role in the internal control system by helping to promote transparency regarding the use of public funds.

Management shall be responsible for communicating internal control processes to those employees directly involved in finance and/or grant administration. Management will communicate its policies, procedures, and internal controls through various handbooks, programs, training, and electronic communication. Information regarding pertinent policies, processes, and control activities will flow down, across, and up the organizational structure.

Internal control deficiencies should be reported upstream, with serious matters reported immediately to top-level management and/or to the governing board. Employees are required to report any critical issues within the internal control system to management as soon as possible after the discovery.

5. *Monitoring* internal controls on an ongoing basis is essential to make sure they are functioning as intended, and if not, for effective corrective action to be taken.

Limitations of Internal Controls. In this imperfect world, there are several factors which can reduce the effectiveness of internal controls.

1. *Cost-effectiveness.* The cost of a control in dollars or staff time should not outweigh the potential benefit.
2. *Management override* can easily circumvent control procedures, whether for expediency or personal benefit.
3. *Unintended snafus* such as employee errors, mistakes in judgment, carelessness, or misunderstanding of instructions can be impediments.
4. *Collusion* is the intentional act of two or more employees to circumvent existing controls. This is usually hard to detect, and the difficulty increases with the authority level of the employee.

Management Objectives. The purpose of internal controls is to help ensure the following management objectives are met:

1. *Safeguarding Assets.* The Town of Apex is responsible for prudent stewardship of cash and all items acquired with public funds including infrastructure, buildings, software, equipment, supplies, and for protecting other intangible items necessary for business functioning such as employee information.
2. *Integrity of financial information.* Financial authorized and accurate, complete, properly authorized, and produced in a timely manner.
3. *Compliance with laws and regulations.* The Town of Apex's financial operation complies with all state and federal requirements, current Generally Accepted Accounting Principles and (GAAP) and the Local Government Budget and Fiscal Control Act, all provisions of installment financing obligations, and any applicable grant or other funding source.
4. *System promotes operational efficiency.* Controls are cost-effective and easy to maintain working as intended according to approved policy.

Town of Apex Internal Controls in Place

1. *Control Environment*
 - a. Keeping core values of trust, honesty, integrity, and accountability at the heart of management decisions and personnel evaluations
 - b. Hiring qualified financial personnel and providing continuing training and educational opportunities and encouraging appropriate certifications
 - c. Conducting an annual audit by well-qualified external CPA firm
 - d. Requiring responsible employee authorization for all accounting transactions

2. Risk Assessment and Control Procedures

Area	Risk	Control Procedures
Cash	Employee could pocket cash received from customers	<ul style="list-style-type: none"> Separate functions of receiving payments, making bank deposit and posting payments <i>from</i> bank reconciliation, customer

Area	Risk	Control Procedures
		invoicing and authorizing write-offs to customer accounts <ul style="list-style-type: none"> • <i>Security cameras in place</i> • Post payments in automated system at time of payment and provide system generated receipt to customer • Review any voided receipts and verify/audit reason for void • Review system reports for consecutive receipt numbers
Cash	Employee could pocket cash using false invoice	<ul style="list-style-type: none"> • Separate functions of requisitioning, ordering, receiving, and approving invoices • Invoices are system generated, and access is secured by user ids and type of user • Review any voided invoices and verify/audit reason for void • <i>Invoices reviewed during accounts receivable and accounts payable process by the Accounting Manager or Assistant Finance Director</i>
Cash	Employee could pocket cash from petty cash box	<ul style="list-style-type: none"> • Petty cash custodian has locked box and original receipts must be signed by employee receiving cash and approved by respective supervisor and/or Department Director. • <i>Reconciliation to replenish the petty cash fund reviewed by Accountant.</i> • <i>Periodic audit by Accounting</i>
Cash	Criminals could try to steal cash by altering or counterfeiting checks	<ul style="list-style-type: none"> • Daily verification of checks presented to the bank against town records in bank reconciliation module • <i>Positive pay protection with bank</i> • <i>Monthly bank reconciliation – review of cleared checks</i>

Area	Risk	Control Procedures
Cash	Criminals could try to steal cash by forging ACH draft	<ul style="list-style-type: none"> • Daily verification of ACH transactions processed by the bank against town records in bank reconciliation module
Cash	Employee could try to steal cash using blank check	<ul style="list-style-type: none"> • Check stock locked in fire proof cabinet – <i>finance vault</i> • Check stock is blank and sequentially numbered on back (control numbers) • System generates next sequential check number • <i>Accountant and/or Accounting Manager verifies beginning and ending control and check numbers at the time checks are printed</i> • Signatures are digitized and built into software module within the financial server. Access to the server is secured by IT staff and password protected.
Cash	Cash transaction could be recorded improperly, such as typo error or NSF check notification not received from bank	<ul style="list-style-type: none"> • Daily verification of checks and ACH transactions processed by the bank against town records in bank reconciliation module • <i>Positive pay protection with bank</i> • Employee who does not record any cash transactions performs daily and monthly bank reconciliations • All transactions are approved by the Finance Director or Assistant Finance Director prior to posting
Investments	Investment could be susceptible to theft	<ul style="list-style-type: none"> • Have contractual arrangement with third-party financially reputable custodial company to take delivery of investment before funds released to seller • Internal reconciliation of purchase and sale confirmations on monthly statement from custodian by employee other

Area	Risk	Control Procedures
		than those who authorize and execute transactions
Investments	Investments and/or related income could be improperly recorded	<ul style="list-style-type: none"> • Compare financial records with statements prepared by custodian • <i>Accounting staff complying with GASB guidance</i>
Investments	Investments not allowed under NC law could be purchased	<ul style="list-style-type: none"> • Adopted Investment Policy (<i>included in fiscal policies</i>) clearly identifying allowable investments • Authorization and execution of trades separated duties • <i>Periodic review of LGFCA NC GS 159</i> • Semi-annual report of investments to LGC
Revenues	Revenues could be improperly recorded or not received in their entirety	<ul style="list-style-type: none"> • Separated duties of billing and recording payments • Approval of all invoice transactions prior to posting in ledger • Daily bank deposits and recording revenue • Monthly outstanding balance reports to responsible Departments • <i>Monthly financial summary reports to Town Council</i> • <i>Monthly review and analysis of outstanding balances and reconciliation to sub-ledgers</i> • Write-off authorization limited to Town Manager and Finance Director
Debt	Debt could be issued improperly	<ul style="list-style-type: none"> • All debt authorized by Town Council under auspices of LGC (if required)

Area	Risk	Control Procedures
Debt	Debt service could be under-paid or inadvertently missed	<ul style="list-style-type: none"> • Annual schedule of debt service corroborated with LGC and Trustee • Trustee notifies Finance Director if sufficient funding is not remitted • Monthly monitoring of budget to actual results
Debt	Outstanding debt could be misreported in financial statements	<ul style="list-style-type: none"> • Annual schedule of debt service corroborated with LGC and Trustee • Accounting staff aware of disclosure checklists and requirements • Monthly monitor budget to actual results
Debt	Violation of debt covenants	<ul style="list-style-type: none"> • Management aware of provisions of financing agreements • Allowable ratio computed annually and included in notes to financial statements • Annual review of provisions to ensure that there were no violations
Expenditures	Unauthorized or unavailable funds could be expended	<ul style="list-style-type: none"> • Board-approved budget entered into accounting software • Encumbrance module automatically prevents encumbrance if funds unavailable in line item • Invoices must be approved for payment by authorized Department Director or designee and respective Finance department designee • All AP transactions in batch are <i>reviewed and</i> approved prior to posting in the accounting software

Area	Risk	Control Procedures
		<ul style="list-style-type: none"> • <i>Approval of accounts payable transactions is driven by security level in accounting system</i> • <i>Purchase Order required for expenditures greater than \$2,500</i> • <i>Contracts are pre-audited by Finance Director, Assistant Finance Director, Accounting Manager and/or and Purchasing Manager</i> • <i>Monthly review by Budget Department and Finance Director of budget to actual expenditures by department and line item</i>
Expenditures	Incorrect amounts could be recorded or correct amounts omitted	<ul style="list-style-type: none"> • <i>Open PO report distributed quarterly to Department Directors to obtain authorization to close or liquidate Purchase Orders with open balances</i> • <i>Department Directors review monthly budget-to-actual expenditure reports and detail transaction reports</i> • <i>AP transactions are reviewed and approved prior to posting in the accounting software</i> • <i>Approval of accounts payable transactions is driven by security level in accounting system</i> • <i>Monthly review by Budget Department and Finance Director of budget to actual expenditures by department and line item</i>
Capital Assets	Capital Assets purchased could be incorrectly omitted from financial records	<ul style="list-style-type: none"> • <i>Open PO report distributed quarterly to Department Directors to obtain authorization to close or liquidate Purchase Orders with open balances</i> • <i>Department Directors review monthly budget-to-actual</i>

Area	Risk	Control Procedures
		<p>expenditure reports and detail transaction reports</p> <ul style="list-style-type: none"> • AP transactions are approved prior to posting in the accounting software • <i>Finance Director, Assistant Finance Director, Accounting Manager and Budget Department along with external auditors carefully examine expenditures posted to repairs & maintenance account and other large expenditures</i> • Physical inventories taken every other year with unique asset identifier reconciling GL with subsidiary fixed asset module • <i>Finance reviews quarterly capital asset and updates accounting module</i>
Capital Assets	Capital assets no longer in service inadvertently left on financial records and/or impairment not properly disclosed	<ul style="list-style-type: none"> • Physical inventories every 3 to 5 years with departmental staff • Annual review of capital asset records in software against automobile and property insurance schedules
Capital Assets	Assets could be lost due to theft, employee error or casualty	<ul style="list-style-type: none"> • Adequate property and liability coverage maintained • Buildings and storage areas locked after hours • <i>Physical inventories every 3 to 5 years with departmental staff</i> • <i>Security systems and cameras installed at various locations</i> • <i>Inventory listing of items less than capital asset threshold are maintained by various departments</i>
Inventory	Items could be stolen or removed from storage and not properly recorded	<ul style="list-style-type: none"> • Buyer/Inventory Clerks record reductions in inventory through issue ticket process

Area	Risk	Control Procedures
		<ul style="list-style-type: none"> • <i>Issue tickets approved by Purchasing Manager before posting in system</i> • <i>Purchasing Manager or designee releases items</i> • <i>Storage area locked during absence of warehouse staff</i> • <i>Purchasing staff performs annual inventory counts.</i> • <i>Discrepancies between ledger and actual inventory amounts are investigated</i>
Inventory	Items purchased not properly recorded in perpetual inventory system	<ul style="list-style-type: none"> • <i>Item numbers used on PO carry through in software module when recording receipt of items</i> • <i>Invoices approved by Purchasing Manager (or designee) and Accounting Manager prior to posting in accounting software</i> • <i>Purchasing Manager and staff performs inventory counts periodically</i> • <i>Discrepancies between ledger and actual inventory amounts are investigated</i>
Inventory	Value of items not properly recorded in financial statements	<ul style="list-style-type: none"> • <i>Invoices approved by Purchasing Manager (or designee) and Accounting Manager prior to posting in accounting software</i> • <i>Purchasing and Warehouse staff conduct annual physical inventory counts. Discrepancies between ledger and actual inventory amounts are investigated</i> • <i>Annual inventory identifies obsolete or damaged items</i>
Purchasing	Possible violation of state procurement laws	<ul style="list-style-type: none"> • <i>Purchasing staff attend continuing education</i> • <i>Adopted Purchasing policy and P-card policies in place</i>

Area	Risk	Control Procedures
		<ul style="list-style-type: none"> • Policy and procedure manual incorporate legal mandates • Annual review of purchasing limits and delegations of authority to purchase and contract with Department Director
Purchasing	Risk of not getting best value for taxpayer dollars	<ul style="list-style-type: none"> • Follow formal and informal bid procedures in policy based on state law and best practices • Frequent RFPs and bidding for repeat or continuing contracts • Use Cooperative Purchasing groups and discount programs such as U.S. Communities as well as State Contract
Payroll	Pay persons who are not town employees	<ul style="list-style-type: none"> • New hire and termination forms are authorized by Human Resources, Finance Director and Town Manager prior to receipt by Payroll • Timesheet submission required for all employees except exempt employees (unless they have taken time off) • Each individual's time sheet per pay cycle approved by respective Departmental Supervisor prior to posting • Budget to actual monthly expense report to Department Heads • Monthly review of budget to actual expenditures by Finance Director • <i>Email notification received from Human Resources when employees separates from the town</i>
Payroll	Amounts paid and/or deducted are incorrect	<ul style="list-style-type: none"> • Payroll file is maintained to document current pay rates and all deductions

Area	Risk	Control Procedures
		<ul style="list-style-type: none"> • Payroll Audit Checklist utilized to verify expected to actual pay, benefits and deductions for each pay run • Periodic audit of payroll file to verify rates and deductions • <i>Direct deposit notices distributed with detail for employee verification</i>

3. *Monitoring Internal Controls.* On a periodic basis, the Finance Director or designee will monitor the effectiveness of these controls and propose any modifications as indicated. Also, any malfunctioning of internal controls discovered by external auditors will be immediately investigated by the Finance Director and appropriate remedial action will be taken and documented.
4. *Misuse of Town of Apex Assets.* Any employee who suspects or becomes aware of the misuse or potential misuse of Town of Apex assets shall immediately notify the Finance Director. If the Finance Director is involved in the misuse or potential misuse, the employee shall immediately notify the Town Manager. The Finance Director and/or Town Manager, as appropriate, shall investigate and report to respective Department Director and/or Human Resources if additional action is required.

Authority: North Carolina General Statutes 159-25(a)(1) charges the Finance Officer with keeping the books of the government “in accordance with generally accepted principles of governmental accounting and the rules and regulations of the [Local Government] Commission. Statements on Auditing Standards (SAS) Numbers 55, 94, and 112 provide authoritative guidance for establishing and managing internal controls, and the North Carolina State Treasurer’s Manual prescribes internal control functions.

Definitions:

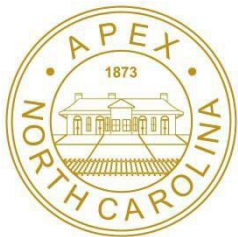
- **Management** refers to employees who have direct responsibility for the day-to-day operations of the entity, including the implementation of internal controls.
- **Oversight Body**, as referenced in the Government Accountability Office’s Standards for Internal Control in the Federal Government, refers to an appointed body designated to perform oversight at the direction of the governing board.

Reference Materials:

Miller 2002 GAAS Guide
Standards for Internal Control in the Federal Government issued by the United States General Accounting Office

Evaluating Internal Controls: A Local Government Manager's Guide by Stephen J. Gauthier, published by GFOA
NC Department of State Treasurer Policies Manual—Internal Controls Chapter
GFOA Recommended Practice—Enhancing Management Involvement with Internal Control (2004)

DRAFT



**TOWN OF APEX TOWN COUNCIL
RESOLUTION ADOPTING THE INTERNAL
CONTROL POLICY FOR THE TOWN OF APEX
RES-2025-_____**

WHEREAS the Town of Apex has not previously adopted an internal control policy;
and

WHEREAS internal control is a process which is designed by an entity's management to provide reasonable, but not absolute assurance regarding the achievement of organizational objectives in the categories of 1) reliability of financial reporting; 2) effectiveness and efficiency of operations; and 3) compliance with applicable laws and regulations; and

WHEREAS the internal control policy documents how management has fulfilled their responsibility for implementing and maintaining a sound, comprehensive framework of internal control. Internal controls are vital for identifying and addressing major performance and management challenges along with areas at greatest risk of fraud, waste, abuse, and mismanagement.

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Apex, that the Internal Control Policy is hereby approved effective January 14, 2025.

ADOPTED, this the _____ day of _____ 2024.

Jacques K. Gilbert
Mayor

Attest:

Allen Coleman, CMC, NCCCC
Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Amanda Grogan, Director

Department(s): Budget and Performance Management

Requested Motion

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

Approval Recommended?

Yes

Item Details

It has been the custom of the Apex Mayor and Town Council to hold a Public Hearing in advance of the preparation of the proposed Annual Budget so that comments and suggestions of residents can be considered while the budget document is formulated.

This Pre-Budget Hearing will be advertised on the Town's website, social media and posted in the lobby at Town Hall by the Town Clerk's Office.

Residents who wish to submit comments in advance of the meeting (or even after) may do so in writing through two options:

A) Written Comments through United States Postal Mail

Town of Apex | Office of the Town Clerk

Post Office Box 250, Apex NC 27502

B) Written Comments through Email

annual.budget@apexnc.org,

ALL comments received will be forwarded to the Mayor and Town Councilmembers.

Attachments

- None



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Mary Beth Manville, Director

Department(s): Human Resources

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Town's Vacation Leave: Payment upon Separation policy is being updated to reflect a past practice of rolling any remaining vacation leave into the separating employee's sick leave balance.

The Town's Retiree Health Insurance policy is being updated to accommodate retirees who reside in a state that does not offer the same Medicare supplement plan that the Town provides to other post-65 retirees. With the update, the Town would work with its Benefits Consultant to identify a plan with the most comparable coverage that could be provided to the retiree.

These updates were presented and approved by the Personnel Committee at the December 6, 2024 Personnel Committee Meeting. The updated language being proposed is highlighted below in red.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed thirty (30) days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. **Any remaining vacation hours above the maximum will be rolled to the employee's sick leave balance.**

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager or their designee when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation subject to the thirty day maximum.

Section 3. Retiree Health Insurance Employees hired prior to July 1, 2020

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System (NCLGRS) may elect to retire and receive all benefits earned under the retirement plan. An employee who retires directly from the Town with 15 years of Town service may elect to continue on the Town's group health insurance plan if requested within 30 days of the retirement date. The retiree may continue dependent coverage (and pay the cost of this coverage) if enrolled in dependent coverage at the time of retirement. The Town will subsidize the cost of the health insurance premiums for the retiree as follows:

15* years of service: 50% subsidy

20* years of service: 75% subsidy

25* years of service: 100% subsidy

**Unused sick leave counted by the NCLGRS as creditable service time will count in determining total years of Town service.*

When a retiree reaches age 65, the retiree enrolls in Medicare Part A and B and pays the cost. The Town provides Medicare supplement insurance for the retiree and subsidizes the cost of the Medicare supplement (as shown above) not to exceed the Town's monthly premium contribution toward employee health insurance coverage. **If the Town's Medicare plan is not available in the retiree's residing State, a plan with the most comparable coverage, as identified by the Town, will be offered.**

Employees who were hired prior to July 1, 2020 and separate from Town service will forfeit this benefit unless re-hired with the Town into a benefits eligible position within 2 years of the separation date, at which point previous service years will count towards overall service with the Town for the purpose of this benefit.

Employees who separate from service and are re-employed 2 or more years later will be considered a new hire and will not be eligible for the retiree health insurance benefit.

Employees hired on or after July 1, 2020

Employees hired on or after July 1, 2020 are not eligible for retiree health insurance.

Attachments

- CN12-A1: Town of Apex Personnel Policies – Vacation Leave Max Payout and Retiree Insurance



TOWN OF APEX
PERSONNEL POLICY
August 13, 2024

BE IT RESOLVED by the Town Council of the Town of Apex that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of Apex.

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

This policy manual is designed to acquaint all employees with the Town of Apex rules and regulations set forth to establish a fair and uniform system of personnel administration and to provide information concerning working conditions, employee benefits, and some of the policies affecting Town employment.

Employees shall understand and comply with all provisions of this manual. If an employee is unclear of the meaning or purpose of a policy, he or she should seek assistance from a supervisor, Director of Human Resources for clarification or interpretation. The policy manual describes many responsibilities of an employee and outlines the programs the Town has developed to benefit our employees. One of our Town objectives is to provide a work environment that is conducive to both personal and professional growth.

No policy manual can anticipate every circumstance or question about every one of our policies. Furthermore, there may be situations where the need arises to revise, add, or cancel policies. Therefore, the Town reserves the right to add new policies, and to change or cancel existing policies at any time.

Employment by the Town of Apex is “at-will” employment. Employment-at-will permits the employee or the Town to end the employment relationship at any time. Nothing in this policy creates an employment contract or term between the Town and its employees. This policy is established under authority of Chapter 160A, Article 7 of the General Statutes of North Carolina. The Town’s Human Resources Department will notify employees of any changes to the policies as they occur.

Section 2. Responsibilities of the Town Council

The Town Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the general statutes.

Section 3. Responsibilities of the Town Manager

The Town Manager shall be responsible to the Town Council for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove all Town officers and employees except attorneys providing legal advice to the Town Council and those elected by the people or whose appointment is otherwise provided for by law. The Town Manager shall make appointments, dismissals and suspensions in accordance with the Town Charter and other policies and procedures spelled out in other Articles in this Policy.

The Town Manager shall:

- a) recommend rules and revisions to the personnel system to the Town Council for consideration;
- b) make changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) determine which employees shall be subject to the overtime provisions of FLSA;
- e) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- f) perform such other duties as may be assigned by the Town Council not inconsistent with this Policy.

Section 4. Responsibilities of the Human Resources Director

The responsibilities of the Human Resources Director are to make recommendations to the Town Manager on the following:

- a) recommend rules and revisions to the personnel system to the Town Manager for consideration;
- b) recommend changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) recommend which employees shall be subject to the overtime provisions of FLSA;
- e) maintain a roster of all persons in the municipal service
- f) establish and maintain a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- h) develop and coordinate training and educational programs for Town employees;
- i) investigate periodically the operation and effect of the personnel provisions of this policy; and
- j) perform such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

Section 5. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be applicable to all Town employees, unless otherwise noted. The Town Manager, Town Attorney, members of the Town Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 6. Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the Town, each department is authorized to establish supplemental written rules and

regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Town Manager or their designee, except the rules for the Legal Department which are approved by the Town Attorney, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. A copy of the approved supplemental departmental rules shall be provided to the Human Resources Department and all employees of said department.

Section 7. Definitions

For the purposes of this policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Full-time employee. An employee who is in a position for which an average work week equals at least 40 hours, and continuous employment of at least 12 months, are required by the Town.

Part-time, benefited employee. An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months are required by the Town.

Part-time, non-benefited employee. An employee who is in a position for which an average work week of less than 20 hours and continuous employment of at least 12 months are required by the Town.

Regular employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

Probationary employee. An employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period.

Temporary/Seasonal employee. An employee who is hired to work up to 40 hours per week for a limited period of time. Generally, term of employment does not exceed one year.

Trainee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

Intern. A status that enables students (or persons new to a field of study) to gain practical knowledge of their particular occupational area of interest through service with the Town.

Regular position. A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All town positions are subject to budget review and approval each year by the Town Council and all employees' work and conduct must meet town standards. Therefore, reference to "regular" positions or employment should not be construed as a contract or right to perpetual funding or employment.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

The position classification plan provides a complete inventory of all authorized and permanent positions in the Town service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities qualifications needed, and other required factors.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Human Resources Director shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend appropriate changes to the Town Manager.

Section 5. Authorization of the Position Classification Plan

The position classification plan shall be approved by the Town Council and on file with the Human Resources Director. Copies will be available to all Town employees for review upon request. New positions shall be established upon recommendation of the Town Manager or designee and approval of the Town Council after which the Town Manager, assisted by the Human Resources Director, shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated.

New classifications may be created mid-year without Town Council approval if the fiscal year's authorized FTEs and budget are not exceeded; however, the new classification must be presented to and approved with all other classifications by Town Council during the following budget process.

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request to the Department Head. The Department Head shall share the request with Human Resources, to determine the merit of the request and whether the position shall be studied out-of-cycle and during the next scheduled position study.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the "Position Classification Plan" adopted by the Town Council. The pay plan consists of ranges for minimum to maximum rates of pay for all classes of positions.

Section 2. Administration and Maintenance

The Town Manager, assisted by the Human Resources Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan. Employees whose salaries reach the maximum of that grade will be paid in lump sum bonuses for any pay increases awarded.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, the Town Manager shall request the Human Resources Director to make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades as long as the fiscal year budget and authorized FTEs are not exceeded. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the Town Manager shall recommend such changes in salary grades as appear to be warranted to the Town Council. The Town Council shall adopt the Pay Plan and Position Classification Plan, including any minor adjustments made by the Town Manager during the previous budget year, annually as part of the budget process.

Section 3. Starting Salaries

All persons employed in positions approved in the position classification plan shall be employed no lower than the minimum salary for the classification in which they are employed. Candidates that exceed the education and experience identified on the class specification may be employed above the minimum and up to the market rate of the established salary range. Offers that exceed the market rate require approval of the Human Resources Director or their designee.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred to a "trainee" status. In such cases, a plan for training, including a time

schedule, must be prepared by the Department Head. "Trainee" salaries shall be one or (no more than) two grades below the minimum salary established for the position for which the person is being trained. A new employee designated as "trainee" shall concurrently serve a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the Town, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

Section 5. Merit Pay

Employees may be considered for advancement within the established salary range based on the quality of their overall performance. Guidelines for determining performance levels and performance pay increases shall be established in procedures recommended by the Human Resources Director and approved by the Town Manager.

Section 6. Merit Pay Bonus

Employees who are at the top of the salary range for their position classification are eligible to be considered for a merit bonus at the time of their regular performance review date. Merit bonuses are awarded based on the performance criteria set in the performance pay matrix established each year. Merit bonuses are awarded in lump sum payments and do not become a part of base salary.

Section 7. Merit Pay Eligibility

Employees in regular positions are eligible to receive merit pay if they have been employed in the same position for the entire year. Merit pay is pro-rated for any employee who is out of work on any combination of paid and unpaid leave for greater than 12 weeks. New Employees are eligible to receive merit pay if they are hired before March 1 in the performance year. Merit pay is prorated for new employees based on the number of months as an active employee during the annual review period.

Temporary/seasonal Employees who are promoted to a regular position are also eligible for merit pay, pro-rated based on the number of months in the regular position during the annual review period. Employees who vacate a full-time position for a Temporary/seasonal position are considered to have been "separated" for purposes of merit, and are therefore not eligible for merit pay.

Employees promoted, transferred or demoted into different positions by March 1 are eligible

for merit pay, awarded at the same time as the rest of the Town. Position changes that occur on or after March 1 will be eligible for merit pay after 6 months in the position. In either of these circumstances, employees will be eligible for full merit pay (not pro-rated), as long as the employee has served in a regular position for the entire annual review period.

Section 8. Career Progression Pay Increases

The Town Manager may approve the use of an established career development ladder and associated schedule of salary increases, either provided as in-range salary adjustments or as a promotion to a different position classification. Career progression increases recognize and reward employees for attaining and maintaining a higher level of skill, knowledge, training and certification which provide added value to the Town.

The Human Resources Department will maintain a copy of the approved career development ladders and associated pay progressions established for Town positions.

Section 9. Special Salary Adjustments

Once a year, the Town Manager may adjust an employee's salary if the employee has taken on added responsibilities that may not warrant a positions reclassification, but which increase the responsibility and complexity of the employee's work, or to establish equitable salary relationships. A justification for each adjustment will be documented in the employee's personnel file and may not exceed 10% of the employee's current salary.

Salary adjustments are not intended to be used as counter-offers to allow employees who get job offers to be rewarded for seeking new jobs while other employees have remained committed to Town employment. Special salary adjustments will become effective the first full pay period after approval, unless otherwise specified.

Section 10. Salary Effect of Promotions, Demotions, Laterals, Transfers, and Reclassifications

Interim Promotions. Interim promotional increases may be approved by the Town Manager or their designee when an employee is anticipated to be in an "acting" capacity assuming the majority of the position's responsibilities for greater than two consecutive pay periods. Upon completion of the interim assignment, the employee's salary will revert to the salary that it would have been had the acting increase not occurred.

Promotions. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range.

The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility; however, if such action would create internal inequity within that classification, the salary shall be set appropriate to the employee's qualifications for the job in relationship to other employees in the same classification.

Demotions. When an employee is demoted to a position for which qualified, the salary may be set at the rate in the lower pay range which provides the smallest decrease in pay if action is not for cause or voluntary. If the current salary is within the new range, the employee's salary may be retained at the previous rate. If such action would create internal inequity within that classification, the salary shall be set appropriate to the employee's qualifications for the job in relationship to other employees in the same classification.

If the demotion is for cause (disciplinary), the salary shall be decreased by a minimum of at least approximately 5%, or to the maximum of the new range if that is a greater decrease.

Lateral Transfers. For non-competitive lateral moves or reassignments, there will normally be no change in salary. For a lateral move into a competitively recruited position, a salary increase may be granted based on the qualifications of the employee and the requirements of the position.

Reclassifications. An employee whose position is reclassified to a higher salary grade due to a change in the labor market will receive a pay increase according to guidelines established by the Human Resources Department and Town budget availability.

If a position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary. An employee must be meeting performance expectations to receive a pay increase based on position reclassification

An employee whose position is reclassified due to significant job duty changes, such as taking on a supervisory role, or added responsibility for a major function at a higher level of responsibility which changes the employee's role, will be handled as a Promotion in accordance with the guidelines for promotional increases. A reclassification of this type typically results in a salary grade change of 2 or more grades.

Special Assignment. An employee may be eligible for special assignment pay if assigned to a duty of greater than 30 days where the duties differ significantly from those duties typical in the employee's normal job classification, or when the duties are increased significantly due to the additional assignment (such as serving as training officer for a new Police recruit.) The assignment pay increase amount may vary depending on assignment, but typically will not exceed of 5% and does not change the employee's classification or salary grade. Assignment pay is rescinded upon the expiration of the special assignment, unless otherwise stated in departmental policies.

Section 11. Salary Effect of Salary Range Adjustments

The Town's salary ranges will be evaluated annually to determine if adjustments are needed for inflation or other competitive pay purposes. Any recommended salary adjustments will be presented to Town Council for approval as part of the annual budget process. Approved adjustments will be effective the first full pay period of the fiscal year, or as determined by Council as part of the budget approval.

If, as a result of adjusting the salary ranges, the salary of an employee falls below the minimum of the adjusted pay range, that employee's salary will be increased to the minimum of the pay range.

Employees whose salaries remain within the adjusted pay range may receive an increase up to the amount of the pay range adjustment, based on Town budget availability and Council approval.

Section 12. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary schedule; all employees not at a listed rate shall have their salaries raised to a listed rate.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 13. Effective Date of Salary Changes

Salary changes shall become effective as of the effective date of the change that warranted the salary adjustment, or at such specific date as may be provided by procedures approved by the Town Manager or their designee.

Section 14. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work overtime hours as necessitated by the needs of the Town and determined by the Department Head.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period; 171 hours for police and 212 for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered. In no event will vacation, sick leave or holidays be included in the computation of hours worked for overtime compensation.

The Town prefers for employees to take comp-time at the appropriate rate wherever possible, as this reduces the budget impact to the Town. However, employees who have worked more than 40 hours in the workweek (171 hours in a 28-day cycle for non-exempt sworn law-enforcement officers and 212 in a 28-day cycle for firefighters) may receive paid overtime wages if approved in advance by their supervisor, and based on budget availability. In all cases, if the method for compensating overtime changes, the employee shall be made aware of the change prior to working the overtime. Compensatory leave balances may not exceed 100 hours at any time; however, departments may enforce a lower comp-time balance threshold, if needed, for budget related reasons. Employees must use compensatory leave time in advance of using accrued vacation leave to account for time off.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA.

Non-exempt employees will be compensated for any remaining balance of compensatory time upon separation from the organization. Requests to 'cash in' earned compensatory time while employed are not allowed; however, the Town reserves the right to pay out or pay down comp balances at any time.

Employees are required to report any time in which they have worked but may not have been compensated; however, authorization to work overtime should be approved prior to working the extra hours; failure to do so may result in disciplinary action.

Employees in positions determined to be "exempt" from the FLSA will not receive pay for hours worked in excess of their normal work periods. These employees may be granted "professional leave" on an hour-for-hour basis, as approved by the Department Head. Exempt employees may not exceed a balance of 40 "professional" leave hours. Such leave time is not guaranteed to be taken and will not be compensated for any remaining hours upon separation from the organization.

The Town intends to make deductions from the pay of exempt employees only for authorized reasons as allowed under the Fair Labor Standards Act, and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper should notify their supervisor and the Human Resources Director who will promptly investigate the concern. If

the deduction is found to be improper the Town will reimburse the employee for lost pay and take corrective action to ensure that such deductions do not occur again.

In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time and one half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Section 15. Call-back and Stand-by Pay

The Town provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

Stand-by Status – A non-exempt employee who is on “stand-by” status and is required to remain on Town premises, or so close to the Town's premises that the employee cannot use the time effectively for his own purposes, is considered to be working and all hours are compensable under the FLSA as “engaged to wait.”

On Call Status – Non-exempt employees who are required to remain “on call” but are otherwise able to lead their normal off duty activities will not be compensated for time spent in on-call status. Under the FLSA, this type of situation is defined as “waiting to be engaged.” Although the employee is not limited in where and how they spend their time, they must carry a cell phone or pager and remain available with a professional demeanor in the event they are called back to respond to a critical situation. Employees are required to respond to the call back request within 10 minutes and must arrive at the designated work site of the emergency within 1 hour (or other agreed upon time, as approved by the supervisor) from the time the call was made.

On Call Pay – Non-exempt employees required to be “on-call” will be paid 1.25 hours per day, not to exceed 8 hours a week.

Call-back Pay – When employees are called back to work outside of normal working hours, compensation will be provided for a minimum of 2 hours if the completion of the task(s) is less than two hours. Tasks performed over 2 hours will be compensated for the actual time worked.

Note: Additional calls that are received while responding to the initial call are not subject to the 2 hours minimum rule. A new 2 hour minimum only applies if the employee returns home and is then called away from home an additional time.

For non-exempt employees, compensable time in call back duty begins when the person leaves home and ends when the person returns home. If the employee does not go directly home after

the call back, the normal travel time from the employee's residence to the applicable department building shall be added to the time when the employee left home originally plus the hours worked during the call back. For the purposes of overtime, hours worked when responding to a call will be handled in accordance with the Fair Labor Standards Act.

Employees who are able to respond to calls from home (are not required to leave home or return to work to resolve the issue) will receive a minimum of one hour for responding to calls outside of normal working hours. Tasks performed over one hour will be compensated for the actual time worked. Additional calls that come in during the initial hour are not eligible for the minimum hour compensation, but will be included in total time worked for the employee.

Failure to be available for callback or failure to report to the duty station when called back to work may constitute insubordination and may be subject to disciplinary action. Employees who are assigned to positions that are subject to be called back but are unable to report due to legitimate environmental conditions or situations outside of their control, shall immediately contact their supervisor to inform them of the situation and to provide documentation of their circumstances. Based on the circumstances surrounding the individual situation, the Department Head, in consultation with the Human Resources Director, shall have discretion in deciding any further course of action.

Employees who hold positions that are classified as exempt from the provisions of the Fair Labor Standards Act are not eligible for call back pay.

Section 16. Fee-based Pay

Employees who offer a specialized Town service after normal working hours may be eligible for fee-based pay provided that the after-hours work generates a fee large enough to reimburse the full personnel costs of the service in addition to providing revenue to the Town. Fee-based pay rates may be set by the Town Council upon approval of the specialized Town service. Employees are not eligible for fee-based pay for work done during the Town's normal operating hours.

Section 17. Special Event Pay

Special Event Pay is provided to non-exempt employees who are required/volunteer to work in a special event that occurs outside of their regularly scheduled work hours within the same week of a pay period that the Town observes a holiday in which Town offices generally are closed. Administration will provide an annual calendar designating which special events qualify for Special Event Pay.

For non-exempt Fire and Police employees, Special Event Pay is provided when employees work in a special event that occurs outside of their regularly scheduled work hours within the same two-week pay period that the Town observes a holiday in which Town offices generally are closed.

For the purposes of this policy, if a non-exempt employee has completed a full work shift on the same day as an event and also works the event afterward, the event is considered to be outside of their regular schedule as referenced above.

Special Event Pay provides pay at 1.5 times the employee's hourly rate. Special event pay is for hours worked on an employee's regular day-of-rest, Saturday, Sunday, or "special days" and is therefore not subject to overtime hours/calculations and cannot be treated as compensatory time.

Hours worked in special events not designated on the Special Event Pay calendar will be addressed under regular Fair Labor Standards Act (FLSA) regulations, including eligibility for overtime compensation or compensatory time. Use of flexible schedules is encouraged, when possible, to allow employees the benefit of time off that would otherwise not be realized due to working a special event.

Exempt employees who work special events may either flex their schedules or accrue professional time per the personnel policy.

Section 18. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Town Manager or their designee as to capability of payroll equipment and appropriateness of the deduction.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

It is a violation of Town policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona-fide complaint under the this policy or who participates or assists in any EEOC, OSHA or other internal or external investigative processes protected by law.

Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, Department Heads shall notify Human Resources concerning the number and classification of positions that are to be filled. Human Resources shall publicize these opportunities for employment, including applicable salary information and employment qualifications. It is the general practice that information concerning job openings and hiring practices shall be provided to recruitment sources, including organizations and other media available to ensure a diverse pool of applicants. In addition, notices of vacancies shall be posted on the Town website. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. The local Department of Employment Security office may be notified of job

vacancies and may be used as a referral source. A vacancy may be filled using only internal recruitment to provide opportunities for qualified Town employees. In rare situations (because of emergency conditions, high turnover, lack of qualified applicants, etc. or where previous town experience is essential or exceptional qualifications of an internal candidate so indicate), the Town may hire or promote without advertising jobs, upon approval of the Town Manager or their designee.

Job Advertisements. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant.

Application Reserve File. Applications shall be kept in an inactive reserve file for a period of two years, in accordance with the records retention schedule issued by the N.C Division of Archives and History.

Screening. The Human Resources Department shall oversee the process for screening applications for employment and selecting a pool of candidates for further consideration.

Selection. Hiring Supervisors shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the Town shall be valid measures of job performance.

Appointment. Before any commitment is made to an applicant, either internal or external, the Hiring Supervisor shall make recommendations to Human Resources including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates.

Temporary/Seasonal Employee Appointments. Department Heads may recruit and hire temporary/seasonal employees without the approval of the Human Resources Director and Town Manager provided that the temporary/seasonal employee is not a relative of a regular employee (as defined in the Town's "Employment of Relatives" policy) and the wages for the temporary/seasonal employee are included in the department's budget. Department Heads are responsible for ensuring that the average workweek of a temporary/seasonal employee does not exceed 20 hours per week unless the temporary/seasonal assignment is less than 12 months in duration. The Human Resources Department will assist with recruitment efforts when necessary to fill on- going temporary/seasonal assignments.

Section 4. Probationary Period

All new employees or employees promoted to a regular position shall serve a probationary period. Employees shall serve a six-month probationary period, except that sworn police and fire personnel shall serve a twelve-month probationary period. During the probationary period,

supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of three additional months.

While an employee is on probationary status, he/she is not eligible to apply for other positions within the Town, except in matters of direct placement, or with the Town Manager's approval.

While serving on probationary status, all new full and part time employees shall receive all benefits provided in accordance with this Policy (any mandatory waiting periods will apply), but shall not be entitled to utilize the complaint resolution procedures established by this Policy.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without stating a reason and without following the steps outlined in this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted employees retain all other rights and benefits such as the right to use of the complaint resolution process.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position.

The Town Manager has the authority to make a direct internal promotion, especially where previous town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate; however, in most cases, the Town will consider both external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this policy.

Disciplinary demotions are not subject to “save pay” or “save grade” adjustments. Reassignment to a lower grade or lower pay position is a part of the disciplinary action and therefore there is no intent to retain or protect the employee’s previous pay or grade.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process.

A Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager, or their designee, with the consent of the receiving Department Head. Any employee transferred without requesting the action may ask for a review of the action in accordance with the complaint resolution process outlined in this policy.

An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

Department Heads shall establish work schedules that meet the operational needs of the department in the most cost effective manner possible. All schedules must be approved by the Town Manager, or their designee, and will be in accordance with the Fair Labor Standards Act.

Section 2. Meal Periods and Rest Breaks

The work schedule of fulltime employees should normally include a meal break of a minimum of 30 minutes to provide the employee the opportunity to rest and eat during the workday. Meal breaks for employees who do not work in public safety are unpaid and the employee is free to leave the work premises.

Section 3. Lactation Breaks

A nursing mother will be provided with reasonable paid breaks during the work day for the purpose of expressing breast milk for her child. If the employee does not have a private office, the employee shall be provided with a private space (not a bathroom) in close proximity to the work area, where she can express milk in privacy.

Section 4. Attendance

An employee is expected to report to his/her workstation at the required time. If the employee is going to be absent or tardy, the employee must notify the supervisor with as much notice as possible, in accordance with department notice procedures. If the supervisor is unavailable, the employee should contact their Department Head or Human Resources, if the Department Head is not available.

Employees who are delayed and who have not notified their supervisor of their expected tardiness or absence for that day may be charged leave without pay for the period of their absence. Repeated absences, tardiness, and/or unapproved leave can result in disciplinary action, including termination.

Section 5. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d) Coerce or compel contributions from another employee of the Town for political or partisan purposes;
- e) Use any supplies or equipment of the Town for political or partisan purposes; or
- f) Be a candidate for nomination or election to office for the Town of Apex;

Any violation of this section shall subject the employee to disciplinary action including dismissal.

Section 6. Secondary Employment

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head will review such employment for possible conflict of interest and decide whether to approve the work.

Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

Secondary employment is not permitted when it:

- Creates either directly or indirectly a conflict of interest with the Town, or
- Brings discredit to the Town or conflicts with the Town's goals, mission, or vision, or
- Impairs the employee's ability to perform all expected duties, and/or the ability to make decisions and carry out in an objective view the duties and responsibilities of the Town.

No regular, full-time employees are permitted to work in other departments within the Town.

Special exceptions to the rules above may be made, with the approval of the Town Manager, when deemed to be in the best interest of the Town.

Approval for secondary employment may be withdrawn at any time if it is determined that secondary employment has an adverse impact on primary employment. Secondary Employment arrangements should be reviewed annually for approval.

Section 7. Expectation of Ethical Conduct

Successful business operation and reputation of the Town of Apex is built upon the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity. Continued success of the Town of Apex is largely dependent upon the public's trust, which we are dedicated to preserving. Employees owe a duty to the Town of Apex, the public, and Council members to act in a way that will merit the continued trust and confidence.

The Town of Apex will comply with all applicable laws and regulations. All employees are to conduct Town business in a professional manner and in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct. All Town employees are to be treated with dignity and respect. In general, the use of good judgment, based on high ethical principles, will guide employees with respect to acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the employee should seek advice and consultation by discussing the matter openly with his/her immediate supervisor and, if necessary, with the Human Resources Department. Compliance with this policy is the responsibility of every Town of Apex employee. Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including possible termination of employment.

Section 8. Conduct and Working Environment

Employees are expected to conduct themselves in an appropriate manner as judged by a reasonable person.

The Town encourages a congenial work environment of respect and professionalism. Decorum, collegiality, kindness, respect, and professional courtesy are ideals to be pursued amongst employees.

Disrespectful conduct or actions are prohibited. This prohibition includes but is not limited to intentional acts such as:

- Verbal abuse: slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks
- Physical abuse: pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property
- Hostile Gestures: non-verbal threatening gestures
- Exclusion: socially or physically excluding or disregarding a person in work-related activities
- Persistent singling out of one person

- Shouting and/or yelling at an individual in public and/or in private
- Personal insults and use of offensive nicknames
- Deliberately interfering with mail and other communications
- Spreading rumors and gossip regarding individuals
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave
- Using intimidation tactics and making threats
- Sabotaging another's work
- Stalking others
- Making malicious, false, and harmful statements about others or the Town
- Publicly disclosing another's private information (outside of public records law requirements)
- Fraud
- Falsification of records for personal profit

Any of the above actions, or conduct that is otherwise deemed as bullying or discriminatory, will not be tolerated and will be handled in accordance with Article IX. Unsatisfactory Job Performance and Detrimental Personal Conduct.

Section 9. Use of Town Time, Equipment, Supplies and Vehicles

Town supplies and equipment are to be used for the Town's business. During working hours, employee personal use must be restricted to occasional use that does not interfere with the conduct of Town business. Personal use should be limited to personal time (breaks, after hours) and personal use of the phone, internet and e-mail on Town time must be kept to a minimum. Supervisors are expected to monitor the extent of personal use of these assets during regular working hours. For more information regarding appropriate use of Town supplies and equipment, please refer to the Town's Information Technology Policy.

Employees are responsible for assuring the security of Town confidential material in their possession and similarly maintaining the security of Town-provided equipment.

Town employees are required to report time worked in the Town's time & attendance system. Time claimed as "work time" shall accurately report actual time and physical attendance. Failing to accurately report time worked will be deemed as waste, fraud, and abuse and will be subject to disciplinary action.

All employees who use Town vehicles are required to follow applicable motor vehicle and safety requirements. Violation of Town vehicle policies or misuse of Town vehicles also subjects the employee to disciplinary action, up to and including dismissal.

Section 10. Employment of Relatives

The Town prohibits the hiring and employment of immediate family members or domestic

partners (as defined herein) into any regular full or part-time position within the same work unit or department, or to any temporary/seasonal position in the same work unit or department, unless the temporary/seasonal position is either short-term in duration or only involves occasional and sporadic work. "Immediate family" shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

The Town also prohibits the hiring and employment of any person who is an immediate family member of individuals holding the following positions: Town Manager, Assistant Town Manager, Finance Director, Town Attorney, or any members of the Human Resources Department.

Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- 1) result in a relative supervising relatives;
- 2) result in a relative auditing the work of a relative;
- 3) create a conflict of interest with either relative and the Town; or
- 4) create the potential or perception of favoritism.

The Town also prohibits the hiring and employment of an immediate family member of the Mayor or a Town Council Member. An immediate family member of an elected official may remain employed if hired prior to the official's election or appointment to office.

For purposes of this Section, "domestic partners" shall mean two individuals who have reached the age of majority and live together in a relationship of indefinite duration, with an exclusive mutual commitment (i.e., are not married to anyone else, do not have another domestic partner, and are not related by blood more closely than would bar their lawful marriage pursuant to the laws of North Carolina) in which the partners share the necessities of life.

Section 11. Job Related Discrimination and Workplace Harassment

The Town is committed to maintaining a work environment free of workplace harassment for its employees, customers and citizens. Town of Apex employees are prohibited from engaging in workplace harassment, which is defined as offensive and unsolicited speech or conduct that denigrates or shows hostility or aversion toward a person or group of persons because of such person's or persons' age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

The speech and conduct prohibited by this policy include, but are not limited to, any offensive and unsolicited speech or conduct based on age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status,

natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status (i) that has the purpose or effect of creating a hostile work environment (as defined below), or (ii) submission to which is made, either explicitly or implicitly, a term or condition of a person's (or group of persons') employment or is used as the basis for employment decisions affecting such person (or group of persons).

For purposes of this policy, workplace harassment shall be deemed to create a hostile work environment if the speech or conduct, taking into account all of the relevant circumstances, (i) is objectively severe enough or sufficiently pervasive enough to create a work environment that a reasonable person would find to be hostile or abusive, (ii) is perceived to be hostile or abusive by the complainant(s), and (iii) has the purpose or effect of substantially interfering with an employee's (or group of employees') work performance.

For purposes of this policy, workplace harassment because of a person's sex shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors, and other speech or conduct of a sexual nature when submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's employment, or is used as the basis for employment decisions affecting such person.

Each employee is responsible for creating an atmosphere free of discrimination. Employees are responsible for respecting the rights of their coworkers.

If an employee experiences any job-related discrimination or harassment based on age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status, or if an employee believes to have been treated in an unlawful, discriminatory manner or have been unlawfully harassed, the incident should be promptly reported to the supervisor. If the employee believes it would be inappropriate to discuss the matter with his/her supervisor, the incident should be reported directly to the Department Head or the Human Resources Department. Once made aware of the complaint, the Town is committed to commence an immediate, thorough investigation of the allegations. Complaints will be kept confidential to the maximum extent possible.

If, at the completion of the investigation, the Town determines that an employee is guilty of discriminatory or harassing behavior, appropriate disciplinary action will be taken against the offending employee.

The Town prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in the complaint investigation. However, if, after investigating any complaint of unlawful discrimination, the Town determines that any employee intentionally provided false information regarding the complaint, disciplinary action

may be taken against the one who gave the false information.

Violations of this policy shall constitute detrimental personal conduct pursuant to Article IX of the Town's Personnel Policies, and shall subject violators to disciplinary action, up to and including dismissal.

Section 12. Acceptance or Granting of Gifts and Favors

No employee of the Town shall accept any gift, favor, or thing of value which could appear to influence such employee in the discharge of the employee's duties, or generate the appearance of impropriety. Acceptance of any item regardless of perceived value must be reported to the Department Head with the exception of token gifts and trinkets, acts of generosity with nominal value given to a group of employees in appreciation, and corporate discounts provided to all public safety or Town personnel regardless of position. No preferential treatment or improper favor, service or thing of value may be conveyed or granted in the discharge of duties.

Section 13. Performance Evaluation

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file.

Guidelines regarding when and how performance evaluations are to be conducted are maintained by the Human Resources Department.

Section 14. Safety

Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for ensuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

The violation of safety rules may be considered detrimental personal conduct and can result in disciplinary action including suspension, demotion or dismissal. Examples of safety-related detrimental personal conduct include but are not limited to:

- Workplace Violence
- Dangerous use of Vehicle or Equipment (i.e. racing, use as a weapon)
- Horseplay resulting in Injury or Property Damage
- Purposely and Repeatedly not using PPE

- Possession and/or use of Drugs/Alcohol at workplace
- Entering Confined Space without using proper procedures

Section 15. Substance Abuse Policy

The Town may establish policies and procedures related to employee substance abuse in order to ensure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations.

Section 16. Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Completed I-9 forms are maintained separately from the personnel file.

Section 17. Workers' Compensation and Return to Work

All employees of the Town are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Filing a Workers' Compensation Claim

Town of Apex Worker's Compensation claims are handled by Human Resources. All claims are managed in accordance with the NC Workers' Compensation statutes and the North Carolina Industrial Commission. Benefits are determined by law, as provided in General Statutes of NC, Chapter 97. The Human Resources Department will assist employees if unresolved problems arise. To qualify, an employee must immediately report any job-related injury to their supervisor or Department Head who will take actions necessary to attain appropriate help for the employee. Responsibility for claiming compensation under the Workers' Compensation Act falls upon the injured employee, and the employee must file such claims with the North Carolina Industrial Commission within two years from date of injury. Employees must report an on-the-job injury or illness to their supervisor within twenty-four (24) hours, regardless of how minor the injury. The supervisor will assist the employee in filing the claim. Additionally, injury reports must be filed as detailed in the Town of Apex Risk Management Manual.

Medical Treatment for Work-related Injuries

Under NC Workers' Compensation law, the Town of Apex has the right to direct medical care for employees who suffer work related injuries or illnesses. Town employees shall seek medical treatment for work related injuries from the Town's designated healthcare provider. Employees may not seek medical treatment for work related injuries from other healthcare providers unless emergency treatment is needed. In life-threatening emergencies, 911 should be called and the employee should be transported to the nearest hospital emergency room. If emergency treatment is necessary outside of the business hours of the Town's designated healthcare provider, the employee may go to a hospital emergency room.

After treatment from the health care provider, the employee must return the physician's work limitations or release form or other instructions from an emergency room physician to their supervisor. The injured employee will not be charged sick or vacation leave while receiving initial medical care. Employees are responsible for providing their supervisor with all related physician notes and any updates on their status.

Modified Duty Assignments

The Town encourages early return to work for employees who suffer work related injuries or illnesses. If the healthcare provider determines that the injured employee cannot return to their job without restrictions, a modified work assignment or reassignment to a different job will be considered. In all cases, managers and supervisors are expected to work with employees to identify modified duty opportunities, with the primary focus being the return of the employee to their regular job. If a suitable modified duty position cannot be found Human Resources should be contacted to assist in finding reasonable accommodations, including tasks within the department that may be different than the employee's regular job or reassignment to a different job. Employees who return to a modified duty assignment must perform the work within the restrictions indicated by the healthcare provider.

Employees must report to their next scheduled shift once the healthcare provider releases them to work. Failure to report to a modified duty assignment may result in disciplinary action. Employees are responsible for providing their supervisor with written notice of the healthcare provider's change in restrictions. The modified duty assignment will end when the employee reaches maximum medical improvement. If the employee reaches maximum medical improvement but cannot return to the original job, the Human Resources Department will consider all other options available under the Town's personnel policies.

Absence Due to Work-Related Injury

An employee unable to work due to a work related injury or illness may use accrued sick, vacation, or compensatory leave during the first seven calendar days of the work related disability, which by law are not eligible for Workers' Compensation pay. If the injury results in a disability requiring absence from work totaling 21 calendar days or more, the Workers' Compensation pay shall be retroactive beginning with the first day of absence. All leave time expended during the first seven days of the disability, in excess of the maximum allowed to

supplement the Workers' Compensation payment, may be reinstated to the employee if the employee makes arrangements with the Town of Apex Finance Department to make payment for the hours requested to be reinstated.

Under the Worker's Compensation Act no contributions are made by the employer into an employee's retirement fund during any period an employee receives Workers' Compensation pay.

If the work related disability qualifies, the employee will be placed in Family Medical Leave status in accordance with the Family Medical Leave Act. The town will pay the individual's premium for medical insurance, life insurance, and dental benefits. Premiums for dependent coverage are the employee's responsibility.

If total disability exists, employees may receive additional assistance through a Social Security disability and/or a disability retirement through the NCLGERS, provided the employee has reached maximum medical improvement and has received a permanent total disability rating from the approved healthcare provider. Human Resources can provide more information in these cases.

Return to Work

Employees released by their treating physician or therapist to return to full duty will be required to complete a Fitness for Duty certification. This form shall be completed by the employee and the employee's treating physician prior to the return to work release date.

Employees on Workers' Compensation leave status can expect to return to an equivalent position in the Town if they return to work within 52 weeks from the date of the Workers' Compensation disability absence. If the employee is medically unable to perform previous job duties, they will be placed in a suitable position according to their qualifications, availability of a position, and North Carolina Workers' Compensation Law.

After one year during which an employee is unable to perform full duties and/or a full schedule due to an on-the-job (or other) injury, the employee may be terminated after all options have been considered in accordance with federal and state laws.. Termination of employment at any point may also take place if medical information indicates that the employee is unlikely ever to be able to perform the full duties of the position. Upon termination, the Human Resources Department will assist the employee in obtaining whatever benefits are available through Workers' Compensation, and/or the Local Government Employees' Retirement System.

Section 18. Fitness for Duty

The Town is committed to providing a safe workplace for employees. In order to provide a safe work environment, employees must be able to perform their job duties in a safe, secure, productive, and effective manner for the duration of their work schedule. Employees who are

not fit for duty may present a safety hazard to themselves, their co-workers or the public.

Purpose

The purpose of this policy is to establish procedures and criteria by which the Town can ensure that employees are fit for duty. In addition, this policy will provide guidelines for determining light duty assignments regarding employees that are unable to perform their regular assigned duties as a result of a non-work related injury/illness/psychological condition.

Scope

This policy applies to all Town employees.

Definitions

Fit for duty - means the employee is able to perform their regular assigned duties in a safe, secure, productive, and effective manner.

Light Duty - is a temporary, modified work assignment, different from an employee's regular assignment that may be offered to employees that are unable to perform their regular assigned duties as a result of a non-work related injury/illness/psychological condition.

Roles & Responsibilities

A. Employee Responsibilities

- 1) Employees must come to work fit for duty, and be able to perform their job responsibilities in a safe, secure, productive, and effective manner during the entire time they are working.
- 2) Employees are responsible for notifying their supervisors when they are not fit for duty.
- 3) Employees must immediately notify their supervisors of any non-work-related illness/injury/condition that may affect their ability to perform their job duties and/or compromise their safety, the safety of their co-workers, or the public.
- 4) Employees must notify their supervisor of any medication they are taking (prescription or over-the-counter) that may affect their ability to perform their job duties.
- 5) Employees must keep their supervisor updated on any subsequent changes to the status of their injury/illness/psychological condition or use of medication.
- 6) While performing their light duty assignment, employees must comply with the temporary work restrictions and recommendations from their personal physician.
- 7) Employees are responsible for notifying their supervisor when they observe a coworker acting in a manner that indicates the coworker may be unfit for duty.
- 8) Employees must comply with all aspects of the Fitness for Duty Policy. Failure to comply may be grounds for disciplinary action up to and including termination.

B. Supervisor Responsibilities

- 1) Supervisors are responsible for observing the attendance, performance, and behavior of their employees.
- 2) Supervisors must maintain confidentiality of the employee's medical information and records.
- 3) Supervisors should contact Human Resources with any questions concerning the employee's work restrictions.
- 4) Supervisors are responsible for ensuring compliance with all aspects of the Fitness for Duty Policy. Failure to comply may be grounds for disciplinary action up to and including termination.

Light Duty Eligibility

In order for employees to be eligible for a light duty assignment, documentation must be provided from a licensed medical provider authorizing the employee to return to work in a light duty capacity. The medical documentation must clearly define the following information:

- a. Employee's work status
- b. Specific work restrictions
- c. Duration of restrictions
- d. Medication regimen
- e. Prognosis for recovery
- f. Physical therapy schedule (if applicable)

Documentation shall be submitted to the immediate supervisor and forwarded through the chain of command to the Department Head. The Department Head will be responsible for providing Human Resources with a copy of the documentation. The Department Head will consult with Human Resources on the feasibility of light duty within their department or within another Town department.

Medical Clearance

The employee's personal physician will make the initial medical determination whether to clear the employee back to work following a non-work related injury/illness/psychological condition, unless the conditions listed under "Fitness for Duty Examination Procedures" exist. If the conditions exist, the Town's authorized physician will make the medical determination by conducting a fitness for duty exam.

Fitness for Duty Examination Procedures

A fitness for duty medical examination will be required by the Town's authorized physician for a

non-work related injury/illness/psychological condition under the following conditions:

- 1) The employee's personal physician has cleared them to return to work but their supervisor or manager, based on direct observation, reasonably believes that the employee's injury/illness/psychological condition may interfere with their ability to perform their job duties safely, or could pose a direct threat to others.
- 2) The employee is taking medication (prescription or over-the-counter) that could interfere with their ability to perform their job duties safely, or could pose a direct threat to others.

Light Duty Criteria

The Town does not guarantee light duty assignments for employees that have a non-work related injury/illness/psychological condition. Light duty assignments will typically be scheduled during normal business hours, with the employee working their normal number of scheduled hours. Generally, overtime is not permitted. If overtime is being considered, Human Resources must be consulted and the Town Manager or their designee must approve. Accumulated leave may be used in the event that the employee is not able to work their normal work schedule.

Employees must meet the following criteria:

- 1) Employee must be capable of doing productive work for their assigned department or another Town department.
- 2) Light duty assignments shall not exceed 90 days. In certain circumstances this period may be extended based on the treating physician recommendations, the availability of qualifying light duty assignments, and the approval of the Town Manager or their designee.
- 3) Employee must attend regular follow-up medical appointments.

Light Duty Assignments

Guidelines for determining appropriate light duty assignments:

- 1) Light duty assignments must comply with the employee's temporary work restrictions issued by the licensed, treating physician.
- 2) Light duty assignments must involve tasks that are meaningful and valuable to the Town.
- 3) Light duty assignments will always have an ending date. This date may be extended as specified under "Light Duty Criteria" in this policy.

If a light duty assignment meeting the employee's work restrictions isn't available within the employee's department, the Department Head will contact Human Resources for assistance in securing a suitable assignment in another Town Department. The

Department Head, in consultation with Human Resources, will make the final determination regarding the light duty assignment. If a light duty assignment meeting the employee's work restrictions isn't available in another department, the employee must use accrued sick, vacation, or compensatory time in order to be paid for time away from work. In such cases, the Human Resources Department shall be notified so that FMLA eligibility can be assessed.

Section 19. Inclement Weather

The Town of Apex recognizes that severe weather conditions and other rare emergency circumstances may make it difficult to provide a full range of Town services to the citizens. This policy clarifies the designation of service critical personnel and provides direction on how to account for work hours when the Town's normal operating hours are modified.

Declaration of an Emergency

The Town Manager will determine when emergency conditions exist that warrant the alteration of the Town's normal business operating hours of 8:00 am – 5:00 pm.

When the Town Manager alters the Town's normal work hours (late opening, early closing, or closed for the day) this decision will be communicated as soon as possible through the Employee Notification Hotline: 919-249-3405, the Town's email system, and on the Town's intranet. Employees who are not deemed to be Service Critical do not have to report to work during the closing period and may qualify for administrative leave during this period.

Designation of Service Critical Personnel

The Town provides a range of essential services that require personnel to be physically present at work to respond to emergency conditions regardless of the weather conditions. Department Heads are responsible for designating employees as Service Critical Personnel in the event of inclement weather or other emergency conditions. Service Critical personnel are expected to report to work during emergency situations unless specifically directed not to report to work.

Employees should be clear on their designation as "Service Critical" in advance of an emergency event. Service Critical personnel are expected to follow departmental leave request policies, and use accrued leave time (sick, vacation, comp) to cover missed work time during the emergency event.

When severe weather is predicted, the Town may make special arrangements for Service Critical personnel in order to ensure their availability to work. These provisions may include allowing personnel to drive Town vehicles home, arranging for hotel rooms and meals, or setting up sleeping quarters on-site. When submitting time sheets to payroll after an

emergency event, "Service Critical" must be noted on the employee's timesheet to ensure proper processing.

Any overtime earned by a non-exempt employee during emergency situations will be calculated in accordance with the Fair Labor Standard Act.

Exempt employees who are required to work during a designated period of declared disaster or local emergency will receive pay at 1.5 hours of their calculated hourly rate (based on annual salary) for any hours worked over 40 in the week. This provision only applies to exempt employees who are at the Assistant Town Manager level and below.

Eligibility for Administrative Leave

When Town operations are closed for a full day, a fulltime employee whose job is not deemed to be service critical is eligible to receive administrative leave for the day if the employee was scheduled for work and planning to attend work during the closing period. Employees who are out on sick leave immediately before and immediately following an administrative leave period, are assumed to be sick, and must use sick leave to account for the absence during the period of administrative leave. Likewise, employees who are scheduled to be on vacation during the administrative leave period must use vacation leave unless they notify their supervisor that the vacation plans are canceled due to the emergency conditions and they report to work immediately following the administrative leave period. When the administrative leave period is granted for partial days, the following shall apply:

Delayed Opening – Unless the Town Manager sets a specific opening time, employees who work non-standard hours (i.e., 7:00–4:00 or 7:30–4:30) would apply the delay period to their normal work schedule. For example, if Town Hall is on a 2-hour delay, then employees who normally report at 7:30 am will report at 9:30 am unless other arrangements are made with their supervisor. Employees who are not scheduled to be at work during the delay period, do not receive any administrative leave for this period.

Early Closing – If the Town Manager sets a specific closing time for Town offices (i.e., 2:00 p.m.) employees receive administrative leave only from the time of closing. Employees who work non-standard hours are expected to work a normal schedule until the official closing time unless instructed otherwise.

Employees who are unable to report to work during periods of inclement weather when the Town offices are open must use compensatory or vacation leave to account for missed work hours. In the event an employee has exhausted all vacation and comp leave hours, sick leave may be used to account for the missed work time.

Compensation for Critical Service Personnel during Administrative Leave Periods

Non-exempt service critical personnel who work during a period of administrative leave will be granted compensatory leave time equal to the hours actually worked during the period of administrative leave, not to exceed 8 hours per day.

For example, when Town offices are closed all day, service critical personnel receive 8 hours of comp time even if they work a 12-hour shift. If Town offices close at 4 pm, and the service critical personnel would normally be off work at this time, then no additional comp time is granted. Shift employees who work a night shift on the days that Town offices are closed for a full day before the beginning of a night shift, will also receive 8 hours of compensatory leave time for that day. Employees not scheduled to be at work on a day Town offices are closed, do not receive compensatory leave time.

Exempt employees in service critical positions who work during periods when Town offices are closed may be provided with flexible work scheduling options as soon as possible when Town operations allow in order to recognize the work performed during the period of administrative leave.

Section 20. Appropriate Dress and Use of Town Logo

Employees shall represent the Town in a professional manner at all times and dress appropriately for conducting such business.

The same professional standards of behavior also apply when wearing the Town logo, seal, department logo, or "Town of Apex" marked clothing before or after work hours.

Department Heads shall determine the dress policy specific to their department requirements.

All employees are expected to be neat, clean and appropriately dressed according to the following guidelines:

- All clothes should be clean and of proper fit. If uniforms are required, they must be of the established color and style specified for the department.
- Hair must be secured so that it does not interfere with job performance or pose a safety threat.
- Any tattoo, body piercing, or related, that is visible and presents a safety hazard or may be determined to be offensive to members of the public (as determined by the respective Department Head) must be completely covered at all times.
- Athletic shoes may be worn in certain departments if approved by the Department Head, provided they are in good condition and do not pose a safety threat.
- Safety toed shoes and boots may be required in specific departments.

Departments have authority to use discretion to determine what constitutes appropriate dress. Supervisors shall advise employees of the appropriate dress or uniform for certain positions as well as items of clothing or shoes that are prohibited if they present a safety hazard, if they do not promote a professional image, or may be determined to be offensive to members of the public.

Section 21. Identification Badges & Access Control

Badge Issue and Use

- 1) Upon initial employment, identification and electronic access badges will be issued by the Human Resources Department to regular full-time and part-time employees, and temporary/seasonal employees if required by the position.
- 2) Vendors will be issued identification badges when work requires building access during hours the building is not normally open to the public, or upon specific request by the Department employing the vendor.

Badge Security and Control

1. Department Directors will designate the appropriate level of building access for each employee. Typically this access will include exterior door building access, and access to the doors in an employee's department or regular work area.
2. Employees must maintain control of their ID badges at all times. ID badges should not be left unsecure in a vehicle or other areas where they can be accessed by an unauthorized person. ID badges may not be "loaned" to any other person for any reason.
3. An employee who loses an ID badge must report this loss to the supervisor and HR Department immediately so the badge can be deactivated.
4. Replacement badges will be issued for free the first time a badge is lost or damaged. Employees will be charged a \$5.00 fee for subsequent replacement badges requested within a 1 year period. Replacement badges for name and department changes will be issued without a fee.
5. Identification badges must be relinquished upon separation from employment, and will be shredded by HR or the supervisor and immediately deactivated. ID badges will be deactivated during the period of time an employee is on an extended leave of absence

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time and part-time employees of the Town are eligible for employee benefits as provided for in this policy. These benefits are subject to change at the Town's discretion. Temporary/seasonal employees are eligible only for workers' compensation.

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time and part-time employees.

Employees who are scheduled to work 20 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

Section 3. Retiree Health Insurance

Employees hired prior to July 1, 2020

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System (NCLGERS) may elect to retire and receive all benefits earned under the retirement plan. An employee who retires directly from the Town with 15 years of Town service may elect to continue on the Town's group health insurance plan if requested within 30 days of the retirement date. The retiree may continue dependent coverage (and pay the cost of this coverage) if enrolled in dependent coverage at the time of retirement. The Town will subsidize the cost of the health insurance premiums for the retiree as follows:

- 15* years of service: 50% subsidy
- 20* years of service: 75% subsidy
- 25* years of service: 100% subsidy

**Unused sick leave counted by the NCLGERS as creditable service time will count in determining total years of Town service.*

When a retiree reaches age 65, the retiree enrolls in Medicare Part A and B and pays the cost. The Town provides Medicare supplement insurance for the retiree and subsidizes the cost of the Medicare supplement (as shown above) not to exceed the Town's monthly premium contribution toward employee health insurance coverage. If the Town's Medicare plan is not available in the retiree's residing State, a plan with the most comparable coverage, as identified by the Town, will be offered.

Employees who were hired prior to July 1, 2020 and separate from Town service will forfeit this benefit unless re-hired with the Town into a benefits eligible position within 2 years of the separation date, at which point previous service years will count towards overall service with the Town for the purpose of this benefit.

Employees who separate from service and are re-employed 2 or more years later will be considered a new hire and will not be eligible for the retiree health insurance benefit.

Employees hired on or after July 1, 2020

Employees hired on or after July 1, 2020 are not eligible for retiree health insurance.

Section 4. Group Life Insurance

The Town may elect to provide group life insurance for each employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Section 5. Other Optional Group Insurance Plans

The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Town Council.

Section 6. Retirement

Town employees who work in a position requiring more than 1,000 hours annually shall join the North Carolina Local Government Employees' Retirement System when eligible as a condition of employment. Participation begins on the first day of employment for all new hires. Guidelines for participating in the NC LGERS can be found in the LGERS Employee Handbook or in Human Resources,

Section 7. Supplemental Retirement Benefits

The Town contributes to a 401(k) retirement plan for each employee participating in the North

Carolina Local Government Retirement System. Each law enforcement officer shall receive 401(k) benefits as prescribed by North Carolina State Law. General employees also receive a contribution, as established by the Town Council.

Section 8. Social Security

The Town, to the extent of its lawful authority and power, extends Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 9. Unemployment Compensation

Town employees are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Section 10. Tuition Assistance Program

It is the policy of the Town of Apex to provide tuition assistance to employees who desire to further their education through a degree program in a career field that would benefit the Town and increase their ability and knowledge to pursue promotional opportunities. The amount of educational assistance provided per employee will be determined annually based on the approved budget and maintained in the Human Resources Department. Employees are expected to pursue coursework outside regular work hours, on their own time.

Employees interested in pursuing a degree from an accredited university or college shall submit a Tuition Reimbursement Application form for Town approval. Priority will be given to employees in a degree program for which approval has been given in the prior budget year (assuming the employee continues to meet all policy requirements). Town of Apex will reimburse the costs of registration, fees, tuition, student and lab fees, upon completion of the course and certification by the institution that final grades meet the standards of the Town of a "C" or better up to the maximum allowed for the fiscal year. For classes that are considered "Pass/Fail," a "Pass" for the course will be considered as satisfactory completion. The first and/or last day of the course must be within the fiscal year for which reimbursement is requested. Employees receiving additional reimbursements for coursework from sources outside the Town may not receive total reimbursements in excess of 100 percent of the total tuition cost.

Requests for tuition assistance shall be submitted to the Human Resources Department prior to course registration and are subject to review and approval by Human Resources.

All full-time regular employees who have successfully completed the Town's probationary

period are eligible to receive this benefit. Eligible employees must be employed continuously for the entire academic session in order to qualify for reimbursement. Employees who have been approved for tuition assistance but separate from the Town prior to the ending of the course and/or receiving reimbursement will not be eligible for reimbursement.

Human Resources will notify employees of the process for participation in the Tuition Reimbursement Program and will provide the forms for both application and reimbursement.

Section 11. Peak Lifestyle Allowance

Regular employees who have completed the new hire probationary period will receive a Peak Lifestyle Allowance each fiscal year to use towards expenses related to physical, emotional/mental, and financial well-being. The Peak Lifestyle Allowance is a one-time, taxable lump sum payment and is not built into base pay. The allowance will be paid on a scheduled pay day at the beginning of each fiscal year, at an amount determined each year and approved in the Town's annual budget. Employees must be actively employed on the day that the allowance is paid in order to receive the allowance. New hires will receive their Peak Lifestyle Allowance at the end of the quarter in which they successfully complete their probationary period.

Section 12. Longevity Pay

A program of longevity pay may be provided to recognize and reward the total years of service as a permanent Town employee. The annual payment is made the first week in December to those full-time employees who are employed by the Town as of November 30, and who have completed the required number of years of service as of November 30 of the year the payment is made. Longevity pay shall be made in a lump sum that does not build into base pay. Payments may be made in the following amounts:

2 through 4 years	\$100
5 through 9 years	\$300
10 through 14 years	\$500
15 through 19 years	\$700
20 plus years	\$1000

Section 13. Employee Assistance Program

The Town provides an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems or to help improve their job performance. This confidential counseling service is available to employees and their family members. Employees may choose to go to the EAP on their own, or they may be encouraged to use the EAP by their supervisor when their job performance is unsatisfactory. Employees participating in the EAP are required to meet existing job performance standards. The employee's use of the EAP does not replace the

use of established procedures for managing unsatisfactory job performance.

The Town will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records.. With approval of the supervisor, employees may use earned sick or vacation leave for a scheduled EAP appointment.

Section 14. Law Enforcement Officers' Special Separation Allowance

A law enforcement officer who retires under a full service retirement may be entitled to a Special Separation Allowance as provided under G.S. 143-166.42. This allowance will terminate at death or on the last day of the month when the officer attains 62 years of age, or upon the first day of re-employment as a benefits eligible employee in any capacity for a local government in North Carolina.

Section 15. Credit Union

Membership in the Local Government Federal Credit Union is open to all Town employees and their family members for various loan services, checking, and saving accounts.

Section 16. Section 125 Benefits

The Town offers pre-tax deductions for benefits premiums, dependent care, flexible medical spending accounts, and other voluntary benefits. Specific information on these plans is available from the Human Resources Office.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide vacation, sick leave, holiday leave and other leaves of absence, as described below, to all full-time and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths.

Employees must exhaust all accrued paid leave and/or comp-time before going on an unpaid status, except in circumstances where an employee is receiving disability payments or is on a military leave of absence. Employees must use paid leave to cover their regularly scheduled work hours. Once an employee has exhausted all paid leave, they will cease to earn accruals until they are back actively at work.

Section 2. Holidays

The policy of the Town is to recognize the following Holidays as paid holidays for Town employees:

- New Year's Day
- Martin Luther King Jr. Day
- Good Friday
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving (2 days)
- Christmas (3 days)

The Human Resources Director shall prepare a schedule of holidays at the beginning of December for the following calendar year. Departments providing 24-hour operation may adopt a varying holiday schedule that designates the legal holiday as the designated holiday when a legal holiday observance falls on a Saturday or Sunday. Any special holiday schedule shall be approved in advance by the Town Manager or their designee.

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays that occur during a vacation, sick or other paid leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensation When Work is Required

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. Compensatory time shall be granted whenever feasible.

All shift personnel will receive holiday pay for every holiday the Town observes, regardless of whether they work the holiday or not. Shift personnel who work on a holiday will receive time and a half for all hours worked on the holiday, in addition to the holiday pay for that day.

Non-shift employees classified as exempt under the Fair Labor Standards Act are not eligible for holiday premium pay.

Section 5. Peak Paid Time Off

Regular employees who have completed the new hire probationary period will receive two weeks of Peak Paid Time Off (PPTO) per fiscal year for personal time off. PPTO will be provided at the beginning of each fiscal year and may be used at any time during the year, but will not carry over from one fiscal year to another (unused PPTO hours will be lost). Employee must request and be approved to use PPTO in advance, and in accordance with departmental procedures.

PPTO hours will be based on work schedule, as listed below:

General, 40-hour employees – 80 hours

Police Patrol – 84 hours

Fire Shift – 81 hours

Part-time – pro-rated based on hours worked

Employees serving their new hire probationary period may be granted access PPTO prior to successfully completing their probationary period if use of PPTO was negotiated and approved as part of their job offer or if they have a serious medical condition requiring them to be out of work unexpectedly. Use of PPTO for medical conditions must be accompanied by a doctor's note.

PPTO cannot be rolled over into a new fiscal year, roll into sick leave, or be paid out upon separation. Additionally, it cannot be used in lieu of a two-week notice or on the last day of employment.

Section 6. Vacation Leave

Vacation leave shall be used for personal time off, and may be used for sick time when sick leave accrual is depleted.

Section 7. Vacation Leave: Accrual Rate

Each full -time employee of the Town shall earn vacation at the following schedule. Leave earning is pro-rated for full-time and part-time employees working more or less than 40 hours per week.

<u>Years of Service</u>	<u>Hours Accrued Per Year</u>
Less than 2	80
2 through 4	96
5 through 9	120
10 through 13	144
Year 14	1,104
15 through 19	168
20 through 23	192
Year 24	1,152
25 plus	192

The accrual rate for part-time employees is prorated by the average number of hours in the workweek. An employee must be at work or on paid leave status to accrue vacation leave. Short-term disability and workers compensation leave are not considered paid leave. The accrual rate for an employee on any type of unpaid leave will be prorated based on the actual hours paid in the pay period.

Vacation leave may not be used prior to accruing it. Only vacation leave hours that display in an employee's vacation leave bank (HR Portal) are eligible to be used on a timesheet. Use of "pending" leave (leave that will accrue in the current pay period, but has not yet been earned) is not allowed.

Vacation leave accrual rates are based on years of service with the Town of Apex and cannot be transferred from other municipalities.

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. Effective the last payroll in the calendar year, any employee with more than this maximum of accumulated leave shall have the excess accumulation removed so that days equal to only thirty (30) days are carried forward to January 1 of the next calendar year. Any vacation time in excess of 30 days will be converted to sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the

employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed thirty (30) days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any remaining vacation hours above the maximum will be rolled to the employee's sick leave balance.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager or their designee when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation subject to the thirty day maximum.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account, but not to exceed thirty (30) days.

Section 12. Sick Leave

Sick leave may be granted to probationary and regular employees absent from work for any of the following reasons: sickness, bodily injury, required medical/physical or dental examinations or treatment, EAP visits, childbirth during the documented period of disability (generally 6 weeks), for the first 6 weeks following the adoption of a child, or exposure to a contagious disease when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick. Sick leave beyond 10 days will only be approved for a family member's serious health condition as defined by the FMLA and with appropriate FMLA medical documentation.

Sick leave may also be used to supplement Workers' Compensation Disability Leave both during

the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one third of salary, except that employee may not exceed the net salary amount after all current payroll deductions (as of the date of the injury) are made.

“Immediate family” shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave or not later than thirty minutes after the beginning of the scheduled work day.

Sick leave is not paid out upon separation of employment.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of 8 hours per month of service or 96 hours per year. Sick leave for full-time and part-time employees working other than the basic work schedule during any pay period shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

Sick leave may not be used prior to accruing it. Only sick leave hours that display in an employee's sick leave bank (HR Portal) are eligible to be used on a timesheet. Use of “pending” leave (leave that will accrue in the current pay period but has not yet been earned) is not allowed.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated for employees retiring or terminated due to reduction in force.

Rehired employees who return to work for the Town within one year of separation may have their sick leave balance reinstated if they have not already transferred their balance to another government agency. Employees who have been separated from the Town for more than one year will not be allowed to reinstate their former sick leave balance. Special considerations may be made if the employee separated for military service or support (contract service).

Section 14. Sick Leave Transfer from Other Organizations

An employee who has credible service in the State or Local Employee's Retirement System may transfer his or her sick leave balance from the organization(s) in which the retirement service was gained, as long as the employee has not been separated from the organization for longer than 12 months. This sick leave balance is to be used as described above in section 12.

Section 15. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 16. Calculation for Pro-rated Leave

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic work week shall be determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.

Section 17. Unpaid Leave (Leave without Pay)

Any use of Leave without Pay (LWOP) must be approved by the Department Director. Prior to the use of Leave without Pay, employees must have exhausted all applicable paid leave, except in circumstances where an employee is receiving disability payments or is on a military leave.

Section 18. Family and Medical Leave

The Family Medical Leave Act (FMLA) policy is followed in accordance with federal regulations (29 U.S.C. § 2619). Employees who have at least 12 months of service and have worked at least 1,250 hours in the last consecutive 12 months are eligible. Employees who have questions concerning eligibility should contact the Human Resources Department.

FMLA provides for up to 12 weeks of unpaid leave under the following circumstances:

- a) For the birth of a child and to bond with the newborn child
- b) For the placement of a child with the employee for adoption or foster care, and to bond with that child
- c) To care for an immediate family member with a serious health condition.
“Immediate family member” shall be defined as spouses, children (regardless of age), parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.
- d) The employee's own serious health condition makes the employee unable to perform the functions of his or her job
- e) For qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty or called to active duty status in the National Guard or Reserves during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, or Regular Armed Forces during deployment to a foreign country..

The FMLA also provides for up to 26 weeks of unpaid leave for eligible employees to care for a covered service member during a single 12-month period.

Depending on circumstances, it may be permissible to use FMLA leave intermittently. The Town reserves the right to consider individual circumstances and needs in conjunction with business demands and federal/state requirements.

Certification and Eligibility Requirements:

- 1) Employees may request FMLA leave by submitting a FMLA Employee Request Form to their Supervisor or Human Resources. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the Town’s normal call-in procedures.
- 2) The Town may require medical certification to assess FMLA eligibility, as well as updates at reasonable intervals for continued certification. If there is reason to doubt the validity of the medical certification, the Town may require the employee to get a second opinion. If the second opinion differs from the original certification provided, the Town may require the employee to get a third opinion, at which time the doctor will be jointly selected by the employee and the Town. The third opinion will be final and binding on both parties. The burden of the cost of the second and third opinions will be at the expense of the Town.
- 3) If the Town requires medical certification for leave the employee must provide sufficient information to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified. Failure to provide adequate information within fifteen calendar days may result in delayed or denied FMLA leave/protection until proper certification can be obtained.
- 4) The Town reserves the right to waive certification and can place the employee on leave upon

learning of the employee's circumstances, even if the employee has not yet requested FMLA leave or the request is pending the completion of the FMLA certification forms.

- 5) Generally, FMLA approved leave will begin on the first day of absence, when the leave is foreseeable. In the event of an unplanned leave, individual needs/circumstances, in accordance with federal regulations, will be reviewed to determine the appropriate start date of FMLA leave.
- 6) An eligible employee is entitled to up to twelve or twenty-six workweeks of leave, depending on circumstances – as identified above, on a rolling 12- month period measured backward from the date of any FMLA leave usage. If the employee returns to work before the twelve or twenty-six weeks is depleted and is able to physically perform his/her duties, the employee will be reinstated to the original, or equivalent position, with equivalent pay, benefits and other employment terms. If the twelve or twenty-six weeks of this leave are exhausted and the employee has not returned to work, the Town will determine if the employee will be reinstated.
- 7) Employees will be required to deplete their earned compensatory time and vacation leave during FMLA before being granted unpaid leave. If the approved FMLA is for circumstances for which sick leave usage is permissible per Town policy, then sick leave must also be depleted before being granted unpaid leave.
- 8) All benefits will continue to accrue during a period of paid leave.
- 9) When an employee is on leave under FMLA, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.
- 10) Employees who are out of work under the provisions of FMLA are prohibited from engaging in any secondary employment during what would be their normal scheduled workday. Employees on leave as a result of their own serious health condition are NEVER approved for secondary employment. Employees who work secondary employment while on FMLA during what would have been normal work hours are considered to have voluntarily terminated their employment with the Town. Police employees may work extra-duty assignments while on FMLA with prior approval from the Chief of Police, in consultation with HR. Each request will be reviewed on a case by case basis.
- 11) Short-term disability, workers' compensation and approved medical leave of absence will run concurrently with FMLA leave.
- 12) An employee who is approved for FMLA for a personal illness or injury will not be allowed to return to work without a completed Fit for Duty Form, unless the employee was out to care for a family member or for birth of a child (Police sworn personnel who have given birth to a child must still complete the Fit for Duty form). An employee who does not return to work within three working days after their FMLA expires will be considered to have voluntarily terminated their employment with the Town.

It is the responsibility of the immediate supervisor to begin the process of placing the employee on leave. If a supervisor observes that an employee is out sick more than three consecutive days, the supervisor is to notify the Human Resources Department. If a supervisor is told by an employee that the employee will need to be out for an extended period of time for reasons

other than a normal vacation, the supervisor is to notify Human Resources and instruct the employee to do the same.

Section 19. Military Leave

Military leave is provided for employees who are members of an Armed Forces Reserve organization or National Guard, or any other duty that falls within the “uniformed services” as defined and covered under the Uniformed Service Employment Reemployment Rights Act (USERRA). Military service is defined as any performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty, inactive duty training (such as drills), and funeral honors duty performed by National Guard and reserve members, as well as the period for which an employee is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty. Employees who are eligible for military leave have all job rights specified by the Uniformed Service Employment and Reemployment Act.

Employees on Military Leave may choose to take their leave on a paid or unpaid status. An employee on military leave will continue to accrue vacation and sick leave, regardless of whether or not paid leave was used.

Differential Pay

Military differential pay is partial compensation for the difference between the base pay salary that the employee earned while on military leave and the salary that would have been earned during the same period as a Town employee. Differential pay is not available for employees using paid leave or switching shifts to cover absences. Employees may switch shifts with other employees to attend drill, if approved by their supervisor/manager.

Employees will be granted two calendar weeks of military differential pay, per year. The effect will be to maintain the employee's salary at the normal level during the period of leave.

In addition to the 2 weeks above, when employees are called to active duty for state or national emergency, the Town will provide military differential pay during the first 180 days of active duty.

The employee must provide a Leave and Earnings Statement (LES) to payroll as soon as it is available to verify military pay. The Town will make normal deductions and/or contributions based on this difference in pay for taxes, FICA and other applicable benefits.

Job Benefits: Health premiums for employees who are performing services in the uniformed services for less than 31 days will remain in effect. Employees who are performing services in the uniformed services for 31 or more days may choose from the following two options:

- Option One: The employee and their dependents may elect to continue health coverage and /or dental benefits through the Town of Apex's group policy at full cost to the employee for a period of up to 24 months. See Human Resources for more details.
- Option Two: The employee may elect to cancel health and/or dental coverage through the Town of Apex, as coverage is provided to all military personnel and their families. Employee's health coverage will be reinstated with no waiting period when the employee returns to active employment with the Town.

While taking military leave the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. The Town's contributions to the NC 401(k) retirement will continue and be based on the employee's regular salary, regardless of whether or not paid leave is being used. Life and Disability insurance benefits will be handled in accordance with vendor policies.

Reinstatement Following Military Service

An employee returning from military service shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within the applicable timeframe established under USERRA; and Is able to perform the duties of the former position or similar position; or
- 2) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the Town. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Section 20. Personal Leave of Absence

The Town Manager or their designee may grant a personal leave of absence for unique or extraordinary reasons that may not apply to other types of leave. The leave shall be used for reasons of personal disability, sickness or disability of immediate family members, time with a newborn or adopted child, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justifiable by the Town Manager or their designee. The Town Manager, or their designee, will consider the nature of the position, the impact on the Town, and the employee's tenure when reviewing a request for personal leave. The maximum amount of time that can be granted for a personal leave is six weeks in any 12-month period (calculated by using the rolling method). Vacation requests that exceed 31 calendar days will be considered a personal leave of absence.

Personal Leave will not be granted to allow an employee time off to seek employment elsewhere or to work for another employer. Employees who begin employment elsewhere while personal

leave are considered to have voluntarily terminated their employment.

Job Benefits: Benefits will be handled in accordance with State & Federal laws and vendor policies. For more information, contact Human Resources.

Return to Work: The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager or their designee. Upon returning to duty after being on personal leave, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of personal leave shall be considered a voluntary resignation.

Section 21. Civil Leave

A Town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 22. Educational Leave with Pay

A leave of absence at full or partial pay during regular working hours may be granted to an employee to take one course which will better equip the employee to perform assigned duties upon the recommendation of the Department Head, and with the approval of the Town Manager or their designee.

Educational leave at full or partial pay for a period not to exceed twelve calendar months may be granted to an employee to take one or more courses that will better equip the employee to perform assigned duties upon the recommendation of the Department Head and the Town Manager or their designee and with the approval of the Town Council. An employee granted such extended educational leave with pay shall agree to return to the service of the Town upon completion of training and remain in the employ of the Town for a period of twice the educational leave received, or the employee shall reimburse the Town for all compensation received while on educational leave.

An employee on educational leave with full pay shall continue to earn leave credits and other benefits to which Town employees are entitled. An employee on educational leave with partial pay shall earn proportional leave credits.

Section 23. Shared Leave

An employee may donate vacation leave to another employee who meets the criteria to participate in the Town's shared leave program. An employee is eligible to receive shared leave when the employee:

- has been a full-time employee of the Town of Apex for one year*;
- has a serious medical condition or has an immediate family member with a serious health condition, as qualified under FMLA, that requires the employee to miss 20 consecutive workdays, or experience excessive intermittent absences due to the same or another serious health condition;
- has exhausted all sick, vacation and compensatory leave time;
- produces medical documentation to support the need for leave beyond the available accumulated leave;
- applies for, or is nominated by a co-worker to receive shared leave.

** This requirement may be waived by the Town Manager or their designee if the full-time employee can provide medical documentation to support the need for leave in advance of meeting the one-year requirement. In most cases, this will be for very serious health conditions or medical procedures of an emergent nature.*

Employees out of work on workers' compensation leave or employees receiving short-term disability benefits are not eligible for shared leave.

All applications or nominations for shared leave should be made to the Human Resources Department who will administer the shared leave policy. Leave may be made available for use on a current basis and is not retroactive beyond the current pay period. All leave donations are strictly voluntary and are kept confidential. Leave donations must be a minimum of 4 hours and are credited to the sick leave account of the shared leave recipient. Any unused donated leave shall be returned to the donor(s) on a pro-rata basis and credited to the leave account from which it was donated.

It is the responsibility of the employee requesting leave to monitor their leave usage and notify Human Resources/Payroll of the amount of leave they need for each pay period. Once the donations have run out, the employee may request for HR to send another announcement requesting donations; however, HR announcements for shared leave requests will be made no more than every 4 weeks. Requests for shared leave will be active for a period of 3 months from the date the leave is requested, assuming the leave is still needed for the same condition. After 3 months, the shared leave request is considered void and a new request must be made, documenting the reasons for need of continued shared leave.

Section 24. Bereavement Leave

Employees will be granted up to 3 days (24 hours) of paid bereavement leave as needed in the event of the death of an immediate family member. "Immediate family" shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

Sick leave, as approved by the Department Head, may be used for any additional time, if needed, for this purpose.

Section 25. Paid Parental Leave

Employees who have completed their initial probationary period (or successfully completed six months of their probationary period for Police and Fire) are eligible for Paid Parental Leave. Paid parental leave is in addition to an employee's accrued vacation or sick leave. Qualifying events for parental leave include the following:

- Birth of a child of the employee;
- The legal placement of a child with the employee for adoption, foster care or guardianship; or
- The placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibilities (in loco parentis).

An employee may receive paid parental leave for one qualifying event within a rolling twelve-month period. The amount of paid parental leave for any one person shall not exceed eight weeks in a twelve-month period.

If both parents are employed by the Town and have one qualifying event, each parent is eligible for the eight weeks of paid parental leave. Each parent can use their allocated eight weeks of paid parental leave.

Employees shall provide advance notice to their supervisor of paid parental leave dates. The total amount of paid parental leave shall not exceed 320 hours for employees who work a 40-hour week schedule and is pro-rated for employees who work more or less than 40 hours per week.

An employee out of work and receiving paid parental leave may not work a secondary job during the same hours an employee would normally be at work, or work any off duty assignments during the parental leave period.

All Town-provided benefits will continue to be paid by the Town during the time the employee is out of work on Parental Leave. Sick and vacation leave will continue to accrue while the employee is in a paid parental leave status.

An employee who wishes to use parental leave shall follow the Town's procedures for requesting paid parental leave. Paid parental leave is approved through the HR Department, and no individual supervisor may deny an employee's request for paid parental leave. Employees will be required to submit supporting documentation to satisfy eligibility requirements for paid parental leave.

An employee must return to work after the duration of any approved parental leave. An employee who does not return and at least provide and work the 2 weeks' notice requirement will be required to pay the Town back for any paid parental leave received and their last day physically worked will be considered their last day of employment.

Section 26. Paid Caregiver Leave

Employees who have completed their initial probationary period (or successfully completed six months of their probationary period for Police and Fire) with the Town of Apex are eligible for up to three (3) weeks of Paid Caregiver Leave. Paid Caregiver leave is in addition to an employee's accrued vacation or sick leave. Qualifying events for Caregiver leave include the following:

- To care for an immediate family member with a serious health condition. "Immediate family member" shall be defined as spouses, children (regardless of age), parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

An employee may receive paid Caregiver leave for all qualifying events within a rolling twelve-month period. The amount of paid Caregiver leave for any one person shall not exceed three weeks in a twelve-month period.

Employees shall provide advance notice to their supervisor of paid Caregiver leave dates. The total amount of paid Caregiver leave shall not exceed 120 hours for employees who work a 40-hour week schedule and is pro-rated for employees who work more or less than 40 hours per week.

An employee out of work and receiving paid Caregiver leave may not work a secondary job during the same hours an employee would normally be at work, or work any off duty assignments during the Caregiver leave period.

All Town-provided benefits will continue to be paid by the Town during the time the employee is out of work on Caregiver Leave. Sick and vacation leave will continue to accrue while the employee is in a paid Caregiver leave status.

An employee who wishes to use Caregiver leave shall follow the Town's procedures for

requesting Paid Caregiver leave. Paid Caregiver leave is approved through the HR Department, and no individual supervisor may deny an employee's request for Paid Caregiver leave. Employees will be required to submit supporting documentation to satisfy eligibility requirements for Paid Caregiver leave.

An employee must return to work after the duration of any approved Caregiver leave. An employee who does not return and at least provide and work the 2 weeks' notice requirement will be required to pay the Town back for any paid caregiver leave received and their last day physically worked will be considered their last day of employment.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. The effective date of a resignation shall be the last day worked. Vacation leave and compensatory time cannot be used during the two-week notice period. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager or their designee.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation.

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary due to economic circumstances, program elimination, or privatization of existing programs the Town will attempt to accomplish a reduction in force without layoffs if at all possible, and if not possible, aid the transition of employees into other employment outside the organization.

Procedures

Determinations of reductions: The determination of positions to be eliminated or employees subjected to layoff will be based (in priority order) on (1) the need for the employee's services; (2) the quality of the employee's past performance; and (3) seniority. The individual(s) selected for layoff may or may not be the incumbent of the position(s) to be eliminated. Based on the above criteria, the Department Head will develop a rationale for the proposed reductions and changes in positions and personnel, and present it to the Human Resources Director and Town Manager or their designee. All reductions in force require the approval of the Town Manager.

Layoff Avoidance: Prior to a layoff, the Town will take the following steps to assist employees who are targeted to lose their current position to locate other employment within the

organization.

1. The Town will attempt to locate alternate Town employment for affected employees whose past performance has met performance requirements. Employees may be required to accept a transfer to another Town position for which they meet the basic qualifications. Employees not occupying affected positions may be re-assigned to another position at the same salary grade in order to create a better match of experience and skills with existing Town positions and to prevent a layoff from occurring within the Town. Such movement will be the prerogative of the Department Head or Town Manager. Pay decisions regarding transfers will be in accordance with the Town's pay policies.
2. If the reason for potential reduction is driven by economic reasons, management may offer employees in full-time positions the option of reducing their work schedule to less than 40 hours a week (but no less than 20 hours). Benefits would be pro-rated in accordance with Town policy. The reduced schedule must be agreed to for a minimum of one year and may be renewed with the mutual consent of the employee and Department Head on an annual basis.

Transition Assistance

Negotiated Employment. In any privatization effort, the Town will negotiate to the fullest extent possible, for the continued employment of all who are involved in a Town function with the new private contractor.

Outplacement Services. The Town will provide standard outplacement services either internally or through a contracted party. The services will include (1) career counseling, (2) resume application preparation, (3) allowances for reasonable time off for interviews and employment follow-up as approved by the employee's supervisor, (4) reasonable office support and telephone access as approved by the employee's supervisor to use for the job search.

Retirement. Employees whose positions have been designated for elimination may be eligible for a full or reduced retirement through the North Carolina Local Government Employees' Retirement System. As allowed under G.S. 128-27(a2) The Town Council may approve a discontinued service retirement allowance for employees who are at least 55 years of age and have 20 years of creditable service, or a reduced discontinued service allowance for employees who are 50-54 years of age and have 20 years of creditable service. Employees granted a discontinued service retirement are not eligible for severance pay.

Severance Pay. Employees whose positions are being eliminated under a reduction in force will be eligible for seniority-based severance pay as outlined below if all of the following conditions are met as of their last day of employment with the Town:

1. The employee has not elected one of the above-referenced retirement options;
2. The employee has not refused alternate full time employment with the Town; and
3. The employee has not refused reasonable employment offers with a contractor (in the event of negotiated privatization). A reasonable employment offer shall be defined as one in which the employment offer does not result in a permanent reduction in the rate of pay of more than 15%.
4. The employee executes and returns the Town's standard waiver and release form.

Severance pay is based on total years of service with the Town of Apex. Severance pay is the equivalent of two weeks base pay for employees with less than one year of service, with an additional week of pay granted for each additional full year of Town service. Severance pay will be paid out on a bi-weekly basis and is not subject to employee or employer retirement contributions, and as a result, will not be included in computing the average final compensation for retirement purposes. Any period covered by severance pay will not be counted as an active employment period for the purposes of earning retirement service credit or for qualifying for employer-paid insurance coverage.

Benefits

Employees who receive severance pay will be eligible for continuation of insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended (COBRA), at the employee's expense. Employees who retire with full, early or discontinued service retirement may be eligible for retiree health benefits under the "Voluntary Retirement" policy of the Apex Personnel Policies. No other benefits will apply after termination of employment.

Notice Requirements

Employees who are laid off due to a reduction in force will be given as much notice as possible and at least two weeks' notice of anticipated layoff. If this is not possible, employees will receive two weeks compensation in addition to the severance pay noted above.

Reinstatement

An employee in good standing who is separated because of a reduction in force will be given the first opportunity to be reinstated in the same or similar position within one year of separation. All sick leave will be reinstated as long as the employee has remained an active member of the North Carolina Local Government Retirement System, and other seniority-based benefits will be calculated based on total Town service.

Section 4. Disability

An employee who cannot perform the required duties with reasonable accommodation because

of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable by Human Resources. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 5. Voluntary Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System (NCLGERS) may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 7. Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8. Reinstatement

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the Town Manager or their designee. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 9. Rehiring

An employee who resigns while in good standing may be rehired as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Coverage

Article IX applies to all Town employees. While the Town will generally follow a progressive disciplinary process, employees may be separated from service at any time if the employee's job performance or conduct fails to meet the expectations of the supervisor and Department Head or if funding for the position is no longer available.

Section 2. Employee Legal Representation

The Town prohibits the participation or presence of an attorney or any form of legal representation in any informal or formal employer/employee meetings or conferences.

Section 3. Disciplinary Actions

When an employee fails to meet the job responsibilities of his or her position, the supervisor is responsible for correcting the failure and initiating disciplinary action when appropriate. Disciplinary action, when imposed, is for the purpose of improving employee and Town performance. Disciplinary action may be based on unsatisfactory job performance or detrimental personal conduct when the employee is not meeting the job performance requirements or personal conduct standards set for the position. The type of disciplinary action taken depends on the facts and circumstances of the situation, but may include a written warning, final written warning, suspension, demotion or dismissal.

Section 4. Unsatisfactory Job Performance Defined

Disciplinary Action may be taken for unsatisfactory job performance. Unsatisfactory job performance includes any aspect of the employee's job that is not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, incompetence, or lack of prudent judgment in the performance of duties.
- 2) Careless, negligent or improper use of Town property or equipment.
- 3) Physical or mental inability to perform duties after reasonable accommodation.
- 4) Discourteous treatment of the public or other employees.
- 5) Disruption of work environment – displaying unproductive behaviors such as promoting rumors, bad-mouthing others and other demeaning behaviors distracting from a positive working environment.
- 6) Excessive absences, late reporting, absence without approved leave, or repeated improper use of leave privileges.
- 7) Failure to meet work standards established in work plan.

- 8) Failure to follow established departmental or Town policies and procedures.
- 9) Failure to carry out supervisor's assignments or instructions.
- 10) Failure to maintain credentials or license required for position.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior, whether on-duty or off-duty, intentional or unintentional, of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; the laws of any government may be or have been violated or public confidence in Town government is likely to be undermined. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud, theft or dishonesty
- 2) Conviction of a felony or the entry of a plea of *nolo contendere* thereto.
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment.
- 4) Misusing or directing the misuse of Town work time, funds, equipment or property.
- 5) Careless, negligent, reckless, willful or wanton damage to or destruction of Town property.
- 6) Careless, negligent, reckless, willful or wanton acts that endanger the lives or property of others.
- 7) Possession of unauthorized firearms or other lethal weapons on the job.
- 8) Communication of a threat or engaging in threatening behavior;
- 9) Brutality in the performance of duties.
- 10) Any violation of the Town's Drug and Alcohol Policy.
- 11) Engaging in incompatible employment or serving a conflicting interest.
- 12) Request or acceptance of gifts in exchange for favors or influence.
- 13) Engaging in political activity prohibited by the Town's Personnel Policies.
- 14) Engaging in acts during or outside duty hours that negatively affect the image of the Town and which interfere with the working relationship between the employee and co-workers or between the employee and the public that employee serves.
- 15) Harassment of an employee or the public with threatening, obscene or derogatory language or gestures.
- 16) Stated refusal to perform assigned duties (insubordination) or flagrant violation of work rules and regulations.
- 17) Flagrant behavior or repeated rude or uncivil behavior directed toward citizens or co-workers.
- 18) Workplace Violence or workplace harassment.

Section 6. Disciplinary Action Process for Unsatisfactory Job Performance

An employee whose job performance is unsatisfactory or grossly inefficient will normally receive progressive warnings before disciplinary action resulting in suspension, demotion or dismissal is taken by the Department Head or the Town Manager; however, the Town reserves the right to administer any disciplinary action, up to and including dismissal, at any time under employment at-will. When appropriate, progressive warnings should include the following steps:

1. When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the supervisor.
2. An employee whose job performance remains unsatisfactory over a period of time normally would receive at least one written warning in addition to a final written warning from the supervisor before suspension, demotion or dismissal are initiated. The first written warning would include the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time frames set for improvement. A copy of each written warning should be submitted to Human Resources for placement in the employee's personnel file.
3. If the employee's performance continues to be unsatisfactory after one or more written warnings, then the supervisor should give the employee a final written warning serving notice that corrected performance must take place immediately in order to avoid disciplinary suspension, demotion or dismissal. A copy of the final written warning should be submitted to Human Resources for placement in the employee's personnel file.
4. In the event that the employee's performance fails to improve after the final written warning, or if the employee's performance deficiency is the result of one incident severe enough that it negatively impacts on the image of the Town or compromises the safety of persons or property, or creates significant financial liability for the Town, then the supervisor may recommend disciplinary demotion, suspension or dismissal by following the process outlined in Section 7 of this policy.

Section 7. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted or dismissed without prior warning due to personal conduct detrimental to town service in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When an employee is suspended or dismissed immediately, the employee may be told to leave town property at once and either to report to a supervisor at a specific time or to remain away until further notice.

Section 8. Notification of disciplinary action

Supervisors are encouraged to meet with employees to inform them of proposed disciplinary actions for suspensions, demotions, and dismissals. The intent of the meeting is to notify the employee of the proposed disciplinary action and provide an opportunity for the employee to provide further information, if any, for the supervisor to consider in making a final decision. While this meeting is encouraged, it does not prevent the Town from taking disciplinary action, up to and including dismissal, without prior notice, when necessary.

Section 9. Disciplinary actions relating to special job requirements

An employee may be placed on disciplinary suspension, demoted or dismissed for failing to obtain or maintain a required license, certificate, registration or similar document, or for failing to maintain a satisfactory driving record when driving town equipment or vehicles is a job requirement.

Section 10. Non-Disciplinary Suspension

The Department Head may suspend an employee with pay for the following reasons. Any suspension without pay requires approval of the Human Resources Director.

1. To investigate the circumstances surrounding any alleged violation of any Federal, State or Town laws, statutes, ordinances, rules, regulations or policies.
2. To investigate any alleged act or omission in the scope and course of employment which might constitute a criminal offense.
3. To investigate when an employee is charged with a criminal offense or becomes a party to a civil action or other non-criminal proceeding not arising out of the scope or course of employment to determine if the circumstances of the case cast substantial doubt on the employee's ability to satisfactorily perform their normal duties, or result in a lack of public confidence in the delivery of Town services if the employee were to remain employed.

Following an investigation of an employee's actions which involve possible criminal charges or civil actions, the Department Head may take disciplinary action even if criminal or civil proceedings are pending. After conclusion of the criminal or civil proceedings, the Department Head may review the initial disciplinary decision to determine if additional disciplinary action is necessary.

If an employee is placed on an unpaid non-disciplinary suspension and is reinstated following the suspension, the employee shall not lose any compensation or benefits to which the employee would have been entitled had the suspension not occurred. All health, dental and life insurance benefits are maintained during the period of non-disciplinary suspension.

Section 11. Disciplinary Suspension and Deductions

Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions imposed in good faith for infractions of workplace conduct rules and/or workplace safety violations, in accordance with Federal and State regulations.

ARTICLE X. COMPLAINT RESOLUTION PROCESS

Section 1. Purpose

The Town recognizes that there are times when the need arises for employees to express concerns or complaints in a formal manner. The following procedures will ensure that employees receive a fair and unbiased review of workplace concerns.

The timelines that are listed below (both for the employee and supervisor/Town Manager) are intended to provide a quick and prompt response to concerns/complaints; however, these timelines may be modified, if needed, upon mutual agreement of the employee and supervisor/Town Manager. Any agreed upon changes to the timeline should be documented in writing by both parties.

Section 2. Procedures

Step 1: Informal discussion with supervisor

Employee concerns should first be discussed with the employee's immediate supervisor. Many concerns can be resolved informally when an employee and supervisor take time to review the concern and discuss options to address the issue.

Step 2: Written complaint to supervisor

If the employee is not satisfied with the results of the informal discussion in Step 1, the employee may submit a written complaint within fifteen calendar days of the event or within fifteen calendar days of learning of the event to his or her appropriate supervisor (the person who took the action which created the concern - could be immediate supervisor, division head, Department Head, etc.) to include:

- The nature of the complaint.
- Detailed information including evidence of the issue, witnesses, related policies, etc.
- The remedy or outcome desired.

The supervisor will have ten calendar days to respond to the employee in writing.

If the employee complaint is regarding illegal harassment, discrimination or retaliation, the employee should submit the written complaint directly to Human Resources.

Step 3: Written complaint to next level supervisor

If the employee is not satisfied with the response from the supervisor, the employee may submit a written complaint to next level supervisor (Division Head, Department Head, Town

Manager, etc.) for review within ten calendar days after received of the response from Step 2. A copy should also be sent to Human Resources. The request for review should include:

- An explanation of the complaint and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to the immediate supervisor.
- A copy of the immediate supervisor's written response to the employee's complaint.
- Detailed information regarding the employee's dissatisfaction with the immediate supervisor's response.

The next level supervisor will have ten calendar days to respond to the employee in writing.

Step 4: Written complaint to the Town Manager

If the employee is not satisfied with the response in Step 3, the employee may submit a written complaint to the Town Manager for review. A copy should also be sent to Human Resources. The request for review should include:

- An explanation of the complaint and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to all previous supervisors.
- A copy of the previous supervisors' written responses to the employee's complaint.
- Detailed information regarding the employee's dissatisfaction with the previous supervisor's response.

The Town Manager will consult with the employee's immediate supervisor, Human Resources and any other relevant parties to evaluate the complaint and provide a written response to the employee within ten calendar days after receipt of the written concern. The outcome of the review by the Town Manager will be final unless new evidence or other circumstances warrant additional review of the complaint. The Town Manager would notify the Town Council of any impending legal action.

Section 3. Recordkeeping

Human resources will maintain records of the complaint resolution process confidentially and securely.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 160A-168(b), the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of each increase or decrease in salary; date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification; date and general description of the reasons for each promotion; date and type of each dismissal, suspension or demotion for disciplinary reasons. If the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

Section 2. Access to Confidential Records

All information contained in a Town employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

1. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
2. A licensed physician designated in writing by the employee may examine the employee's medical record.
3. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
5. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
6. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

7. The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resources Director, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained in the Human Resources Department. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established complaint resolution procedures.

Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

Section 7. Examining and/or Copying Confidential Material without Authorization

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.

PART XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

Section 2. Separability

If any provision of these policies or any rule, regulation, or order there under of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Amendments

The Town Council has the authority to amend, revise, or repeal all or any portion of this policy as it sees fit.

Section 4. Effective Date

These policies shall become effective on January 14, 2025.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Steve Adams, Real Estate and Utilities Acquisition Specialist

Department(s): Transportation and Infrastructure Development

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Town of Apex currently has a Public Waterline, Sewer and Access Easements on the property at 1210 Laura Village Drive shown on Book of Maps 2011 Pages 500-502.

As part of a remodeling project the owner is requesting to install new utilities in new easements and abandon the portions no longer being utilized.

They are also requesting abandonment of existing access easements and realigning and dedicating new easements as part of the realignment.

These abandonments will not become effective until recordation of the new easements.

Town staff has determined that the areas being abandoned are no longer needed since new easements are being dedicated.

Attachments

- CN13-A1: Resolution including areas to be abandoned
- CN13-A2: Map showing original easements on BM2011 PGS 500-502
- CN13-A3: Public Access Easements Dedication
- CN13-A4: Public Waterline and Sanitary Sewer Easement Dedication
- CN13-A5: Public Waterline and Sanitary Sewer Easement Abandonment
- CN13-A5: Public Access Easement Abandonment



RESOLUTION NO. 24-_____

A Resolution to Abandon Portions of Existing Easements

WHEREAS, Hendrick Automotive Group (the “**Owner**”) is the owner of a certain tract of land in or near the Town of Apex which is described in the deed recorded in Deed Book 12782, Page 1538, Wake County Registry (the “**Subject Property**”);

WHEREAS, public waterline easement, public sanitary sewer easement, and public access easement interests across the Subject Property were conveyed to the Town by an instrument recorded in Book of Maps 2011, Pages 0500 - 0503, Wake County Registry;

WHEREAS, the Owner desires the Town to abandon any interest that the Town has in that portion of public waterline easement and public sanitary sewer easement in those certain areas designated as "PUBLIC WATERLINE EASEMENT TO BE ABANDONED" and "PUBLIC SANITARY SEWER EASEMENT TO BE ABANDONED" as shown on that certain survey plat entitled "PUBLIC WATERLINE AND SANITARY SEWER EASEMENT ABANDONMENT" prepared by ACRO Development Services, dated June 26, 2024, said survey being attached hereto as Exhibit A; (the "**Abandoned Portions of Utility Easements**");

WHEREAS, the Abandoned Portions of Utility Easements are further described as follows:

Public Waterline Easement Portion to be Abandoned:

BEGINNING, FOR REFERENCE, AT THE NORTHEASTERLY CORNER OF THAT 1.17 ACRE TRACT AS CONVEYED TO HENDRICK AUTOMOTIVE GROUP BY DEED OF RECORD IN DEED BOOK 17028, PAGE 671;

THENCE SOUTH 45° 38' 46" WEST, ACROSS GRANTOR'S TRACT, A DISTANCE OF 170.13 FEET TO THE TRUE POINT OF BEGINNING;

THENCE ACROSS GRANTOR'S TRACT, THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

NORTH 22° 07' 13" EAST, A DISTANCE OF 0.70 FEET TO A POINT;
NORTH 56° 23' 54" WEST, A DISTANCE OF 23.79 FEET TO A POINT;
NORTH 00° 22' 47" WEST, A DISTANCE OF 152.85 FEET TO A POINT;
NORTH 22° 52' 47" WEST, A DISTANCE OF 59.24 FEET TO A POINT;
NORTH 67° 07' 13" EAST, A DISTANCE OF 20.00 FEET TO A POINT;
SOUTH 22° 52' 47" EAST, A DISTANCE OF 63.22 FEET TO A POINT;
SOUTH 00° 22' 47" WEST, A DISTANCE OF 169.48 FEET TO THE TRUE

POINT OF BEGINNING, CONTAINING 0.102 ACRE OF LAND, MORE OR LESS.

Public Sanitary Sewer Easement Portion to be Abandoned:

BEGINNING, FOR REFERENCE, AT THE NORTHEASTERLY CORNER OF THAT 1.17 ACRE TRACT CONVEYED TO HENDRICK AUTOMOTIVE GROUP, LLC BY DEED OF RECORD IN DEED BOOK 17028, PAGE 671;

THENCE NORTH 83° 06' 01" WEST, ACROSS GRANTOR'S TRACT, DISTANCE OF 94.27 FEET TO A POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ACROSS GRANTOR'S TRACT, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

NORTH 77° 10' 43" WEST, A DISTANCE OF 30.40 FEET TO A POINT;
NORTH 03° 31' 53" EAST, A DISTANCE OF 121.27 FEET TO A POINT;
NORTH 69° 20' 06" EAST, A DISTANCE OF 32.89 FEET TO A POINT;
SOUTH 03° 31' 53" WEST, A DISTANCE OF 139.66 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 0.104 ACRE OF LAND, MORE OR LESS.

WHEREAS, the Town has no need for the Abandoned Portions of Utility Easements and they have no market value; and

WHEREAS, the Owner desires the Town to abandon any interest that the Town has in that portion of public access easement in that certain area designated as "Access Easement to be Abandoned PB 2011 PG 484-487" as shown on that certain survey plat entitled "PUBLIC ACCESS EASEMENT ABANDONMENT" prepared by ACRO Development Services, dated June 26, 2024, said survey being attached hereto as Exhibit B; (the "**Abandoned Portion of Access Easement**");

WHEREAS, the Abandoned Portion of Access Easement is further described as follows:

Public Access Easement Portion to be Abandoned:

BEGINNING, FOR REFERENCE, AT THE SOUTHEASTERLY CORNER OF SAID 28.27 ACRE PARCEL;

THENCE NORTH 18° 40' 07" EAST, ACROSS GRANTOR'S TRACT, A DISTANCE OF 186.94 FEET TO THE TRUE POINT OF BEGINNING;

THENCE ACROSS GRANTOR'S TRACT, THE FOLLOWING SIXTEEN (16) COURSES AND DISTANCES:

NORTH 67° 57' 58" WEST, A DISTANCE OF 26.00 FEET TO A POINT;
NORTH 22° 15' 55" EAST, A DISTANCE OF 205.11 FEET TO A POINT OF CURVATURE TO THE RIGHT;

WITH THE ARC OF SAID CURVE TO THE RIGHT, HAVING A DELTA OF 94° 11' 01", A RADIUS OF 78.00 FEET, AN ARC LENGTH OF 128.22 FEET, HAVING A CHORD BEARING AND DISTANCE OF NORTH 69° 21' 26" EAST, 114.26 FEET TO A POINT OF TANGENCY;

SOUTH 63° 33' 04" EAST, A DISTANCE OF 23.25 FEET TO A POINT;
SOUTH 64° 52' 24" EAST, A DISTANCE OF 3.31 FEET TO A POINT;
SOUTH 26° 22' 33" WEST, A DISTANCE OF 26.00 FEET TO A POINT;
NORTH 65° 10' 22" WEST, A DISTANCE OF 2.70 FEET TO A POINT;
NORTH 63° 33' 04" WEST, A DISTANCE OF 23.89 FEET TO A POINT OF CURVATURE TO THE LEFT;

WITH THE ARC OF SAID CURVE TO THE LEFT, HAVING A DELTA OF

54° 24' 38", A RADIUS OF 52.00 FEET, AN ARC LENGTH OF 49.38 FEET, HAVING A CHORD BEARING AND DISTANCE OF SOUTH 89° 14' 37" WEST, 47.55 FEET TO A POINT;

SOUTH 01° 36' 27" WEST, A DISTANCE OF 10.55 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT;

WITH THE ARC OF SAID CURVE TO THE RIGHT, HAVING A DELTA OF 38° 13' 27", A RADIUS OF 49.17 FEET, AN ARC LENGTH OF 32.80 FEET, HAVING A CHORD BEARING AND DISTANCE OF SOUTH 20° 41' 12" WEST, 32.20 FEET TO A POINT OF COMPOUND CURVATURE TO THE RIGHT;

WITH THE ARC OF SAID CURVE TO THE RIGHT, HAVING A DELTA OF 16° 09' 46", A RADIUS OF 48.65 FEET, AN ARC LENGTH OF 13.72 FEET, HAVING A CHORD BEARING AND DISTANCE OF SOUTH 41° 42' 36" WEST, 13.68 FEET TO A POINT;

SOUTH 63° 08' 45" WEST, A DISTANCE OF 10.85 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT;

WITH THE ARC OF SAID CURVE TO THE RIGHT, HAVING A DELTA OF 40° 49' 40", A RADIUS OF 20.50 FEET, AN ARC LENGTH OF 14.61 FEET, HAVING A CHORD BEARING AND DISTANCE OF SOUTH 42° 40' 46" WEST, 14.30 FEET TO A POINT OF TANGENCY;

SOUTH 22° 15' 55" WEST, A DISTANCE OF 161.71 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 0.222 ACRE OF LAND, MORE OR LESS.

WHEREAS, the Town has no need for the Abandoned Portion of Access Easement and it has no market value; and

WHEREAS, the Town Council considers it advisable to abandon the Abandoned Portions of Utility Easements and the Abandoned Portion of Access Easement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council as follows:

1. The Town Council of the Town of Apex hereby abandons any and all interest it has in the Abandoned Portions of Utility Easements as shown on Exhibit A in accordance with Paragraph (2) below, provided however, the Town specifically retains any and all property interest it may have in the property not specifically identified as abandoned herein.

2. The Abandoned Portions of Utility Easements shall be abandoned effective upon, and only upon, the recording of instruments at the Wake County Register of Deeds that convey to the Town of Apex the areas labeled "PUBLIC WATERLINE EASEMENT" and "PUBLIC SANITARY SEWER EASEMENT" as shown on that certain survey plat entitled "PUBLIC WATERLINE AND SANITARY SEWER EASEMENT DEDICATION" prepared by ACRO Development Services, dated June 26, 2024, said survey being attached hereto as Exhibit C.

3. The Town Council of the Town of Apex hereby abandons any and all

interest it has in the Abandoned Portion of Access Easement as shown on Exhibit B, in accordance with Paragraph (4) below, provided however, the Town specifically retains any and all property interest it may have in the property not specifically identified as abandoned herein.

4. The Abandoned Portion of Access Easement shall be abandoned effective upon, and only upon, the recording of instruments at the Wake County Register of Deeds that convey to the Town of Apex the area labeled “26’ ACCESS EASEMENT” as shown on that certain survey plat entitled “PUBLIC ACCESS EASEMENT DEDICATION” prepared by ACRO Development Services, dated June 26, 2024, said survey being attached hereto as Exhibit D.

5. That the Town Manager or Assistant Town Manager is hereby authorized to make, execute, and deliver to the owners of the Subject Property an instrument, in a form suitable for recording, releasing whatever interest the Town might have in and to the Abandoned Portions of Utility Easements and the Abandoned Portion of Access Easement.

Upon motion duly made by Council Member _____, and duly seconded by Council Member _____, the above Resolution was duly adopted by the Apex Town Council at the meeting held on the ____ day of _____ 2024, in the Town Hall.

Upon call for a vote the following Council Members voted in the affirmative:

and the following Council Members voted in the negative:

This the ____ day of _____ 2024.

TOWN OF APEX

Jacques K. Gilbert, Mayor

ATTEST:

Allen L. Coleman, Town Clerk, CMC, NCCCC

- Page 326 -

1" = 100'	1/4
-----------	-----

Proposed Town of Apex
Public Access Easement



Proposed Public Access
Easement



Resource Conservation Area
11.212 Acres - See Note
Sheet 2 of 4.



LINE TABLE - TOWN OF APEX ACCESS EASEMENT

LINE	BEARING	LENGTH
L201	N 15°49'21" W	264.44'
L202	N 01°55'49" E	179.68'
L203	N 43°09'37" W	50.00'
L204	N 88°15'03" W	95.35'
L205	S 46°39'53" W	53.41'
L206	S 01°34'48" W	62.92'
L207	S 22°08'20" W	55.55'
L208	S 25°06'13" W	158.84'
L209	N 64°53'47" W	30.00'
L210	N 25°06'13" E	69.05'
L211	N 41°04'54" W	60.48'
L212	N 37°09'59" W	54.88'
L213	N 20°32'24" E	170.64'
L214	N 67°38'48" W	7.10'
L215	N 22°21'12" E	40.88'
L216	S 67°38'48" E	30.00'
L217	S 22°21'12" W	40.88'
L218	S 67°38'48" E	1.11'
L219	S 20°32'24" W	156.66'
L220	S 37°09'59" E	40.83'
L221	S 41°04'54" E	41.94'
L222	N 36°20'11" E	83.64'
L223	N 22°08'20" E	48.21'
L224	N 01°34'48" E	120.46'
L225	S 88°15'03" E	216.73'
L226	S 01°55'49" W	235.42'
L227	S 15°49'21" E	249.35'

CURVE TABLE - TOWN OF APEX ACCESS EASEMENT

CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD
C9	25.04'	78.00'	18°23'43"	S 89°55'07" W	24.94'

LINE TABLE - PUBLIC ACCESS EASEMENT

LINE	BEARING	LENGTH
L230	S 34°14'36" W	14.32'
L231	S 29°50'49" W	24.77'
L232	N 63°31'26" W	20.42'
L233	N 13°14'47" E	4.19'
L234	S 63°07'13" W	10.90'
L235	N 67°38'23" W	33.42'
L236	S 63°31'26" E	20.28'

CURVE TABLE - PUBLIC ACCESS EASEMENT

CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD
C2	22.14'	45.50'	27°52'54"	N 49°34'59" W	21.92'
C3	48.80'	52.00'	53°46'14"	S 89°35'27" W	47.03'
C4	14.61'	20.50'	40°49'40"	S 42°42'23" W	14.30'
C5	12.26'	25.50'	27°32'17"	S 08°31'25" W	12.14'
C6	15.44'	25.50'	34°41'47"	N 39°38'27" E	15.21'
C7	128.22'	78.00'	94°11'01"	N 69°23'04" E	114.26'
C8	26.74'	45.50'	33°40'08"	S 80°21'30" E	26.35'

WAKE COUNTY, NC 102
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
06/01/2011 AT 10:46:09

BOOK: BM2011 PAGE: 00502

Judith Louise Freeman
6.68 AC
DB: 11205 PG: 2632

S 67°10'26" E 266.29' S 67°17'24" E 291.10'

EX MARGINAL WETLANDS

100 YEAR FLOOD PLAN
ELEVATION PER FLOOD STUDY

100 YEAR FLOOD PLAN

EX MARGINAL WETLAND

CL. STREAM

NEUSE RIBBON BUFFER

TOWN OF APEX STREAM BUFFER

N 26°21'04" E

Hendrick Automotive
Group
0742-88-5105
28.12 AC
1,224,908 SQ FT
Zoning: PC-CU and PC-CZ
DB: 12782 PG: 1538

FILED FOR REGISTRATION
05/25/11
DATE
LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY
BY: *and a Deputy*
ASSISTANT DEPUTY
TIME: 4:36:38

10'x70' Sight Triangle

LAURA VILLAGE DRIVE

EX. 60' R/W

S 20°41'49" W 85.04'

N 71°11'05" W 6.36'

N 71°08'39" W 58.89'

N 77°52'34" W 155.92'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

N 77°50'00" W 290.84'

SURVEYOR'S CERTIFICATION

Larry R. Ritter
I, James M. Pearsall, hereby certify that this plat was prepared from an actual field survey performed under my supervision in February, 2010; that the boundaries not surveyed are clearly indicated as drawn from information found as shown; that the ratio of precision as calculated is greater than 1:10,000, that the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision, that this plat was prepared in accordance with title 21 chapter 56 section 1600, as amended, of the North Carolina Administrative Code and G.S. 47-30 as amended.

James M. Pearsall, NC
April 1, 2011
Professional Seal
L-4650
LAND SURVEYOR
JAMES M. PEARSALL

William T. Shenton
2.81 AC
DB: 3035 PG: 275

Harold R. Clark
3.5 AC
DB: 8945 PG: 914

C10 Δ = 17°21'35"
R = 78.00'
L = 23.63'
CB = N72°12'13"W
CD = 23.54'

Hendrick Automotive
Group
0742-88-5105
28.12 AC
1,224,908 SQ FT
Zoning: PC-CU and PC-CZ
DB: 12782 PG: 1538

L135 S 13°14'47" W 13.96'
L136 N 67°40'28" W 58.95'

C10 S 63°31'26" E 297.14'
N 63°31'26" W 297.55'
Δ = 13°07'29"
R = 48.62'
L = 11.14'
CB = S10°56'36"W
CD = 11.11'

Windle Properties LLC
1.17 AC
DB: 09761
PG: 1541

E. Hunt LLC
0.71 AC
DB: 09235
PG: 1648

S 34°14'36" W 67.64'
10'x70' Sight Triangle
S 29°50'49" W 91.40'
10'x70' Sight Triangle
S 27°50'48" W 55.22'

S 26°52'24" W 89.82'

S 26°24'40" W 53.49'

10' Right-of-Way Dedication. 0.231 Acres See Sheet 4 of 4.

N 64°03'08" W 197.50'

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

R/W

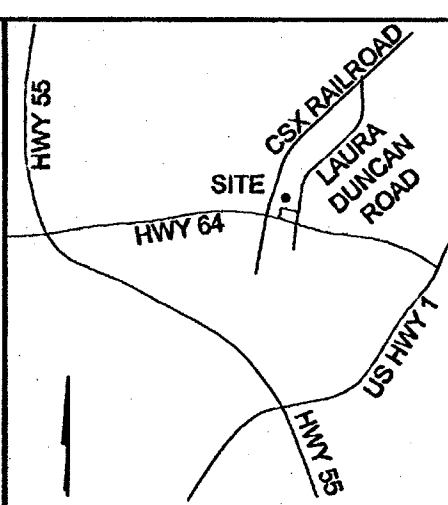
R/W

R/W

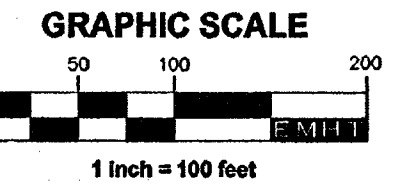
R/W

R/W

R/W



VICINITY MAP



GRAPHIC SCALE

1 inch = 100 feet

**SITE PLAN
FINAL PLAT**
FOR
**HENDRICK AT
LAURA VILLAGE**
1210 LAURA VILLAGE DR.
TOWN OF APEX
WHITE OAK TOWNSHIP
WAKE COUNTY, NC

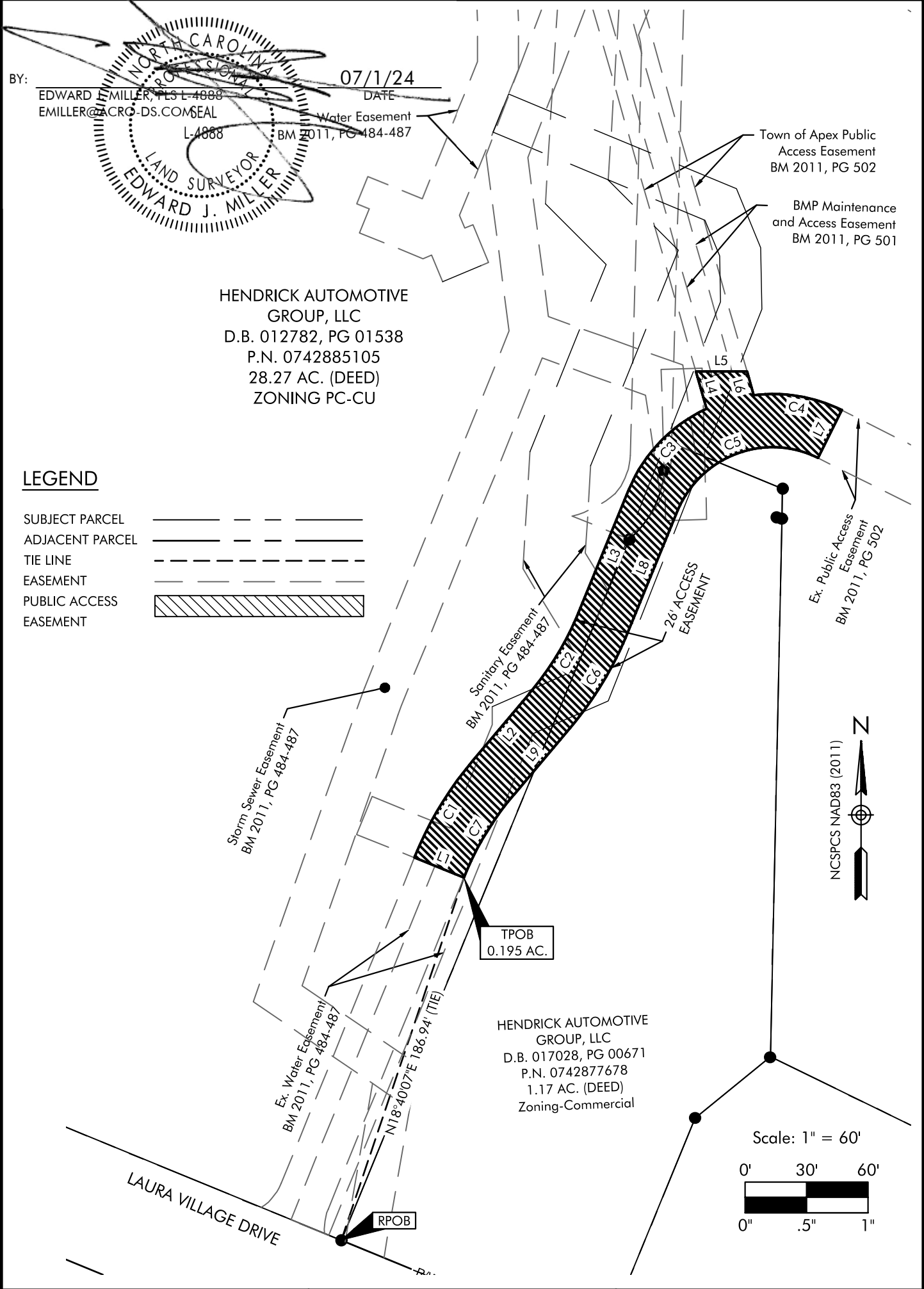
CLIENT:
**HENDRICK
AUTOMOTIVE GROUP**
6000 MONROE ROAD
CHARLOTTE, NC 28212
(704) 566-3208

PREPARED BY:
EMH&T
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
301 McCullough Dr., Ste. 109, Charlotte, NC 28262
Phone: 704.548.0333 Toll Free: 888.775.3648
emht.com

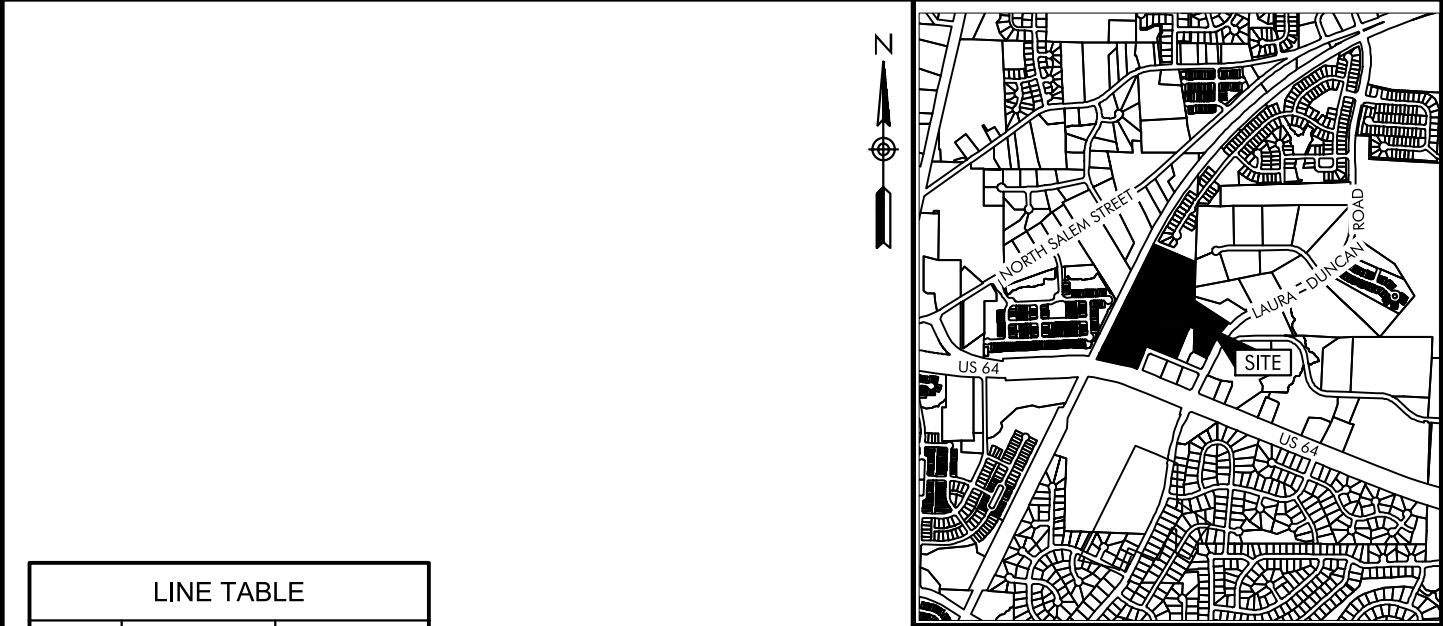
MARK	DATE	DESCRIPTION
1	4/19/11	Comments per the Town of Apex

DATE: APRIL 1, 2011 JOB NO.: 2010-0014

SCALE: 1" = 100' SHEET: 3/4



Prepared By:	Survey Prepared For / Owner:	Sheet Title:
	HENDRICK AUTOMOTIVE GROUP	PUBLIC ACCESS EASEMENT DEDICATION
601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com NC Firm No. P-2329 ACRO Project Number: 2023-021	Project Location: 1210 Laura Village Drive, Town of Apex, Wake County, North Carolina Project Name: TAC Toyota Apex Date: 07/1/24	Sheet Number: 2/2

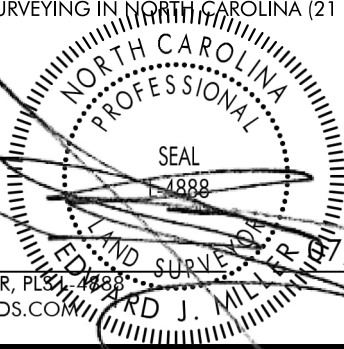


LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N67°57'58"W	26.00
L2	N40°09'27"E	42.43
L3	N22°15'00"E	63.93
L4	N15°50'59"W	18.89
L5	N89°53'29"E	24.94
L6	S15°50'59"E	12.05
L7	S26°22'33"W	26.00
L8	S22°15'00"W	63.93
L9	S40°09'27"W	42.43

CURVE TABLE					
CURVE #	DELTA	RADIUS	ARC LENGTH	CHORD BEARING	CHORD DISTANCE
C1	18°07'25"	176.00	55.67'	N31°05'44"E	55.44'
C2	17°54'26"	150.00	46.88'	N31°12'13"E	46.69'
C3	42°38'36"	76.00	56.56'	N43°34'18"E	55.27'
C4	33°18'47"	76.00	44.19'	S80°16'50"E	43.57'
C5	94°07'33"	50.00	82.14'	S69°18'47"W	73.21'
C6	17°54'26"	176.00	55.01'	S31°12'13"W	54.78'
C7	18°07'25"	150.00	47.45'	S31°05'44"W	47.25'

SURVEYOR'S CERTIFICATION

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTIONS RECORDED IN THE DEEDS AND MAPS LISTED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM DOCUMENTS REFERENCED HEREON; THAT THE RATIO OF PRECISION IS THAT OF A CLASS A SURVEY; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95 PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS A AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56. 1600).

BY:  7/1/24

MONUMENTATION

● 1/2" REBAR FOUND UNLESS OTHERWISE STATED

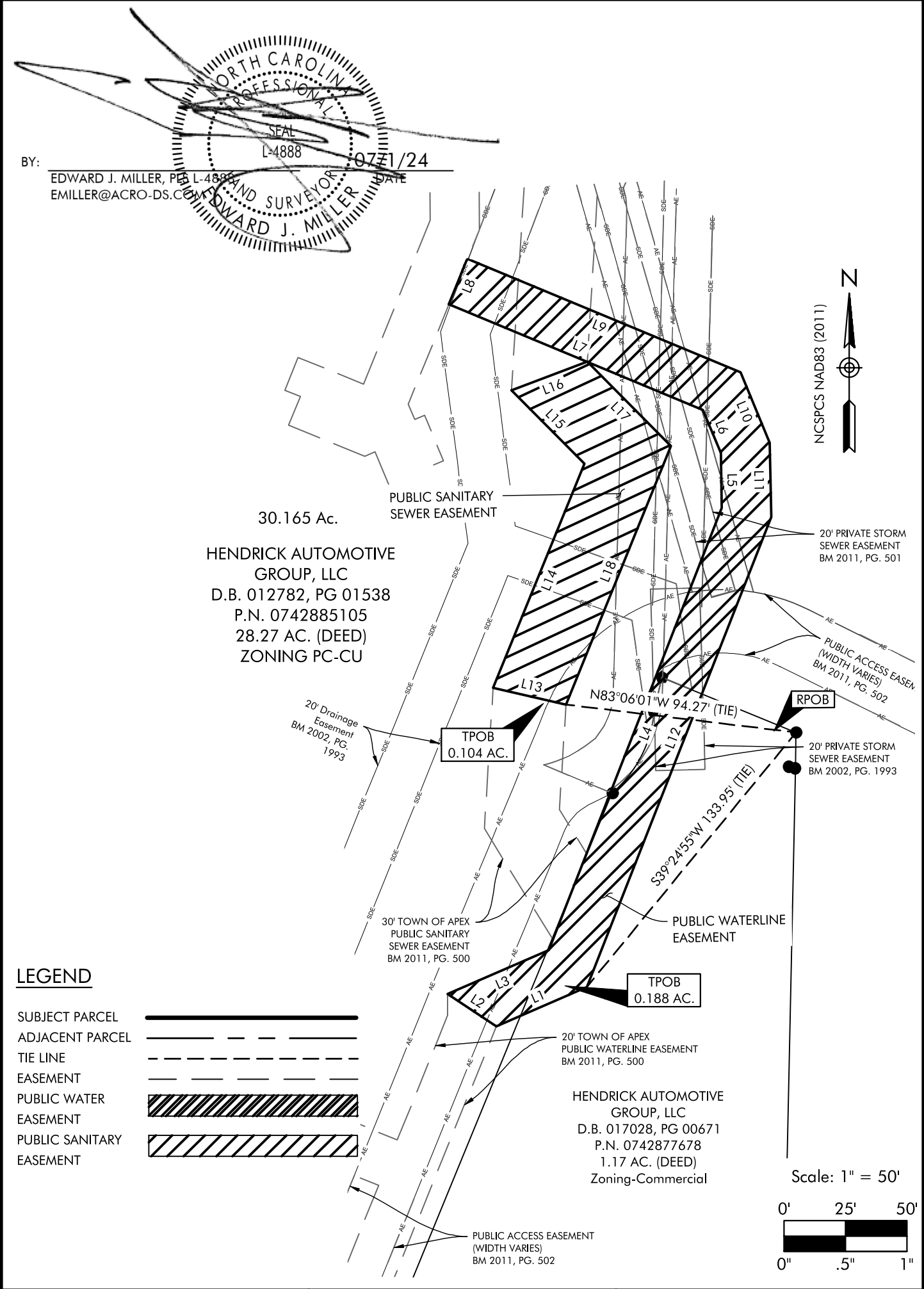
NOMENCLATURE

B.M.	BOOK OF MAPS
P.N.	PARCEL NUMBER
PG.	PAGE
AC.	ACRE
D.B.	DEED BOOK
TYP	TYPICAL
SDE	STORM DRAINAGE EASEMENT
SSMH	SANITARY SEWER MANHOLE
MISC.	MISCELLANEOUS
RPOB	REFERENCE POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING

NOTE

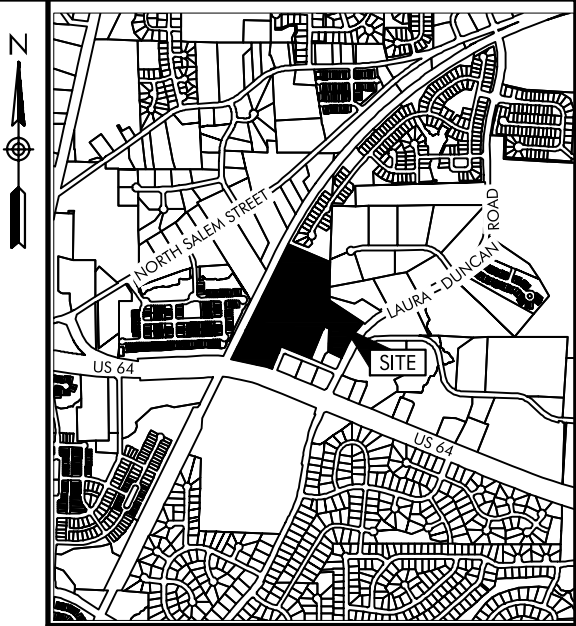
THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

<div>Prepared By:</div> <div>601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com</div> <div>NC Firm No. P-2329</div> <div>ACRO Project Number: 2023-021</div>	<div>Survey Prepared For / Owner:</div> <div>HENDRICK AUTOMOTIVE GROUP</div> <div>Project Location:</div> <div>1210 Laura Village Drive, Town of Apex, Wake County, North Carolina</div> <div>Project Name:</div> <div>TAC Toyota Apex</div> <div>Date:</div> <div>07/1/24</div>	<div>Sheet Title:</div> <div>PUBLIC ACCESS EASEMENT DEDICATION</div> <div>Sheet Number:</div> <div>1 / 2</div>
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<div>Prepared By:</div> <div><div>ACRO</div><div>DEVELOPMENT SERVICES</div><div>LAND SURVEYING • CIVIL ENGINEERING</div></div> <div>601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com</div> <div>NC Firm No. P-2329</div> <div>ACRO Project Number: 2023-021</div>	<div>Survey Prepared For / Owner:</div> <div>HENDRICK AUTOMOTIVE GROUP</div> <div>Project Location:</div> <div>1210 Laura Village Drive, Town of Apex, Wake County, North Carolina</div> <div>Project Name:</div> <div>TAC Toyota Apex</div> <div>Date:</div> <div>07/1/24</div>	<div>Sheet Title:</div> <div>PUBLIC WATERLINE AND SANITARY SEWER EASEMENT DEDICATION</div> <div>Sheet Number:</div> <div>2/2</div>
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LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S66°24'10"W	40.23
L2	N56°23'54"W	23.79
L3	N66°24'10"E	44.83
L4	N21°24'10"E	193.05
L5	N01°05'50"W	22.33
L6	N22°24'48"W	18.95
L7	N67°24'48"W	111.93
L8	N22°07'13"E	20.00
L9	S67°24'48"E	120.38
L10	S22°24'48"E	31.00
L11	S01°05'50"E	30.07
L12	S21°24'10"W	205.31
L13	N77°10'43"W	30.40
L14	N22°06'40"E	98.52
L15	N44°51'41"W	41.98
L16	N69°20'06"E	32.89
L17	S44°51'41"E	48.35
L18	S22°06'40"W	113.46



NOTE

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

NOMENCLATURE

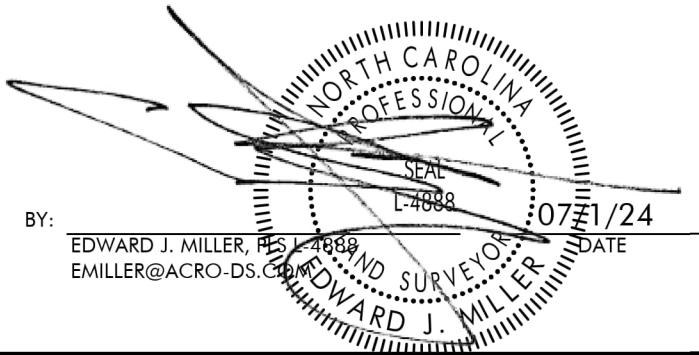
B.M.	BOOK OF MAPS
P.N.	PARCEL NUMBER
PG.	PAGE
AC.	ACRE
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MISC.	MISCELLANEOUS
RPOB	REFERENCE POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING

SURVEYOR'S CERTIFICATION

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTIONS RECORDED IN THE DEEDS AND MAPS LISTED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM DOCUMENTS REFERENCED HEREON; THAT THE RATIO OF PRECISION IS THAT OF A CLASS A SURVEY; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95 PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS A AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56. 1600).

MONUMENTATION

- 1/2" REBAR FOUND UNLESS OTHERWISE STATED
- ◆ MAGNETIC NAIL FOUND



BY: EDWARD J. MILLER, P.L.S. L-4888
EMILLER@ACRO-DS.COM DATE 07/1/24

Prepared By:



601 S. Cedar Street, Suite 101
Charlotte, NC 28202
980-224-8518
acro@acro-ds.com

NC Firm No. P-2329

ACRO Project Number:

2023-021

Survey Prepared For / Owner:

HENDRICK AUTOMOTIVE GROUP

Project Location:

1210 Laura Village Drive,
Town of Apex, Wake County,
North Carolina

Project Name:

TAC Toyota Apex

Date:

07/1/24









Sheet Title:

PUBLIC WATERLINE
AND SANITARY SEWER
EASEMENT DEDICATION

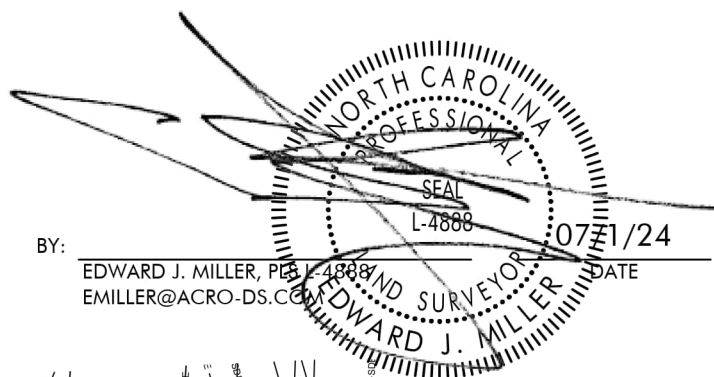
Sheet Number:

1/2

LEGEND

SUBJECT PARCEL	
ADJACENT PARCEL	
TIE LINE	
EASEMENT	
PUBLIC WATER	
EASEMENT	
PUBLIC SANITARY	
EASEMENT	

BY: EDWARD J. MILLER, PE DATE 07/17/2018
EMILLER@ACRO-DS.COM



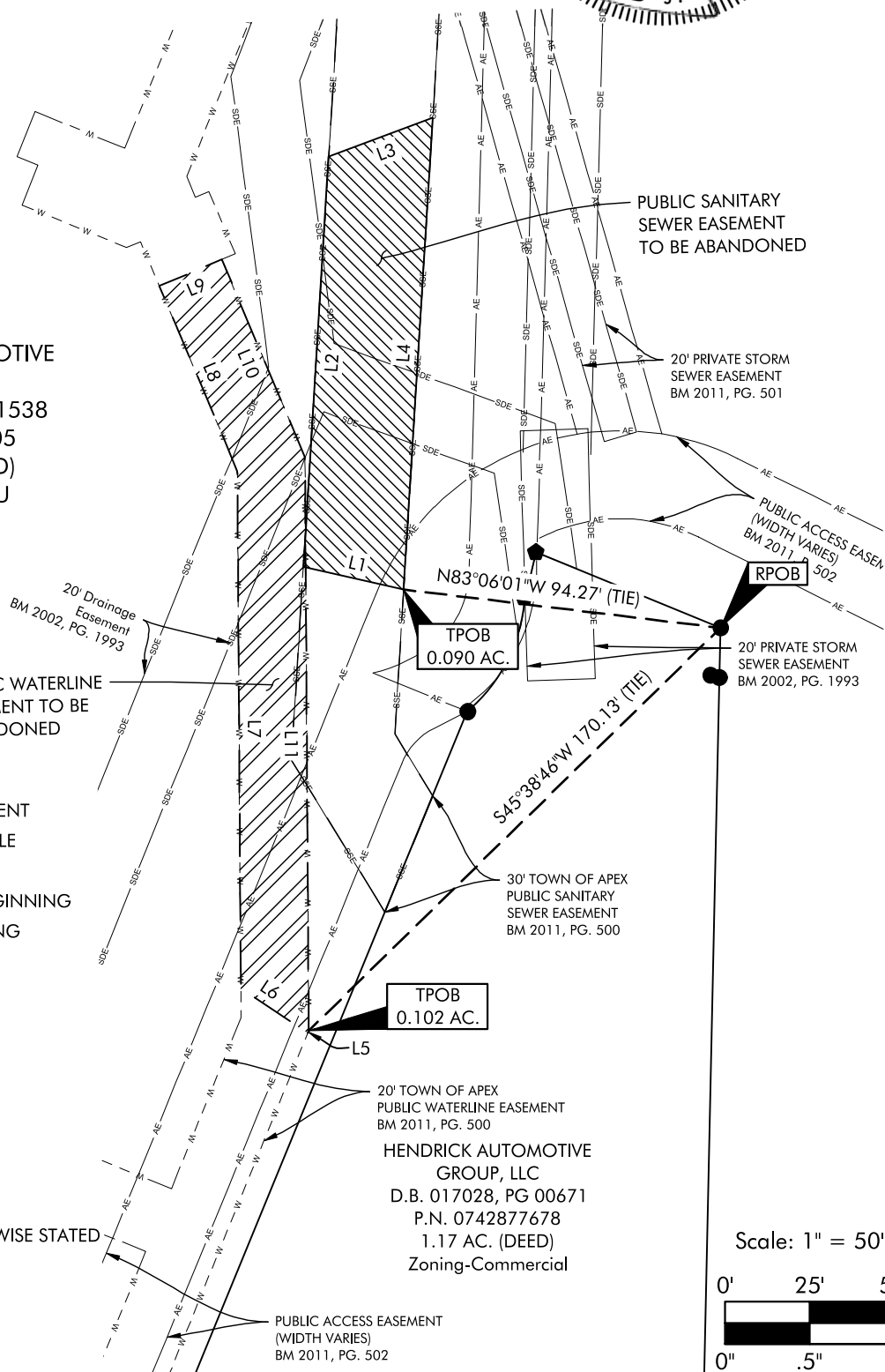
HENDRICK AUTOMOTIVE
GROUP, LLC
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P.N. 0742885105
28.27 AC. (DEED)
ZONING PC-CU

NOMENCLATURE

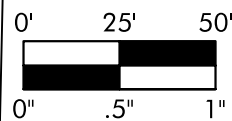
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P.N.	PARCEL NUMBER	
PG.	PAGE	PUBLIC WATER
AC.	ACRE	EASEMENT TO
D.B.	DEED BOOK	ABANDONED
TYP	TYPICAL	
SDE	STORM DRAINAGE EASEMENT	
SSMH	SANITARY SEWER MANHOLE	
MISC.	MISCELLANEOUS	
RPOB	REFERENCE POINT OF BEGINNING	
TPOB	TRUE POINT OF BEGINNING	

MONUMENTATION

- 1/2" REBAR FOUND UNLESS OTHERWISE STATED
 ◆ MAGNETIC NAIL FOUND



Scale: 1" = 50'



Prepared By:

ACRO
DEVELOPMENT SERVICES
LAND SURVEYING • CIVIL ENGINEERING

601 S. Cedar Street, Suite 101
Charlotte, NC 28202
980-224-8518
acro@acro-ds.com

NC Firm No. P-2329

ACRO Project Number:

2023-021

Survey Prepared For / Owner:

HENDRICK AUTOMOTIVE GROUP

Project Location:

1210 Laura Village Drive,
Town of Apex, Wake County,
North Carolina

Project Name:

TAC Toyota Apex

Date:

07/1/2024

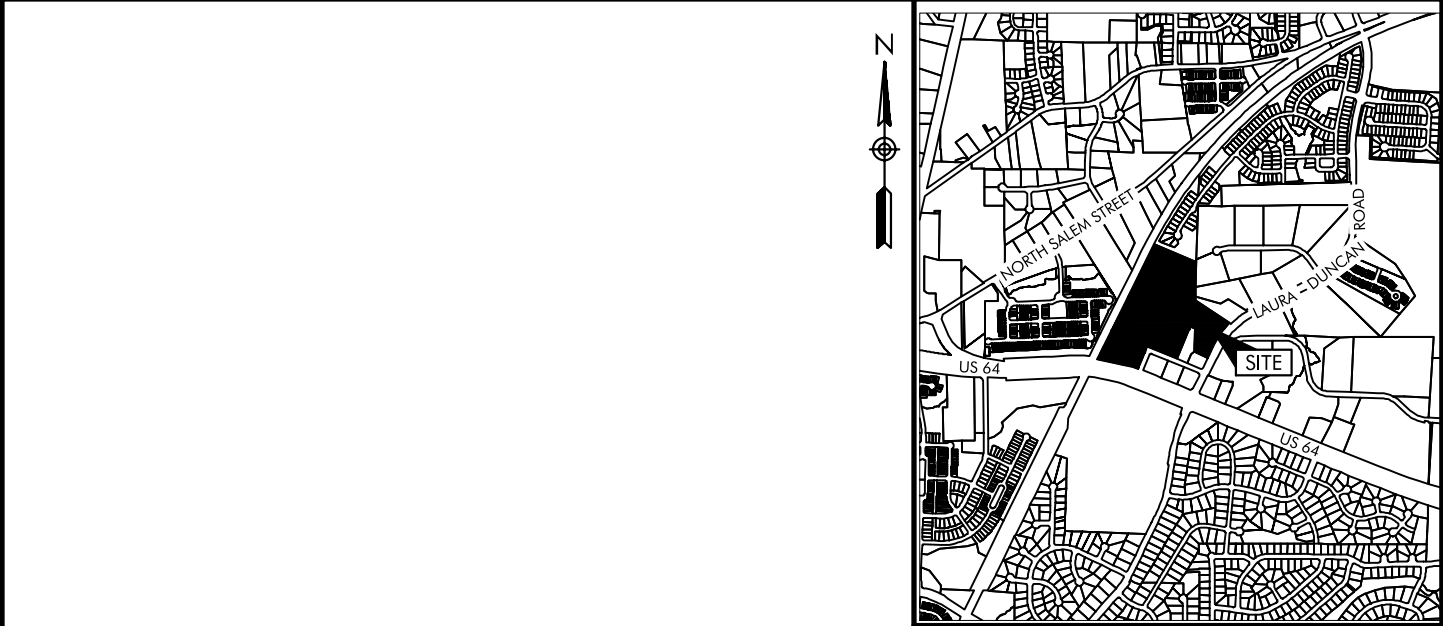
- Page 333 -

Sheet Title:

PUBLIC WATERLINE
AND SANITARY SEWER
EASEMENT
ABANDONMENT

Sheet Number:

2/2



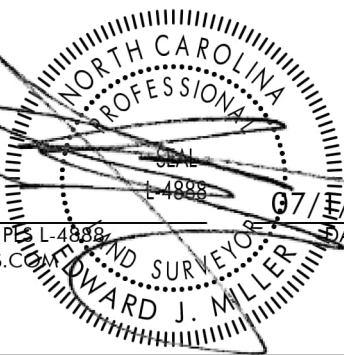
LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N77°10'43"W	30.40
L2	N03°31'53"E	121.27
L3	N69°20'06"E	32.89
L4	S03°31'53"W	139.66
L5	N22°07'13"E	0.70
L6	N56°23'54"W	23.79
L7	N00°22'47"W	152.85
L8	N22°52'47"W	59.24
L9	N67°07'13"E	20.00
L10	S22°52'47"E	63.22
L11	S00°22'47"E	169.48


NOTE

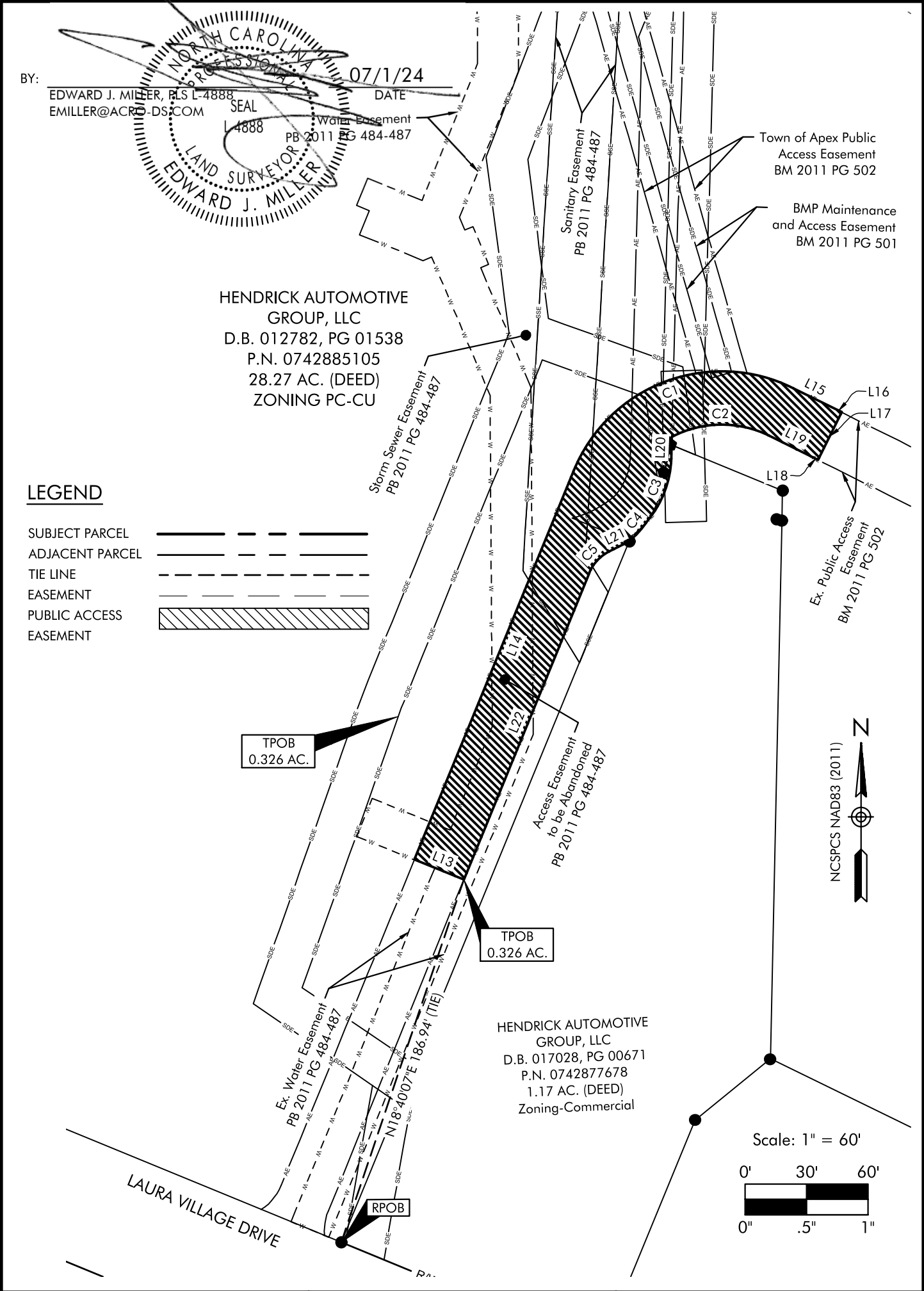
THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

SURVEYOR'S CERTIFICATION

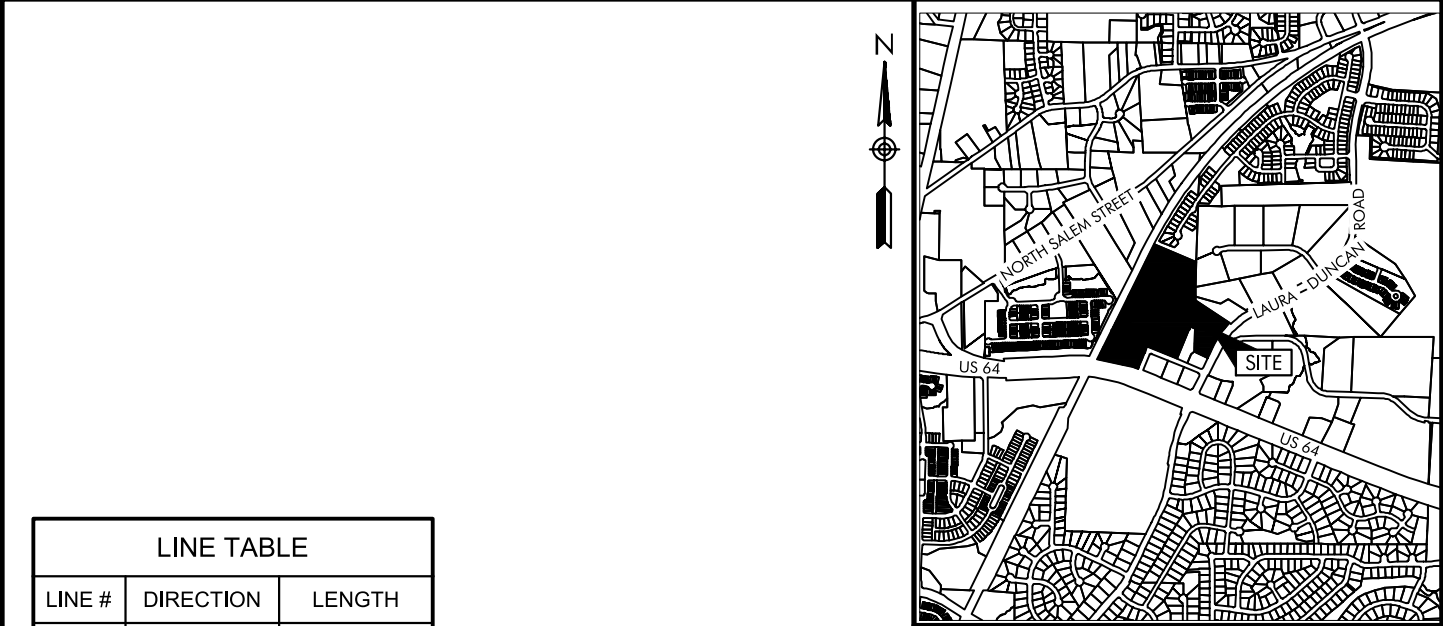
I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTIONS RECORDED IN THE DEEDS AND MAPS LISTED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM DOCUMENTS REFERENCED HEREON; THAT THE RATIO OF PRECISION IS THAT OF A CLASS A SURVEY; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95 PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS A AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56. 1600).

BY:  07/1/2024
EDWARD J. MILLER, PLS L-4888
EMILLER@ACRO-DS.COM DATE

<div>Prepared By:</div> <div><p>ACRO DEVELOPMENT SERVICES LAND SURVEYING • CIVIL ENGINEERING</p></div> <div>601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com</div> <div>NC Firm No. P-2329</div> <div>ACRO Project Number: 2023-021</div>	<div>Survey Prepared For / Owner:</div> <div>HENDRICK AUTOMOTIVE GROUP</div> <div>Project Location:</div> <div>1210 Laura Village Drive, Town of Apex, Wake County, North Carolina</div> <div>Project Name:</div> <div>TAC Toyota Apex</div> <div>Date:</div> <div>7/1/24</div>	<div>Sheet Title:</div> <div>PUBLIC WATERLINE AND SANITARY SEWER EASEMENT ABANDONMENT</div> <div>Sheet Number:</div> <div>1/2</div>
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<div>Prepared By:</div> <div>601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com</div> <div>NC Firm No. P-2329</div> <div>ACRO Project Number: 2023-021</div>	<div>Survey Prepared For / Owner:</div> <div>HENDRICK AUTOMOTIVE GROUP</div> <div>Project Location:</div> <div>1210 Laura Village Drive, Town of Apex, Wake County, North Carolina</div> <div>Project Name:</div> <div>TAC Toyota Apex</div> <div>Date:</div> <div>07/1/24</div>	<div>Sheet Title:</div> <div>PUBLIC ACCESS EASEMENT ABANDONMENT</div> <div>Sheet Number:</div> <div>2/2</div>
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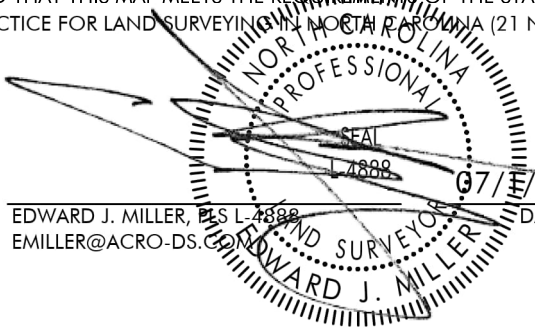


LINE TABLE		
LINE #	DIRECTION	LENGTH
L13	N67°57'58"W	26.00
L14	N22°15'55"E	205.11
L15	S63°33'04"E	23.25
L16	S64°52'24"E	3.31
L17	S26°22'33"W	26.00
L18	N65°10'22"W	2.70
L19	N63°33'04"W	23.89
L20	S01°36'27"W	10.55
L21	S63°08'45"W	10.85
L22	S22°15'55"W	161.71

CURVE TABLE					
CURVE #	DELTA	RADIUS	ARC LENGTH	CHORD BEARING	CHORD DISTANCE
C1	94°11'01"	78.00	128.22'	N69°21'26"E	114.26'
C2	54°24'38"	52.00	49.38'	S89°14'37"W	47.55'
C3	38°13'27"	49.17	32.80'	S20°41'12"W	32.20'
C4	16°09'46"	48.65	13.72'	S41°42'36"W	13.68'
C5	40°49'40"	20.50	14.61'	S42°40'46"W	14.30'

SURVEYOR'S CERTIFICATION

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTIONS RECORDED IN THE DEEDS AND MAPS LISTED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM DOCUMENTS REFERENCED HEREON; THAT THE RATIO OF PRECISION IS THAT OF A CLASS A SURVEY; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95 PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS A AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56. 1600).

BY:  07/1/2024
EDWARD J. MILLER, P.L.S. L-4888
EMILLER@ACRO-DS.COM DATE

MONUMENTATION

● 1/2" REBAR FOUND UNLESS OTHERWISE STATED

NOMENCLATURE

B.M.	BOOK OF MAPS
P.N.	PARCEL NUMBER
PG.	PAGE
AC.	ACRE
D.B.	DEED BOOK
TYP	TYPICAL
SDE	STORM DRAINAGE EASEMENT
SSMH	SANITARY SEWER MANHOLE
MISC.	MISCELLANEOUS
RPOB	REFERENCE POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING

NOTE

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

Prepared By: 601 S. Cedar Street, Suite 101 Charlotte, NC 28202 980-224-8518 acro@acro-ds.com NC Firm No. P-2329 ACRO Project Number: 2023-021	Survey Prepared For / Owner: HENDRICK AUTOMOTIVE GROUP Project Location: 1210 Laura Village Drive, Town of Apex, Wake County, North Carolina Project Name: TAC Toyota Apex Date: 07/1/24	Sheet Title: PUBLIC ACCESS EASEMENT ABANDONMENT Sheet Number: 1/2
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| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Steve Adams, Real Estate and Utilities Acquisition Specialist

Department(s): Transportation and Infrastructure Development

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Town of Apex currently has an Access Easement on the property at 1501 East Williams Street.

The abandonment is being requested to allow for realignment with the new intersection of the proposed Atlas Lane on the west side of West Williams Street.

Town staff has determined that the area being abandoned is no longer needed since new easement is being dedicated to relocate the access easement.

Attachments

- CN14-A1: Resolution to Abandon Portion of Existing Access Easement - Aqualine Pristine Water Access and Dedication
- CN14-A2: Exhibit 1 showing area to be abandoned and new area of dedication (for illustrative purposes only) - Resolution - Abandon Existing Access Easement - Aqualine Pristine Water Access and Dedication



RESOLUTION NO. 24-_____

A Resolution to Abandon Portion of Existing Access Easement

WHEREAS, Argos Ready Mix (Carolinas) Corp. (the “**Owner**”) is the owner of a certain tract of land in or near the Town of Apex which is described in the deed recorded in Deed Book 2415, Page 0270, Wake County Registry (the “**Subject Property**”);

WHEREAS, access easement interests across the Subject Property were conveyed to the Town by an instrument recorded in Deed Book 1615, Page 0138, Wake County Registry, said easement being in that certain limited portion of the Subject Property described as follows:

Beginning in the easterly right of way line of N.C. Highway #55 approximately 140 feet north of the northwest corner for Clem Childers, runs thence perpendicular to said highway 76 feet to a point; thence a 15 degree 15 minute right variance for 336 feet to a point; thence a 10 degree 51 minute left variance for 398 feet to a point in the center line of said railroad right of way (the “**Easement**”);

WHEREAS, the Owner desires the Town to abandon any interest that the Town has in that portion of the Easement described as follows:

Beginning at a Point located on the Northern Right of Way of NC 55 – East Williams Street, Said Point being located S 64°44'34" W a distance of 67.63', and S 24°07'44" E a distance of 33.60' from an Existing Iron Pipe (NC Grid Coordinates NAD 83(2011) N: 713,518.75, E: 2,048,186.62') Thence, from said Beginning Point, N 66°13'43" E a distance of 81.32' to a Point; Thence, N 70°55'48" E a distance of 147.75' to a Point; Thence, S 18°48'05" E a distance of 50.00' to a Point; Thence, S 70°55'48" W a distance of 145.46' to a Point; Thence, S 66°13'43" W a distance of 78.96' to a Point; Thence, N 24°07'44" W a distance of 50.00' to a Point, Being the Point and Place of Beginning, having an area of 0.260 Acres (11,337 Square Feet), More or Less (the “**Abandoned Portion of Easement**”);

WHEREAS, the Town has no need for the Abandoned Portion of Easement, and it has no market value; and

WHEREAS, the Town Council considers it advisable to abandon the Abandoned Portion of Easement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council as follows:

1. The Town Council of the Town of Apex hereby abandons any and all interest it has in the Abandoned Portion of Easement in accordance with Paragraph (2) below, provided however, the Town specifically retains any and all property interest it has in the portion of the Easement, and any other easement interests it may have on the

Subject Property, not specifically identified as abandoned herein.

2. The Abandoned Portion of Easement shall be abandoned effective upon and only upon, the recording of instruments at the Wake County Register of Deeds that convey to the Town of Apex a new access easement area in that certain limited portion of the Subject Property described as follows:

Beginning at a Point located on the Northern Right of Way of NC 55 – East Williams Street, Said Point being located S 64°44'34" W a distance of 67.63', and S 24°07'44" E a distance of 86.54' from an Existing Iron Pipe (NC Grid Coordinates NAD 83(2011) N: 713,518.75, E: 2,048,186.62') Thence, from said Beginning Point N 65°52'30" E a distance of 92.98' to a Point; Thence, with a curve turning to the left, an arc length of 39.41', radius of 80.50', chord bearing of N 51°51'04" E, chord length of 39.01' to a Point; Thence, N 37°49'38" E a distance of 34.74' to a Point; Thence, with a curve turning to the right, an arc length of 69.33', radius of 120.00', chord bearing of N 54°22'43" E, chord length of 68.37' to a Point; Thence, S 18°48'05" E a distance of 50.00' to a Point; Thence, with a curve turning to the left, an arc length of 40.21', radius of 70.00', chord bearing of S 54°16'58" W, chord length of 39.66' to a Point; Thence, S 37°49'38" W a distance of 34.74' to a Point; Thence, with a curve turning to the right, an arc length of 63.88', radius of 130.50', chord bearing of S 51°51'04" W, chord length of 63.25' to a Point; Thence, S 65°52'30" W a distance of 92.98' to a Point; Thence, N 24°07'44" W a distance of 50.00' to a Point, Being the Point and Place of Beginning, having an area of 0.269 Acres (11,707 Square Feet), More or Less.

3. That the Town Manager or Assistant Town Manager is hereby authorized to make, execute, and deliver to the owners of the Subject Property an instrument, in a form suitable for recording, releasing whatever interest the Town might have in and to the Abandoned Portion of Easement.

Upon motion duly made by Council Member _____, and duly seconded by Council Member _____, the above Resolution was duly adopted by the Apex Town Council at the meeting held on the ____ day of _____ 2024, in the Town Hall.

Upon call for a vote the following Council Members voted in the affirmative:

and the following Council Members voted in the negative:

This the ____ day of _____ 2024.

TOWN OF APEX

Jacques K. Gilbert, Mayor

ATTEST:

Allen L. Coleman, Town Clerk, CMC, NCCCC

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

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

Approval Recommended?

Yes

Item Details

The Wake County Board of Commissioners, in regular session on January 6, 2025, approved and accepted the enclosed tax report for the Town of Apex, dated December 5, 2024 for the period of November 1, 2024 through November 30, 2024.

Attachments

- CN15-A1: Tax Report for December 2024





Board of Commissioners

P.O. Box 550 • Raleigh, NC 27602

TEL 919 856 6180
FAX 919 856 5699

MATT CALABRIA, CHAIR
DON MIAL, VICE-CHAIR
VICKIE ADAMSON
SUSAN EVANS
CHERYL STALLINGS
SHINICA THOMAS
TARA WATERS

January 7, 2025

Mr. Allen Coleman
Town Clerk
Town of Apex
Post Office Box 250
Apex, North Carolina 27502

Dear Mr. Coleman:

The Wake County Board of Commissioners, in regular session on January 6, 2025, approved and accepted the enclosed tax report for the Town of Apex.

The attached adopted actions are submitted for your review; no local board action is required.

Sincerely,

Yvonne Gilyard
Clerk to the Board
Wake County Board of Commissioners

Enclosure(s)

Wake County Board of Commissioners Report

Date: 01/06/2025

Approved by:

DocuSigned by:
Kim Lortachuer
48E0356325844DO...

Consideration of Requests for Taxes, Interest and Penalties BETWEEN \$100 AND \$500 FOR APEX

No.	Payee	Account Number	Tax & Penalty Rebated	Total Rebated	Total Refunded
1	COOLING, KEVIN CLARENCE 1125 ROTHWOOD WAY APEX NC 27502 4308	0004214237-2024-2024-0000000	City 115.65 County 174.67	290.32	290.32
			City 115.65 County 174.67	290.32	290.32

*Total refunded may differ from total rebated due to to payee's remittance of interest or application of payment to other balances owed by the taxpayer.

Marcus D. Kinrade
Wake County Tax Administrator

Signed by:
Marcus Kinrade
03C5063B04D7486...
- Page 344 -

WAKE COUNTY TAX ADMINISTRATION

11/01/2024 - 11/30/2024

Rebate Detail Report

DATE
12/05/2024

TIME
1:59:02 PM

APEX

REBATE NUM	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	BILLING YEAR	TYPE	OWNER
BUSINESS ACCOUNTS											
899475	527.26	0.00	52.73	0.00	579.99	11/12/2024	0006840747	2024	2024	000000	STASH HOUSE
899159	378.20	0.00	37.81	0.00	416.01	11/12/2024	0006906518	2024	2024	000000	SERGIOS PIZZA OF APEX NC LLC
899491	128.13	0.00	12.81	0.00	140.94	11/12/2024	0006840747	2022	2022	000000	STASH HOUSE
899494	137.50	0.00	13.75	0.00	151.25	11/12/2024	0006840747	2023	2023	000000	STASH HOUSE
899498	88.55	0.00	8.85	0.00	97.40	11/12/2024	0006120914	2024	2024	000000	TUESDAY MORNING INC #284
899493	118.75	0.00	11.88	0.00	130.63	11/12/2024	0006840747	2020	2020	000000	STASH HOUSE
899492	121.88	0.00	12.19	0.00	134.07	11/12/2024	0006840747	2021	2021	000000	STASH HOUSE

7 Properties Rebated

1,650.29

0.00

150.02

1,500.27

TOTALS FOR
BUSINESS
ACCOUNTS

BUSINESS REAL ESTATE ACCOUNTS

898990	1,261.00	0.00	0.00	0.00	1,261.00	11/6/2024	0000451851	2024	2024	000000	BEAVER CREEK CROSSING LLC
898989	1,271.53	0.00	0.00	0.00	1,271.53	11/6/2024	0000434967	2024	2024	000000	BEAVER CREEK CROSSING LLC
898988	1,785.00	0.00	0.00	0.00	1,785.00	11/6/2024	0000468589	2024	2024	000000	OLEN VILLAGES AT WESTFORD CORP
898983	7,416.69	0.00	0.00	0.00	7,416.69	11/6/2024	0000456659	2024	2024	000000	BEAVER CREEK CROSSING LLC
900316	503.97	0.00	0.00	0.00	503.97	11/18/2024	0000323187	2024	2024	000000	FFT APEX LLC
900092	4,712.17	0.00	0.00	0.00	4,712.17	11/15/2024	0000007532	2024	2024	000000	BEL NICHOLS LIMITED PARTNERSHIP
900081	8,259.73	0.00	0.00	0.00	8,259.73	11/15/2024	0000014520	2024	2024	000000	CFK APEX LAND CO LLC
900079	9,208.26	0.00	0.00	0.00	9,208.26	11/15/2024	0000056788	2024	2024	000000	CFK APEX LAND CO LLC
899889	981.17	0.00	0.00	0.00	981.17	11/14/2024	0000411768	2024	2024	000000	NGO TU HA LLC
899690	1,113.84	0.00	0.00	0.00	1,113.84	11/13/2024	0000036171	2024	2024	000000	ABBEEY SPRING HOUSING ASSOCIATES LLC
899323	960.84	0.00	0.00	0.00	960.84	11/8/2024	0000490796	2024	2024	000000	DEPOT 499 OWNER LLC

SUBTOTALS FOR BUSINESS REAL ESTATE ACCOUNTS	37,474.20	0.00	0.00	0.00	37,474.20	37,474.20	11 Properties Rebated				
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INDIVIDUAL PROPERTY ACCOUNTS

900709	25.56	0.00	2.56	0.00	28.12	11/23/2024	0006985760	2023	2023	000000	INFLATE-A-PARTY.COM INC
899189	3.40	0.00	0.34	0.00	3.74	11/12/2024	0006984630	2024	2024	000000	OLDHAM, JARID CHASE
900723	3.40	0.00	0.34	0.00	3.74	11/23/2024	0006985399	2024	2024	000000	SOSA, SILVESTRE PASCUAL
900708	37.95	0.00	3.80	0.00	41.75	11/23/2024	0006985760	2024	2024	000000	INFLATE-A-PARTY.COM INC
901459	6.80	0.00	0.68	0.00	7.48	11/26/2024	0006828651	2024	2024	000000	GREEN RING STABLES LLC
900683	11.90	0.00	1.19	0.00	13.09	11/22/2024	0006941326	2024	2024	000000	R&B BOATS LLC
901291	14.87	0.00	1.49	0.00	16.36	11/26/2024	0006952984	2024	2024	000000	GROSE, CARTER GRAYSON JOHN
901290	21.38	0.00	2.14	0.00	23.52	11/26/2024	0006952984	2023	2023	000000	GROSE, CARTER GRAYSON JOHN
900746	360.21	30.00	36.02	0.00	426.23	11/20/2024	0006987182	2024	2024	000000	DRAUGEL TRUCKING LLC

SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS	485.47	30.00	48.56	0.00	564.03	564.03	9 Properties Rebated				
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INDIVIDUAL REAL ESTATE ACCOUNT

898999	122.40	0.00	0.00	0.00	122.40	11/6/2024	0000285093	2024	2024	000000	DAVIS, MICHAEL
900323	87.72	0.00	0.00	0.00	87.72	11/18/2024	0000438034	2024	2024	000000	GANGULY, PAROMITA
899004	3.08	0.00	0.00	0.00	3.08	11/6/2024	0000484422	2024	2024	000000	RAMAN, KANNAN
898354	76.23	0.00	0.00	0.00	76.23	11/1/2024	0000181932	2024	2024	000000	HAWHEE, JAMES M
898998	153.62	0.00	0.00	0.00	153.62	11/6/2024	0000490866	2024	2024	000000	ARAVAPALLI, MURALI MOHAN
900068	95.49	0.00	0.00	0.00	95.49	11/15/2024	0000456676	2024	2024	000000	LINDSAY, LINDA S
900071	111.34	0.00	0.00	0.00	111.34	11/15/2024	0000457905	2024	2024	000000	WONG, SAMUEL J
899161	71.23	0.00	0.00	0.00	71.23	11/7/2024	0000459578	2024	2024	000000	AGIOVLASSITIS, PETER SPYROS

SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS	721.11	0.00	0.00	0.00	721.11	721.11		8 Properties Rebated			
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WILDLIFE BOAT ACCOUNTS

901272	146.31	0.00	14.63	0.00	160.94	11/25/2024	0004216090	2024	2024	000000	POMERANTZ, RICHARD BRUCE
900051	56.67	0.00	5.67	0.00	62.34	11/19/2024	0004213631	2024	2024	000000	DOONER, WILLIAM JOSEPH JR
900116	9.69	0.00	0.97	0.00	10.66	11/21/2024	0004214355	2024	2024	000000	STERLING, ALEXANDER CHRISTOPHER

SUBTOTALS FOR WILDLIFE BOAT ACCOUNTS	212.67	0.00	21.27	0.00	233.94	233.94		3 Properties Rebated			
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TOTAL REBATED FORAPEX	40,393.72	30.00	219.85	0.00	40,643.57	40,643.57		38 Properties Rebated for City			
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"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Dr. Martin Luther King, Jr. Day 2025

from the Office of the Mayor

WHEREAS, Dr. Martin Luther King Jr. dedicated his life to the relentless pursuit of justice, equality, and nonviolent social change, serving as a beacon of hope and a tireless advocate for civil rights and human dignity for all; and,

WHEREAS, Dr. King's legacy of compassion, courage, and unwavering conviction continues to guide our collective efforts to build a society where diversity, equity, and inclusion are fundamental principles upheld in every aspect of our community; and,

WHEREAS, The observance of Dr. Martin Luther King Jr. Day provides us with an opportunity to reflect on the progress that has been achieved, acknowledge the challenges that remain, and reaffirm our shared responsibility to honor Dr. King's legacy through intentional action, service, and dedication to justice and equality; and,

WHEREAS, the Town of Apex, in collaboration with the MLK Cultural Advisory Group, is proud to honor Dr. King's life and legacy through a series of community events that celebrate his commitment to unity, education, and this year's theme: The King Era: Nonviolence Then and Now; and,

WHEREAS, The community is encouraged to attend and participate in these events, which include a Black Authors Exhibit at the Halle Cultural Arts Center, a Unity March, and the MLK National Day of Service. Details on these events and more can be found under the Special Events and Festivals page on the town's website.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim Monday, January 20th, 2025, "Dr. Martin Luther King, Jr. Day" in the Town of Apex, and encourage residents to reflect on Dr. King's message of justice, compassion, and equality as we enter into this new year.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 14th day of January 2025

Jacques Gilbert, Mayor



"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Human Trafficking Prevention Month 2025

from the Office of the Mayor

WHEREAS, Human trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person through the use of force, fraud, or coercion, for the purpose of forced labor or sexual servitude; and,

WHEREAS, During Fiscal Year 2024, agencies funded by the North Carolina Department of Administration's Council for Women and Youth Involvement Reported Serving 767 Human Trafficking Survivors; and,

WHEREAS, Victims and survivors of Human Trafficking suffer tremendous abuses which create lifelong challenges requiring physical and psychological recovery; and,

WHEREAS, Addressing Human Trafficking requires collaboration between survivor leaders, governments, non-profit organizations, law enforcement, healthcare providers, faith organizations, and local communities; and,

WHEREAS, The Town of Apex affirms the need for continued support and awareness of efforts to end human trafficking, and commits to supporting efforts both local and statewide to end these horrific injustices.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the Month of January, 2025, "Human Trafficking Prevention Month" in the Town of Apex, and encourage residents to educate themselves further on Human Trafficking Prevention and volunteer with organizations like Shield NC, who work tirelessly to help remove Human Trafficking from our society.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 14th day of January 2025

Jacques Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION
Meeting Date: January 14, 2025

Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

Requested Motion

Receive as information the Fiscal Year Ended June 30, 2024 financial audit report from the external auditors.

Approval Recommended?

Yes

Item Details

Cherry Bekaert, the Town of Apex's external auditor, will present the audited financial report and management letter for the fiscal year from July 1, 2023 through June 30, 2024.

During the meeting, the auditors will share all relevant information, including but not limited to the expressed audit opinion, concerns, recommendations, as well as the financial performance of the town for the fiscal year of 2023-2024.

According to North Carolina General Statute § 159-34, each local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Commission as qualified to audit local government accounts.

It is the auditor's responsibility to express opinions on these financial statements based on the audit. The Government Auditing Standards require that they plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements. The audit shall evaluate the performance of a unit of local government with regard to compliance with applicable federal and State agency regulations.

Attachments

- PR1-A1: Fiscal Year 2024 Audit PowerPoint Overview - Fiscal Year 2024 Audit - Annual Comprehensive Financial Report (ACFR)





January 14, 2025

Annual Comprehensive Financial Report

Fiscal Year Ended June 30, 2024

April Adams, Assurance Director | Cherry Bekaert





Purpose:

- Receive results of required annual external audit

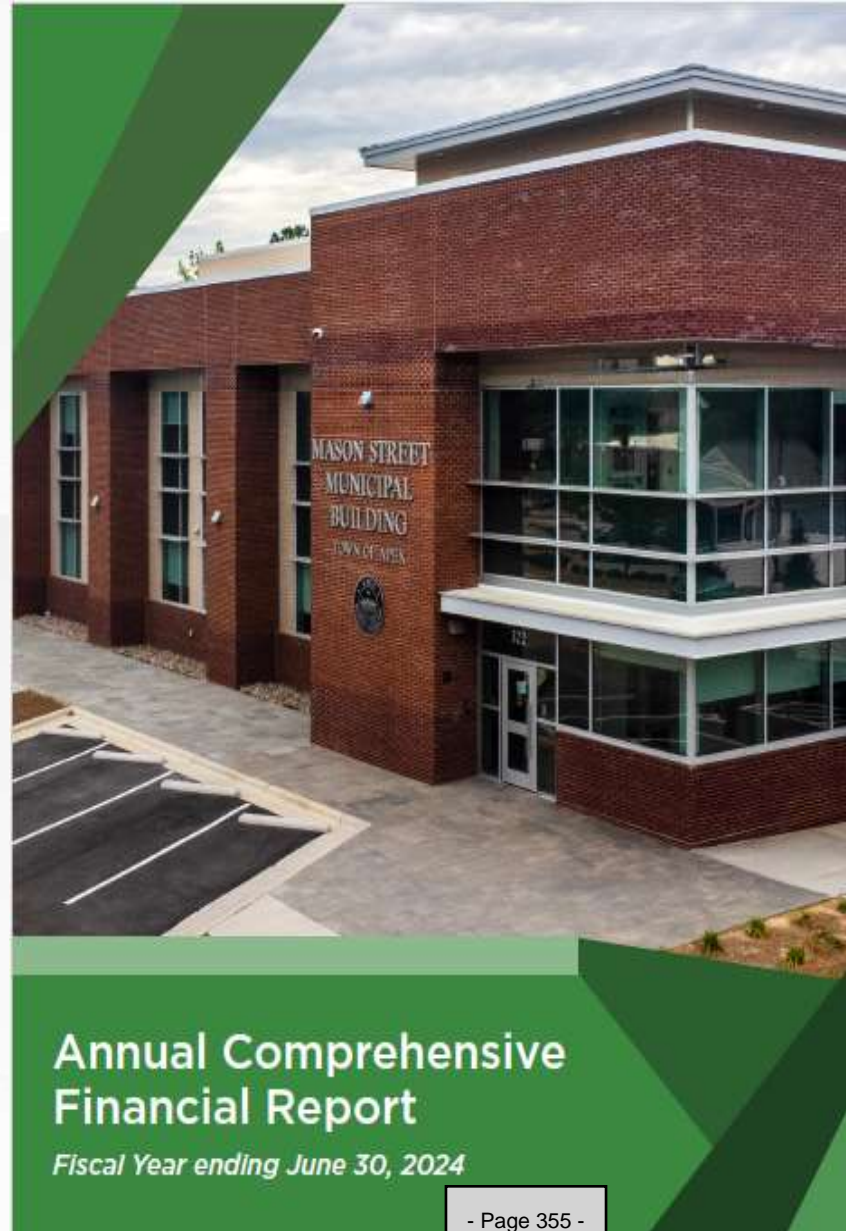
Requested Action:

- No action necessary

An aerial photograph of a school campus. In the center is a large, multi-story brick building with a flat roof and a circular skylight. To the left of the building is a large, circular grassy area. To the right is a parking lot filled with cars. In the background, a tall white water tower stands out against the sky. The sky is blue with some clouds.

AGENDA

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



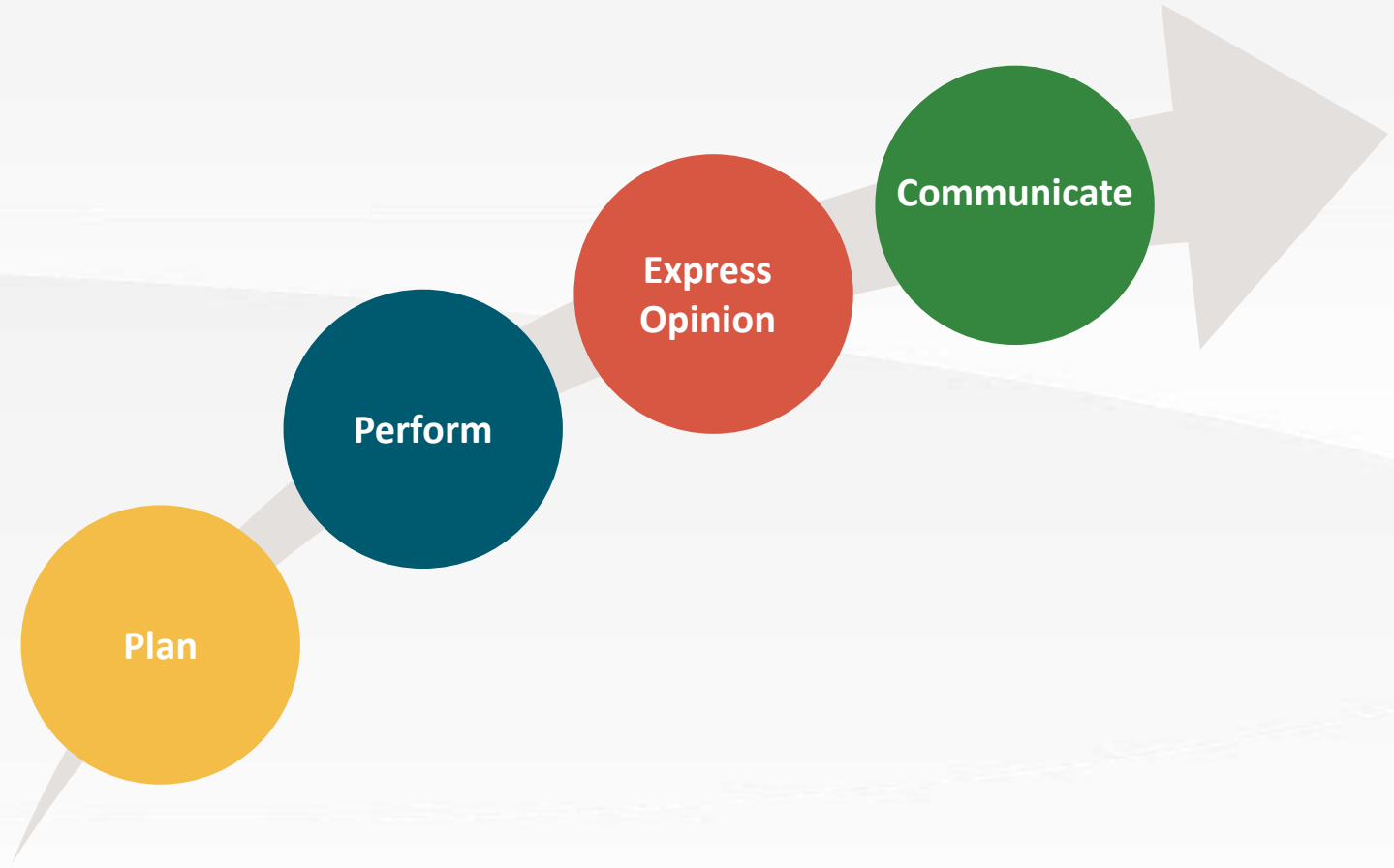
Annual Comprehensive Financial Report

Fiscal Year ending June 30, 2024

Results of the Audit

We have audited the financial statements of the Town of Apex (the "Town") as of and for the year ended June 30, 2024 in accordance with generally accepted auditing standards and *Government Auditing Standards* and we have issued our report thereon dated December 20, 2024.

We have issued an unmodified opinion on the financial statements.



Single Audit

Compliance Testing

We have also audited the Town's compliance with the compliance requirements described in the Audit Requirements for State Awards in the Audit Manual for Governmental Auditors in North Carolina which could have a direct and material effect on the Town's major state program for the year ended June 30, 2024.

Opinion

We have issued an unmodified opinion on the financial statements and on compliance for major state program related to our single audits performed in accordance the State Single Audit Implementation Act.

State Major Program

- Powell Bill (DOT-4)

Internal Control Communications

- In planning and performing our audit, we considered internal control over financial reporting (“internal control”) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements and compliance with the NC State Single Audit Implementation Act, but not for the purpose of expressing an opinion on the effectiveness of the Town’s internal control. Accordingly, we do not express an opinion on the effectiveness of the Town’s internal control.
- Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls.
- A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

Internal Control Communications

Material Weakness

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

Significant Deficiency

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

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

Corrected and Uncorrected Misstatements

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

Corrected Misstatements

▶ None noted

Uncorrected Misstatements

▶ None noted

Qualitative Aspects of Accounting Practices

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

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

We noted no inappropriate accounting policies or practices.

Related Party
Relationships and
Transactions

Significant
Unusual
Transactions



Significant
Estimates

Financial
Statement
Disclosures

Independence Considerations

Nonattest Services

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

Independence Conclusion

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

Other Required Communications and Matters

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

Supplementary
Information – in relation to
opinion

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

Introductory and Statistical
Sections – no opinion given

Significant
Estimates

Financial
Statement
Disclosures



LGC Performance Indicators

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

Upcoming Financial Reporting Changes

These standards will be effective for the Town in the upcoming years and may have a significant impact on the Town's financial reporting.

We would be happy to discuss with management the potential impacts on the Town's financial statements and how we may be able to assist in the implementation efforts.

GASB 101 –
*Compensated
Absences*

GASB 102 –
*Certain Risk
Disclosures*



GASB 103 –
*Financial
Reporting Model
Improvements*

GASB 104 –
*Disclosure of
Certain Capital
Assets*

Financial Performance Highlights

June 30, 2024

Property Taxes (page 153)

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

Fund Balance and Net Position (non-GAAP)

Net change in fund balance (net position) for the past five fiscal years are as follows:

	2024	2023	2022	2021	2020
General Fund ⁽¹⁾	\$ 8,739,013	(\$2,802,214)	\$ 10,630,653	\$ 6,364,091	\$ 2,430,163
Electric Fund ⁽¹⁾	5,370,814	(498,351)	126,057	2,906,873	69,928
Water and Sewer Fund ⁽¹⁾	(3,813,400)	331,808	2,932,175	3,566,147	3,722,551
Stormwater Fund ⁽²⁾	2,815,985	N/A	N/A	N/A	N/A

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

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

General Fund – Fund Balance

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

Debt Position

DEBT OVERVIEW

- Debt issuance:
 - \$3.46M – Two-Thirds Bonds – Mason Street Building – 20 years – 3.74%
 - \$24.5M – GO Bonds – Transportation Improvements – 20 years – 4.11%
 - \$1.79M – Installment purchase – Rolling Stock – 4 years – 3.90%
- Total Outstanding Debt - \$147.99 million
 - General Government: \$101.59 million
 - Proprietary Funds: \$46.4 million
- Total applicable to limitation:
 - \$152.2 million (includes authorized but unissued GO Bonds)
 - 2021 - \$24.5 million unissued – Transportation Bonds

DEBT COMPLIANCE

- Percentage of debt to valuation – 1.2%
 - Town Policy – 2.5% (\$312,153,949)
 - State Statute – 8% (\$998,892,637)
 - Legal Debt Margin – \$846,701,189 (see Table 14)
- Debt Service Ratio – 8.9%
 - Town Policy – 12%



Debt Issuance Update

Subsequent Fiscal Year – as of Audit Report Date

- **Installment Financing Contracts**

- \$1.9 million – Rolling Stock (Vehicle and Equipment) – Police & Fire
- PNC Bank – 4 Year – Level Principal – 3.58%

Planned Debt Issuance

Subsequent Fiscal Year

- **Total Project Estimates:**
 - Pleasant Park Phase 2 - \$14M
 - Town Hall Renovations - \$3M
 - Tunstall House Renovations - \$3M
 - Big Branch 2 Pump Station and Forcemain - \$40M
 - Real Property Acquisitions - \$10M
- Timelines – TBD
- Debt Issuance Types and Amounts - TBD

Key Takeaways

Benefit of Wake County

- Property Tax collection rates
- Sales Tax

Strong financial reserves

Credit rating (reaffirmed in September 2023)

- Standard and Poor's (S&P) – AAA
- Moody's – Aaa

Solid unrestricted cash balance

- General Fund: \$44.7 million
- General Government Debt Service Fund: \$8.1 million
- Water and Sewer Fund: \$58.7 million
- Electric Fund: \$15.8 million
- Stormwater Fund: \$2.9 million

NC Department of State Treasurer

Subsequent Fiscal Year – FY 2025

- Local Government Budget Fiscal Control Act (NC 159-34(a))
 - Requires annual independent audit timely
 - Due date four months after fiscal year ended or October 31st
 - Considered late after November 30th

- Beginning with fiscal year 2025 due date will be six months after fiscal year ended or December 31st
 - Memo submitted December 20, 2024
 - Due to many challenges facing local governments (staffing, standards changes, complexities of audit, etc.)
 - Audit contract form has been updated to reflect revision
 - Submitted after March 31st – will receive notice of noncompliance and may have a portion of its sales tax distributions withheld
 - Note: units requesting LGC approval of debt must submit current audit report two months prior to the LGC meeting at which they are requesting consideration

Other Items

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

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: January 14, 2025

Item Details

Presenter(s): Jenna Shouse, Senior Long-Range Planner

Department(s): Planning

Requested Motion

Possible motion to amend the 2045 Land Use Map and Transportation Plan, consistent with recommendations in the *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities*.

Approval Recommended?

Planning staff recommend approval of the proposed amendments to the 2045 Land Use Map and Transportation Plan.

Planning Board unanimously recommended approval of the proposed amendments to the 2045 Land Use Map and Transportation Plan at their December 9, 2024 meeting.

Item Details

The amendments, as proposed, reflect the recommendations in the *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities*, which was recommended for adoption by the Planning Board on November 4, 2024 and subsequently unanimously adopted by the Town Council on November 21, 2024.

PLEASE NOTE: Staff is recommending a continuance for this item until January 28, 2025.

Attachments

- PH1-A1: Staff Report - 2045 Land Use Map and Transportation Plan Amendments
- PH1-A2: Planning Board Report to Town Council - 2045 Land Use Map and Transportation Plan Amendments



STAFF REPORT

2045 Land Use Map and Transportation Plan Amendments

January 14, 2025 Town Council Meeting



The purpose of the public hearing is to consider proposed amendments to the 2045 Land Use Map, Thoroughfare and Collector Street Plan map, Bicycle and Pedestrian System Plan map, and Context Areas map, consistent with the recommendations in the adopted *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities* (the Plan). Town Council adopted the Plan on November 21, 2024. The Plan is available at: <https://publicinput.com/i5237#tab-45671>.

The 2045 Land Use Map is a vision document that establishes long-range land use patterns for the Town, sets expectations for future development, and influences infrastructure improvements. The Thoroughfare and Collector Street Plan map, Bicycle and Pedestrian System Plan Map, and Context Areas map are three components of the Transportation Plan. The Thoroughfare and Collector Street Plan map and the Bicycle and Pedestrian System Plan map represent a network of current and future transportation facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, recreation, and multimodal travel. The Context Areas Map separates the Town of Apex Planning area into four context types: Rural, Suburban, Transit-Oriented Development, and Town Center. These contexts are used to describe the development style, travel mode priorities, and street design considerations. The Transportation Plan does not provide a schedule for implementation, nor does it set aside funding for improvements.

The following tables list the recommended plan amendments included in the adopted *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities*. Hyperlinks to map exhibits that display the proposed plan amendments are available above each table. The numbers in the Map ID column in each table correspond with the labels in the map exhibits.

2045 Land Use Map Amendments

An exhibit that displays the proposed amendments to the 2045 Land Use Map is available at: <https://www.apexnc.org/DocumentCenter/View/49096>

Table 1. 2045 Land Use Map Amendments

Map ID	Plan Amendment
1	Re-center Activity Center over Brierhill Road intersection.
2	Change from Low Density Residential and Office Employment to Medium Density Residential and Office Employment.
3	Change from Low Density Residential and Office Employment to Rural Density Residential.
4	Change from Low Density Residential and Office Employment to Medium Density Residential and Commercial Services.
5	Change from Rural Density Residential to Office Employment and Industrial Employment.
6	Change from High Density Residential to Rural Density Residential.
7	Change from High Density Residential to Commercial Services and Industrial Employment.
8	Re-center Activity Center over future interchange per Hot Spot Interchange Study.
9	Change from Commercial Services and Office Employment to Commercial Services and Industrial Employment.
10	Change from Low Density Residential to Rural Density Residential.
11	Change from Medium Density Residential to Rural Density Residential.
12	Change from Commercial Services and Office Employment to High Density Residential and Commercial Services.

STAFF REPORT

2045 Land Use Map and Transportation Plan Amendments

January 14, 2025 Town Council Meeting



Map ID	Plan Amendment
13	Change from Medium Density Residential to Rural Transition Residential.
14	Change from Medium Density Residential to Low Density Residential.
15	Change from Rural Density Residential to Low Density Residential and Commercial Services.

Thoroughfare and Collector Street Plan Map Amendments

An exhibit that displays the proposed amendments to the Thoroughfare and Collector Street Plan map is available at: <https://www.apexnc.org/DocumentCenter/View/49095>

Table 2. Thoroughfare and Collector Street Plan Map Amendments

Map ID	Plan Amendment
1	Remove Future Major Collector and associated Future Local Connection.
2	Update Future Richardson Road alignment and Future Interchange location per Friendship Road Hot Spot Interchange Study.
3	Lower Friendship Road from Future 4-Lane Median-Divided Thoroughfare to Existing 2-Lane Thoroughfare
4	Remove Future Minor Collector and realign Future Major Collector.

Bicycle and Pedestrian System Plan Map Amendments

An exhibit that displays the proposed amendments to the Bicycle and Pedestrian System Plan map is available at: <https://www.apexnc.org/DocumentCenter/View/49094>

Table 3. Bicycle and Pedestrian System Plan Map Amendments

Map ID	Plan Amendment
1	Add Proposed Side Path along south side of Old US 1 from Future Richardson Road to New Hill Holleman Road.
2	Change Proposed Paved Shoulders on New Hill Holleman Road to Proposed Bicycle Lanes.
3	Remove future roads per Thoroughfare and Collector Street Plan map amendments.
4	Realign Proposed Side Path per Friendship Road Hot Spot Interchange Study.
5	Change Proposed Bicycle Lanes on Friendship Road to Proposed Paved Shoulders.
6	Add Proposed Bicycle Lanes and Proposed Side Path along Future Friendship Collector.
7	Remove future roads and associated Proposed Side Path per Thoroughfare and Collector Street Plan map amendments.
8	Remove Proposed Bicycle Lanes from Pleasant Plains Road.

Context Areas Map Amendments

An exhibit that displays the proposed amendments to the Context Areas Map is available at: <https://www.apexnc.org/DocumentCenter/View/49115>

Table 4. Context Areas Map Amendments

Map ID	Plan Amendment
1	Change from Rural to Suburban

STAFF REPORT

2045 Land Use Map and Transportation Plan Amendments

January 14, 2025 Town Council Meeting



Map ID	Plan Amendment
2	Change from Suburban to Rural
3	Change from Suburban to Rural

Planning staff recommendation:

Approve the proposed amendments to the 2045 Land Use Map and Transportation Plan.

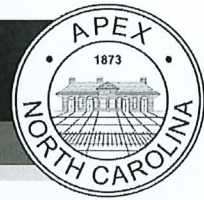
The amendments, as proposed, reflect the recommendations in the *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities*, which was recommended for adoption by the Planning Board on November 4, 2024 and subsequently unanimously adopted by the Town Council on November 21, 2024.

Planning Board recommendation:

At their December 9, 2024, meeting, the Planning Board unanimously recommended approval of the proposed amendments to the 2045 Land Use Map and Transportation Plan, consistent with recommendations in the *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities*.

PLANNING BOARD REPORT TO TOWN COUNCIL
Long Range Plan Amendments

Planning Board Meeting Date: December 9, 2024



Long range plan(s) proposed to be amended:

2045 Land Use Map and Transportation Plan

Description of the proposed amendment(s):

Amend the 2045 Land Use Map, Thoroughfare and Collector Street Plan map, Bicycle and Pedestrian System Plan map, and Context Areas map, consistent with the recommendations in the adopted Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities.

Planning Board recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Preston Mitchell

Seconded by Planning Board member: Alyssa Byrd

☒ Approval of the proposed amendment(s) as presented

☐ Approval of the proposed amendment(s) with the following conditions or changes:

☐ Denial of the proposed amendment(s)

With 7 Planning Board member(s) voting "aye"

With 0 Planning Board member(s) voting "no"

Reason(s) for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 9th day of December 2024.

Attest:


Tina Sherman, Planning Board Chair


Dianne Khin, Planning Director

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: January 14, 2025

Item Details

Presenter(s): Joshua Killian, Planner I

Department(s): Planning

Requested Motion

Public hearing and possible motion concerning Rezoning Application No. 24CZ18 Sweetwater PUD Amendment. The applicant, ExperienceOne Homes, LLC, seeks to rezone approximately 36.24 acres from Planned Unit Development-Conditional Zoning (#23CZ20) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl.

Approval Recommended?

The Planning Department recommends approval.

The Planning Board held a Public Hearing on December 9, 2024 and unanimously recommended approval of the rezoning with the conditions offered by the applicant.

Item Details

The properties to be rezoned are identified as PINs 0722441499, 0722441386, 0722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 0722452031.

Attachments

- PH2-A1: Staff Report - Rezoning Case No. 24CZ18 Sweetwater PUD Amendment
- PH2-A2: Planning Board Report to Town Council - Rezoning Case No. 24CZ18 Sweetwater PUD Amendment



STAFF REPORT

Rezoning #24CZ18 Sweetwater PUD Amendment

January 14, 2025 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: 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl

Applicant: ExperienceOne Homes, LLC

Owners: KEPE1 STC, LLC; Sweetwater Lightbridge, LLC; KEPE1 STC West, LLC; KEPE1 Holdings, LLC

PROJECT DESCRIPTION:

Acreage: ±36.24

PINs: 0722441499, 0722441386, 0722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 0722452031

Current Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ20)

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

2045 Land Use Map: Mixed Use: High Density Residential/Office Employment/Commercial Services

Town Limits: Inside Town Limits

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ31); Neighborhood Business (B1); Rural Residential (RR); Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ20)	US 64 Hwy W; Westford PUD; Convenience Store; Grocery Store and Fuel Sales
South:	Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ21)	Core Banks Street; Sweetwater Residential section: Single Family, Townhomes, & Amenity Center
East:	Tech/Flex (TF); Light Industrial (LI); Rural Residential (RR)	64 Business Park and Self-Storage; Vacant
West:	Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ11); Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ20)	Smith Farm PUD (future mixed-use section); Grocery Store and Fuel Sales; Richardson Rd

EXISTING CONDITIONS:

The subject properties on the east side of Richardson Road contain a day care, mixed-use buildings and parking decks, some complete and open to the public while others are under construction. Two additional areas for future development are vacant. The parcels on the west side of Richardson Road, north of Core Banks Street, contain a multi-tenant retail building and bank that are under construction and additional future retail outparcels that are currently vacant.

BACKGROUND:

The properties to be rezoned were originally rezoned to Planned Unit Development-Conditional Zoning on April 21, 2015 with the most recent revisions being approved on August 8, 2023 and January 23, 2024.

STAFF REPORT

Rezoning #24CZ18 Sweetwater PUD Amendment

January 14, 2025 Town Council Meeting



NEIGHBORHOOD MEETING:

The applicant conducted the first neighborhood meeting on September 26, 2024, and the second neighborhood meeting on November 19, 2024. The neighborhood meeting reports are attached.

2045 LAND USE MAP:

The 2045 Land Use Map classifies the properties subject to this rezoning as Mixed Use: High Density Residential/Office Employment/Commercial Services. The proposed amendments to the PUD-CZ zoning are consistent with that classification.

WCPSS COORDINATION:

No increase in residential density is proposed as part of this rezoning and so an impact letter from WCPSS was not requested.

PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing the following changes with this PUD amendment.

Changes to Section 5: Permitted Uses

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

Changes to the PUD Layout Sheet

- Revise the PUD Layout sheet, now distinguishing Non-Residential/Mixed-Use Areas (East) from Non-Residential/Mixed-Use Areas (West) with Richardson Rd as the boundary between the two.

ENVIRONMENTAL ADVISORY BOARD RECOMMENDATIONS:

This rezoning was exempt from meeting with the Apex Environmental Advisory Board (EAB) per Unified Development Ordinance (UDO) Section 2.1.9.A.2.a. The rezoning amends zoning conditions which have no environmental impact on a site including but not limited to revisions to architectural standards, building height, setbacks, and uses.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #24CZ18 Sweetwater PUD Amendment as proposed by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard this rezoning at their December 9, 2024 meeting and unanimously recommended approval 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 proposed amendments to the current PUD-CZ zoning are consistent with the 2045 Land Use Map which classifies the area to be rezoned as Mixed Use: High Density Residential/Office Employment/Commercial Services.



The proposed rezoning is reasonable and in the public interest as it will allow an increase in the diversity of commercial uses within the mixed uses areas of the development.

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 PUD-CZ designation demonstrates compliance with the following standards. Sec. 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.

STAFF REPORT

Rezoning #24CZ18 Sweetwater PUD Amendment

January 14, 2025 Town Council Meeting



- 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 #24CZ18

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 #:	<u>24CZ18</u>	Submittal Date:	<u>10/01/2024</u>
Fee Paid	<u>\$</u>	Check #	<u></u>

PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP

Project Name: Sweetwater PUD
Address(es): See Attached Owner List
PIN(s) See Attached Owner List

Acreage: 36.24
Current Zoning: PUD-CZ Proposed Zoning: PUD-CZ
Current 2045 LUM Designation: Community Mixed Use (CMU)

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>36.24</u>
Area proposed as non-residential development:	Acreage:	<u>36.24</u>
Percent of mixed use area proposed as non-residential:	Percent:	<u>100%</u>

Applicant Information

Name: ExperienceOne Homes, LLC
Address: PO Box 5509
City: Cary State: NC Zip: 27512
Phone: (919) 991-1428 E-mail: Dschmidt@E1Homes.com

Owner Information

Name: See Attached
Address:
City: State: Zip:
Phone: E-mail:

Agent Information

Name: CE Group, Inc - Mitch Craig, PE
Address: 301 Glenwood Avenue, Suite 220
City: Raleigh State: NC Zip: 27603
Phone: (919) 367-8790 E-mail: Mitch@CEGroupInc.com

Other contacts:

PLANNED UNIT DEVELOPMENT APPLICATION

Application #: **24CZ18**

Submittal Date: **10/01/2024**

PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS:

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments. The PD text and plan should demonstrate how the standards of Sec. 2.3.4.F are met by the proposed rezoning.

LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

The proposed non-residential uses are consistent with the uses as defined by the Community Mixed Use category in the 2045 Land Use Map. CMU encourages the integration of residential and non-residential mixed-use uses.

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 land areas surrounding the Sweetwater PUD are a mixture of retail, residential (single family, townhome, apartments) and commercial. This PUD combines most of the surrounding uses into one project.

3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

The Sweetwater PUD complies with the regulations in section 4.4 of the Town of Apex UDO as applicable for townhomes, multi-family or apartment, day care, and commercial uses, to the extent these regulations do not conflict with the PUD regulations.

PETITION PROCESS INFORMATION

4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

The architectural for the Sweetwater PUD will reflect the residential and non-residential scale and character of traditional Apex building Styles. Service bays of non-residential uses will be located in the rear of structures. Variation in colors and materials will be considered to create visually engaging designs. Roof lines and materials will be varied to create visual interest and avoid repetition. Trash, parking and loading and odors will be screened from adjacent uses as required by the UDO and as set forth in the PUD regulations.

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 Sweetwater PUD will use the exterior of the property to the extent practicable for RCA. This PUD will comply with all built upon area, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.7.

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.

Public water and sewer facilities have been extended to the project and will be installed interior to the project by the Developer. The proposed PUD will meet all Public Facilities requirements in UDO Section 2.3.4(F)(1)(f).

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

The proposed PUD will improve the public health by providing all uses in a compact area, including residential, office, retail, commercial, medical and restaurants. A resident theoretically would not have to leave the development in order to eat, sleep, shop, work and go to the doctor.

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

The Sweetwater PUD has had a positive impact on the adjacent properties. The uses proposed in the PUD will/have enhanced the character of the adjacent properties and offer uses that compliment the adjacent properties.

PETITION PROCESS INFORMATION

9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

The proposed PUD will not constitute a hazard due to traffic or noise as the traffic impacts will be mitigated by the road improvements shown in the PUD, TIA, etc. Other potential negative impacts are mitigated to the maximum extent practical by the design guidelines in the PUD documents.

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 Sweetwater PUD will comply with all other relevant portions of the Ordinance (UDO).

#24CZ18

PIN	Real Estate ID	Site Address	City	Owner	Mailing Address 1	Mailing Address 2	Deed Book	Deed Page	Deed Date	Deed Acres
722544876	120755	1051 NEWLAND AVE	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	4.87
722459232	148944	1451 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	3.35
722452031	436595	2820 TEACHEY PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	3.08
722441499	444460	0 CORE BANKS ST	APEX	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056	11/12/2021	0.94
722441386	444532	0 LITTLE GEM LN	APEX	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19331	399	5/10/2023	0.01
722544404	476653	1075 NEWLAND AVE	APEX	SWEETWATER LIGHTBRIDGE LLC	PO BOX 5509	CARY NC 27512-5509	17764	1056	2/27/2020	1.38
722551642	516816	1425 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	4.01
722551082	516817	2707 STOKESDALE AVE	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	5.13
722540585	516818	2701 LAWNVIEW LN	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	2.81
722448618	516819	1481 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	3.02
722444629	521557	1121 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03
722444853	521558	1111 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03
722444977	521559	1101 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03

STREET NAME APPROVAL APPLICATION

Application #: _____ Submittal Date: _____

of roads to be named: 8

Please submit twice as many road names as needed, with preferred names listed first. Proposed road names should be written exactly as one would want them to appear. Town of Apex Planning Department staff will send all approved street names to the Wake County GIS Department for county approval. Please allow several weeks for approval. Upon approval Wake County GIS – Street Addressing will inform you of the approved street names.

Example: Road Name Suffix

Hunter Street

1	All Roads were previously approved as noted below:	11	_____
2	Newland Avenue	12	_____
3	Harrells Drive	13	_____
4	Lawnview Lane	14	_____
5	Rennert Place	15	_____
6	Stokesdale Lane	16	_____
7	Teachey Place	17	_____
8	Moncure Place	18	_____
9	Ingold Drive	19	_____
10	_____	20	_____

TOWN OF APEX STAFF APPROVAL

Town of Apex Staff Approval

Date

WAKE COUNTY STAFF APPROVAL:

GIS certifies that _____ names indicated by checkmark ☒ are approved.
Please disregard all other names.

Comments:

Wake County GIS Staff Approval

Date

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

Sweetwater Commercial PUD Amendment

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

KEPE1 Holdings, LLC, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: David Schmidt

TOWN OF APEX

BY: *David Schmidt, mpe*
Authorized Agent

BY: _____
Authorized Agent

DATE: 9-30-2024

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: 2024-09-24

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

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The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

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ACCEPTED:

CUSTOMER: Edward Kalikow

TOWN OF APEX

BY: 

BY: _____

Authorized Agent

Authorized Agent

DATE: 9/24/24

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

Sweetwater Commercial PUD Amendment

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Sweetwater Lightbridge, LLC, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

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Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: David Schmidt

TOWN OF APEX

BY: *David Schmidt, MGR.*
Authorized Agent

BY: _____
Authorized Agent

DATE: 9-30-2024

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

Sweetwater Commercial PUD Amendment

(the "Premises")

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KEPE1 STC West, LLC, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

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Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: David Schmidt

TOWN OF APEX

BY: [Signature]
Authorized Agent

BY: _____
Authorized Agent

DATE: 9-30-2024

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

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The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

KEPE1 STC West, LLC, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: Edward Kalikow

TOWN OF APEX

BY: 

BY: _____

Authorized Agent

Authorized Agent

DATE: 

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

Sweetwater Commercial PUD Amendment

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

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Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: David Schmidt

TOWN OF APEX

BY: [Signature]
Authorized Agent

BY: _____
Authorized Agent

DATE: 9-30-2024

DATE: _____

TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: #24CZ18

Submittal Date: _____

**Town of Apex
73 Hunter Street
P.O. Box 250 Apex, NC 27502
919-249-3400**

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Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:

CUSTOMER: Edward Kalikow

TOWN OF APEX

BY: 

BY: _____

Authorized Agent

Authorized Agent

DATE: 9/29/24

DATE: _____

AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

KEPE1 STC, LLC

_____ is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 1051 Newland Avenue

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*



Edward Kalikow

Type or print name

9/29/24

Date



David Schmidt

Type or print name

9.29.24

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 #: #24CZ18

Submittal Date: _____

KEPE1 STC, LLC

_____ is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 1451 Richardson Road

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

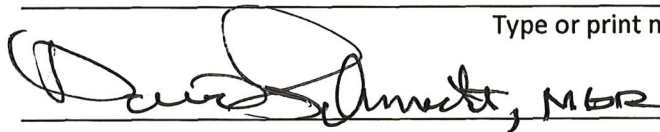


Edward Kalikow

Type or print name

9/29/24

Date



David Schmidt

Type or print name

9-29-24

Date

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AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

KEPE1 STC West, LLC

_____ is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 2820 Teachey Place

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

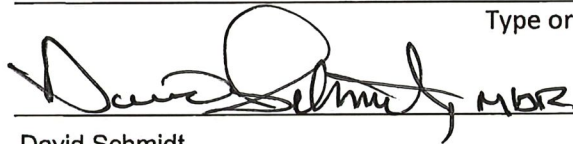


Edward Kalikow

Type or print name

9/25/24

Date



David Schmidt

Type or print name

9-29-24

Date

Attach additional sheets if there are additional owners.

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AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

KEPE1 Holdings, LLC

_____ is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 0 Core Banks Street

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*



Edward Kalikow

Type or print name

9/29/24

Date



David Schmidt

Type or print name

9.29.24

Date

Attach additional sheets if there are additional owners.

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AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

KEPE1 Holdings, LLC

is the owner* of the property for which the attached

application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 0 Little Gem Lane

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

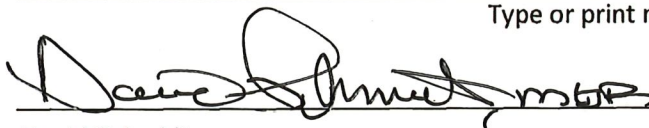


Edward Kalikow

Type or print name

9/29/24

Date



David Schmidt

Type or print name

9-29-24

Date

Attach additional sheets if there are additional owners.

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AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

Sweetwater Lightbridge, LLC is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 1075 Newland Avenue

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*



David Schmidt

Type or print name

9-30-2024

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.

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AGENT AUTHORIZATION FORMApplication #: #24CZ18

Submittal Date: _____

KEPE1 STC, LLC

_____ is the owner* of the property for which the attached application is being submitted:

- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 1425 Richardson RoadThe agent for this project is: Joseph M. Craig, CE Group, Inc.☐ I am the owner of the property and will be acting as my own agentAgent Name: Joseph M. CraigAddress: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603Telephone Number: (919) 367-8790E-Mail Address: Mitch@CEGroupInc.com

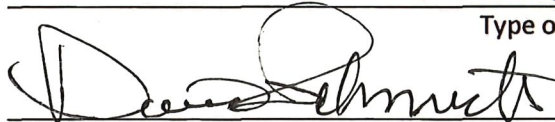
Signature(s) of Owner(s)*

Edward KalikowEDWARD KALIKOW

Type or print name

10-24-24

Date

David Schmidt

Type or print name

10-24-2024

Date

Attach additional sheets if there are additional owners.

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Submittal Date: _____

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is the owner* of the property for which the attached

application is being submitted:

☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.

☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other: _____

The property address is: 2707 Stokesdale AveThe agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. CraigAddress: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603Telephone Number: (919) 367-8790E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

Edward Kalikow

Type or print name

10-24-24

Date

David Schmidt

Type or print name

10-24-2024

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☐ Subdivision

☐ Variance

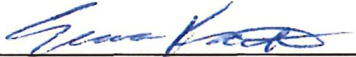
☐ Other: _____

The property address is: 2701 Lawnview LaneThe agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. CraigAddress: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603Telephone Number: (919) 367-8790E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

Edward Kalikow

Type or print name

10-24-24

Date

David Schmidt

Type or print name

10-24-2024

Date

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AGENT AUTHORIZATION FORMApplication #: #24CZ18

Submittal Date: _____

KEPE1 STC, LLC

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☐ **Site Plan**

☐ **Subdivision**

☐ **Variance**

☐ **Other:** _____

The property address is: 1481 Richardson Road

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*



Edward Kalikow

Type or print name

10-24-24
Date



David Schmidt

Type or print name

10-24-2024
Date

Attach additional sheets if there are additional owners.

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AGENT AUTHORIZATION FORMApplication #: #24CZ18

Submittal Date: _____

KEPE1 STC West, LLC

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application is being submitted:

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☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other: _____

The property address is: 1121 Moncure PlaceThe agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. CraigAddress: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603Telephone Number: (919) 367-8790E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

Edward Kalikow

Type or print name

10-24-24

Date

David Schmidt

Type or print name

10-24-2024

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AGENT AUTHORIZATION FORM

Application #: #24CZ18

Submittal Date: _____

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☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other: _____

The property address is: 1111 Moncure Place

The agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. Craig

Address: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603

Telephone Number: (919) 367-8790

E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

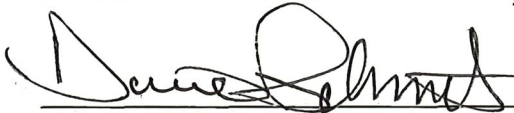


Edward Kalikow

Type or print name

10-24-24

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Type or print name

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AGENT AUTHORIZATION FORMApplication #: #24CZ18

Submittal Date: _____

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application is being submitted:

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☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other: _____

The property address is: 1101 Moncure PlaceThe agent for this project is: Joseph M. Craig, CE Group, Inc.

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

Agent Name: Joseph M. CraigAddress: 301 Glenwood Avenue, Suite 220, Raleigh, NC 27603Telephone Number: (919) 367-8790E-Mail Address: Mitch@CEGroupInc.com

Signature(s) of Owner(s)*

Edward Kalikow

Type or print name

10-24-24

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Type or print name

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AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (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 1051 Newland Avenue 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 30TH day of SEPTEMBER, 2024.

David Schmidt, MGR. (seal)

DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.

Lori A. Brown

Notary Public

State of North Carolina

My Commission Expires: 11/21/28



AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 1051 Newland Avenue 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 27th day of September, 2024.



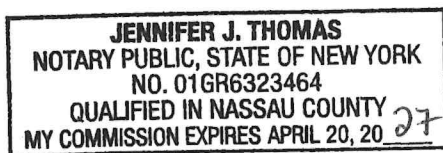
(seal)

Edward Kalikow

Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]



Notary Public

State of North Carolina New York

My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

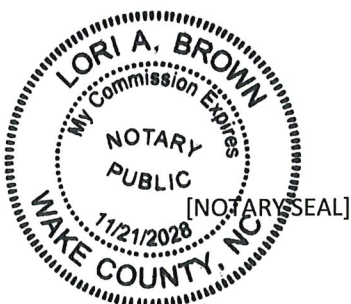
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 1451 Richardson Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 30TH day of SEPTEMBER, 2024.

David Schmidt, MGR. (seal)
DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date:

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 1451 Richardson 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 27th day of September, 2024.

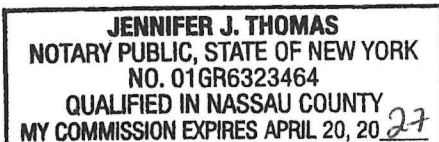
 (seal)

Edward Kalikow


Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]


Notary Public
State of North Carolina New York
My Commission Expires: 4/20/27

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC West, LLC) (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 2820 Teachey Place 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 5/22/2023, and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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 5/22/2023, 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 5/22/2023, 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 30TH day of SEPTEMBER, 2024.

David Schmidt, MGR (seal)
DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, Ed Kalikow (KEPE1 STC West, LLC) (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 2820 Teachey Place 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 5/22/2023, and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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 5/22/2023, 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 5/22/2023, 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 27th day of September, 2024.

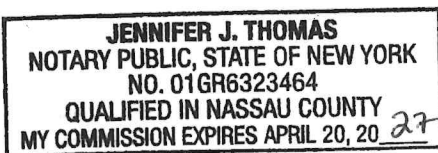
[Signature] (seal)

Edward Kalikow

Type or print name

New York
STATE OF ~~NORTH CAROLINA~~
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]

[Signature]
Notary Public
State of ~~North Carolina~~ New York
My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP


Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 Holdings, LLC) (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

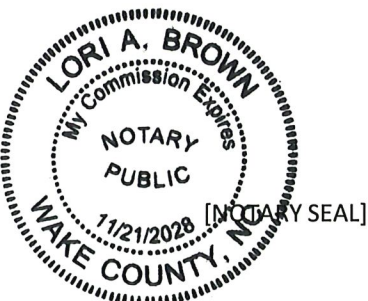
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 0 Core Banks Street and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/12/2021, in Book 18792 Page 2056-2060.
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 11/12/2021, 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 11/12/2021, 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.

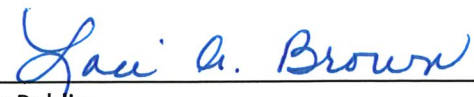
This the 30TH day of SEPTEMBER 2024.

 MGR (seal)
DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.




Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 Holdings, LLC) (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 0 Core Banks Street 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 11/10/2021 and recorded in the Wake County Register of Deeds Office on 11/12/2021, in Book 18792 Page 2056-2060.
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 11/12/2021, 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 11/12/2021, 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 27th day of September, 2024.



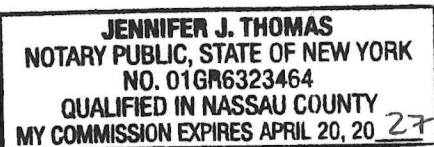
(seal)

Edward Kalikow

Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]



Notary Public

State of North Carolina New YorkMy Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 Holdings, LLC) (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 0 Little Gem Lane 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 5/10/2023, and recorded in the Wake County Register of Deeds Office on 5/10/2023, in Book 19331 Page 399-400.
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 5/10/2023, 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 5/10/2023, 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 30TH day of SEPTEMBER 20 24.

David Schmidt, MGR. (seal)
DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 Holdings, LLC) (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 0 Little Gem Lane 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 5/10/2023, and recorded in the Wake County Register of Deeds Office on 5/10/2023, in Book 19331 Page 399-400.
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 5/10/2023, 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 5/10/2023, 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 27th day of September, 2024.

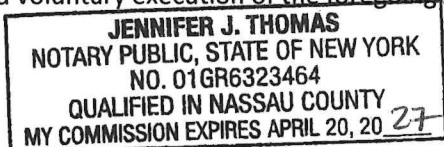
 (seal)

Edward Kalikow


Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]


Notary Public
State of North Carolina New York
My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (Sweetwater Lightbridge, LLC) (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

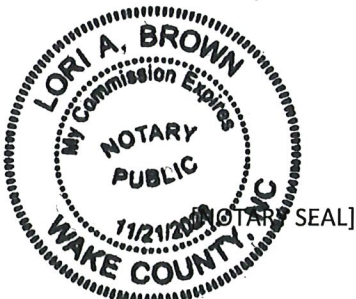
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 1075 Newland Avenue and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
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 2/26/2020, and recorded in the Wake County Register of Deeds Office on 2/27/2020, in Book 17764 Page 1056-1059.
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 2/27/2020, 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 2/27/2020, 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 30TH day of SEPTEMBER, 2024.

David Schmidt, mgr. (seal)
DAVID SCHMIDT, MANAGER
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 David Schmidt, 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.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIP

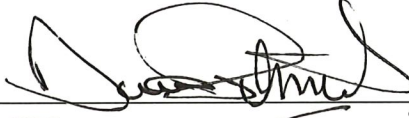
Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

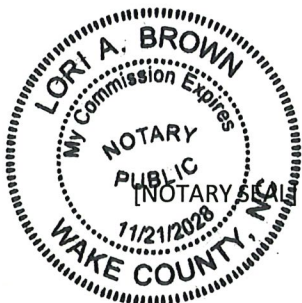
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 1425 Richardson Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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.

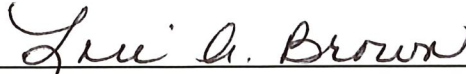
This the 31ST day of OCTOBER, 2024.

 MGR (seal)
DAVID SCHMIDT
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.




Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 1425 Richardson 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 24th day of October, 2024

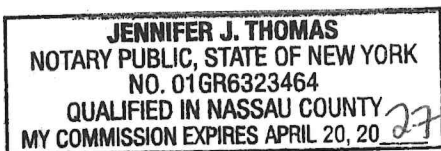
Edward Kalikow
EDWARD KALIKOW

(seal)

Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]

J. J. Thomas
Notary Public
State of North Carolina New York
My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (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 2707 Stokesdale Avenue 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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.

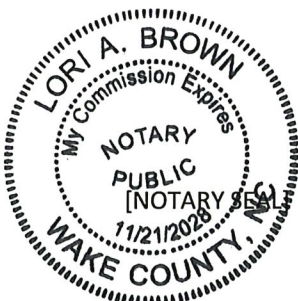
This the 31ST day of OCTOBER, 2024.

David Schmidt, MGR (seal)

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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Lori A. Brown

Notary Public

State of North Carolina

My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 2707 Stokesdale Avenue 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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 11/10/2021, 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 11/10/2021, 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 24th day of October, 2024.

Edward Kalikow
Edward Kalikow

(seal)

Type or print name

NEW YORK
 STATE OF NORTH CAROLINA
 COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

JENNIFER J. THOMAS
 NOTARY PUBLIC, STATE OF NEW YORK
 NO. 01GR6323464
 QUALIFIED IN NASSAU COUNTY
 MY COMMISSION EXPIRES APRIL 20, 2027

[NOTARY SEAL]

J. J. Thomas
 Notary Public
 State of North Carolina New York
 My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (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 2701 Lawnview Lane 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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).
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This the 31ST day of OCTOBER, 2024.

David Schmidt (seal)
DAVID SCHMIDT
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 2701 Lawnview Lane 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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This the 24th day of October, 2024.



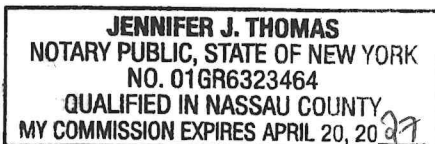
(seal)

EDWARD KALIKOW

Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]



Notary Public

State of North Carolina New YorkMy Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC, LLC) (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 1481 Richardson 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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).
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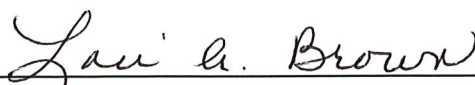
This the 31ST day of OCTOBER, 2024.

 (seal)
DAVID SCHMIDT
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.




Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIP


Application #: #24CZ18

Submittal Date:

The undersigned, Edward Kalikow (KEPE1 STC, LLC) (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 1481 Richardson 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 11/10/2021, and recorded in the Wake County Register of Deeds Office on 11/10/2021, in Book 18792 Page 51-55.
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).
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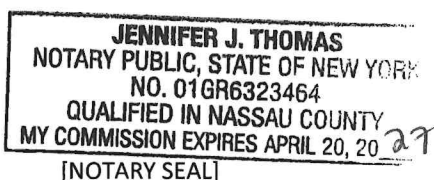
This the 24th day of October, 2024.



Edward Kalikow (seal)

Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF Nassau

I, the undersigned, a Notary Public in and for the County of Nassau, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.




Notary Public
State of North Carolina - New York
My Commission Expires: 4/20/2027

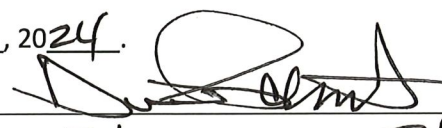
AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC West, LLC) (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 1121 Moncure Place 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 5/22/2023, and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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 5/22/2023, 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 5/22/2023, 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 31ST day of October, 2024.

DAVID SCHMIDT (seal)
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC West, LLC) (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 1121 Moncure Place 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 5/22/2023 and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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This the 24th day of October, 2024.



(seal)

EDWARD KALIKOW

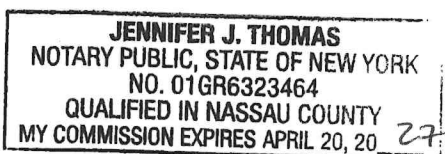
Type or print name

New York

STATE OF NORTH CAROLINA

COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]



Notary Public

State of North Carolina New York

My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC West, LLC) (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 1111 Moncure Place 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 5/22/2023, and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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This the 25 day of October, 2024.

David Schmidt MGR. (seal)
DAVID SCHMIDT
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC West, LLC) (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 1111 Moncure Place 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.
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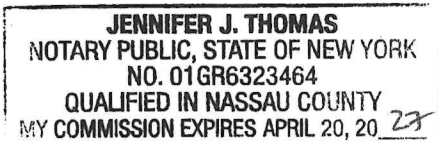
This the 24th day of OCTOBER, 2024.

 (seal)
EDWARD KALIKOW


Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]


Notary Public
State of North Carolina New York
My Commission Expires: 4/20/2027

AFFIDAVIT OF OWNERSHIP

Application #: #24CZ18

Submittal Date: _____

The undersigned, David Schmidt (KEPE1 STC West, LLC) (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 1101 Moncure Place and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
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This the 31st day of OCTOBER, 2024.

David Schmidt (seal)
DAVID SCHMIDT
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 David Schmidt, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Drivers License, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Lori A. Brown
Notary Public
State of North Carolina
My Commission Expires: 11/21/28


AFFIDAVIT OF OWNERSHIPApplication #: #24CZ18

Submittal Date: _____

The undersigned, Edward Kalikow (KEPE1 STC West, LLC) (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 1101 Moncure Place 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 5/22/2023, and recorded in the Wake County Register of Deeds Office on 5/22/2023, in Book 19340 Page 873-876.
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 5/22/2023, 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 5/22/2023, 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 24th day of October, 2024.

 (seal)
EDWARD KALIKOW


Type or print name

New York
STATE OF NORTH CAROLINA
COUNTY OF NASSAU

I, the undersigned, a Notary Public in and for the County of NASSAU, hereby certify that Edward Kalikow, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's _____, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

JENNIFER J. THOMAS
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01GR6323464
QUALIFIED IN NASSAU COUNTY
MY COMMISSION EXPIRES APRIL 20, 2027

[NOTARY SEAL]


Notary Public
State of North Carolina New York
My Commission Expires: 4/20/2027

Sweetwater PUD Amendment

Proposed Rezoning Changes

October 1, 2024

The PUD will retain all of the conditions from rezoning #16CZ21, #17CZ21, #18CZ01 and #23CZ20 except:

I. Revision to Section 5:

Section 5: Permitted Uses

Table 1 (below) presents a list of permitted uses for Sweetwater. The list of uses will provide the opportunity for the proposed development to have flexibility in the ultimate build out of the project.

- Uses are subject to general and specific regulations
- Some of the uses include specific regulations that can be found in the UDO permitted use Table and Section 4.4, Supplemental Standards.

Table 1	Residential	Non-Residential/Mixed-Use Areas (East Side)	Non-Residential/Mixed-Use Areas (West Side)	PINs 0722-44-1499 0722-44-1386
Residential Uses				
Accessory Apartment	P	P	P	P
Single-Family	P			
Townhouse	P			
Apartment (2 nd Story and above only)		P	P	
Public & Civic Uses				
Assembly Hall, Nonprofit		P	P	
Church or Place of Worship		P/S	P/S	
Daycare Facility		P	P	P
Drop-in or Short-Term Daycare		P	P	P
Government Service		P	P	
School, Public or Private		P	P	
Veterinary Clinic or Hospital		P	P	P
Vocational School		P	P	
Utilities				
Utility, Minor		P	P	
Recreational Uses				
Entertainment, Indoor		P	P	
Greenway	P	P	P	P
Park, Active	P	P	P	P
Park, Passive	P	P	P	P

Recreation Facility, Private	P	P	P	P
Adult Use				
Bar, Nightclub, Wine Bar or Taproom		P		
Food & Beverage Service				
Restaurant, Drive- Through		P	P	
Restaurant, General		P	P	P
Office & Research				
Dispatching Office		P	P	P
Medical or Dental Office or Clinic		P	P	P
Medical or Dental Laboratory		P	P	P
Office, Business or Professional		P	P	P
Publishing Office		P	P	P
Research Facility		P	P	P
Public Accommodation				
Hotel or Motel		P	P	
Retail, Sales & Service				
Barber & Beauty Shop		P	P	P
Bookstore		P	P	P
Building Supplies, Retail		P	P	
Convenience Store		P	P	
Convenience Store with Gas Sales		P	P	
Dry Cleaners & Laundry Service		P	P	P
Farmer's Market		P	P	P
Financial Institution		P	P	
Floral Shop		P	P	P
Funeral Home		P	P	
Gas & Fuel, Retail		P	P	
Greenhouse or Nursery, Retail		P	P	
Grocery, Retail		P	P	
Grocery, Specialty		P	P	
Health/Fitness Center or Spa		P	P	
Kennel, Indoor		P	P	P
Laundromat		P	P	
Newsstand or Gift Shop		P	P	
Personal Service		P	P	P

Pharmacy		P	P	
Printing & Copying Service		P	P	P
Real Estate Sales		P	P	P
Repair Service, Limited		P	P	
Retail Sales, Bulky Goods		P	P	
Retail Sales, General		P	P	P
Studio for Art		P	P	P
Tailor Shop		P	P	P
Theater		P	P	
Pet Services		P	P	P
Vehicle Repair or Service				
Automotive Parts		P	P	
Car Wash or Auto Detailing		P	P	
Vehicle Inspection Center		P	P	
Industrial Uses/Industrial Service				
Laboratory, Industrial Research		P	P	
Production				
Microbrewery		P	P	P

P = Permitted Use

S = Special Use

REZONING LAND DESCRIPTION: PROPERTY AT SWEETWATER
WHITE OAK- WAKE COUNTY – NORTH CAROLINA
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

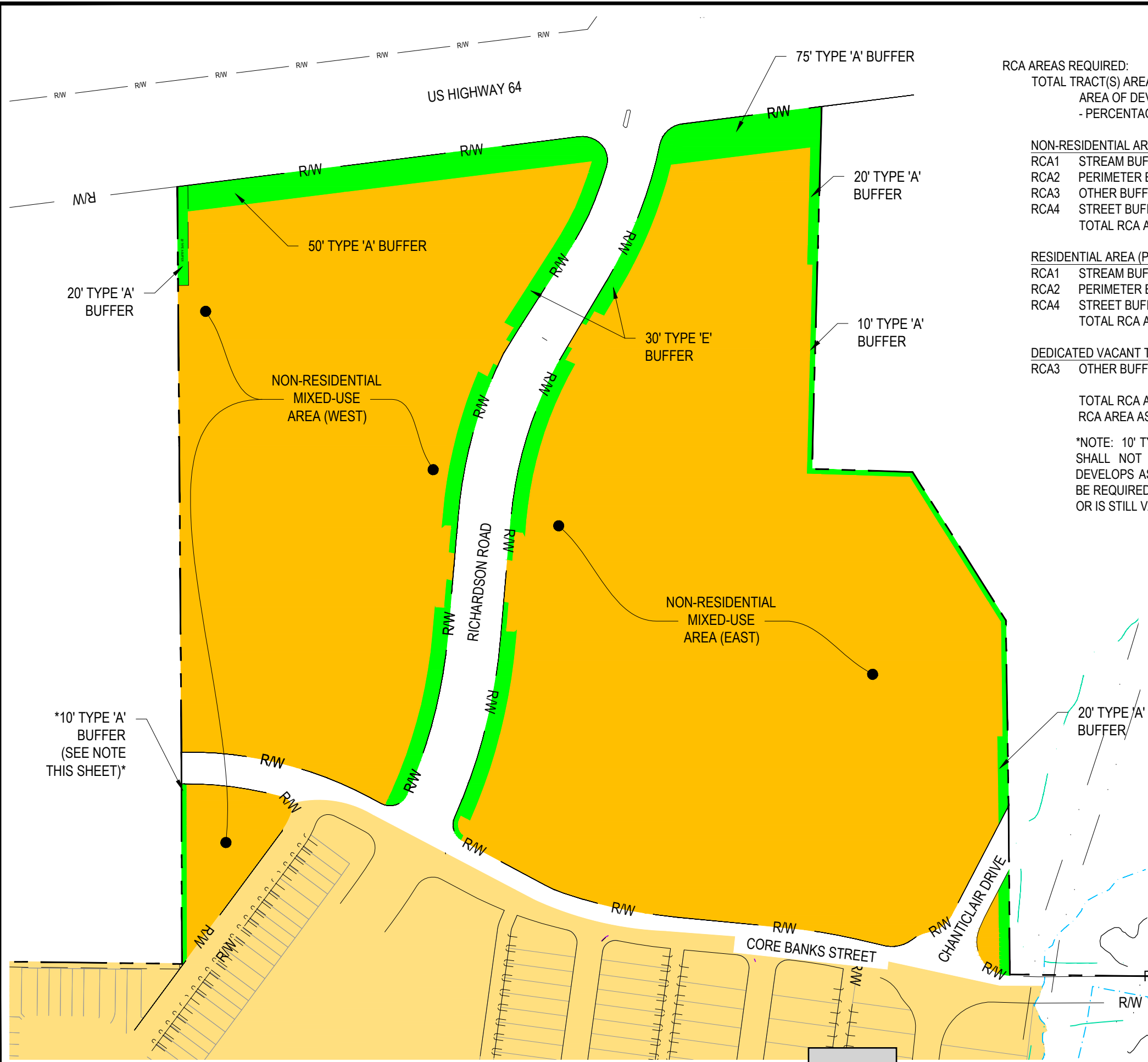
COMMENCING AT A POINT, SAID POINT BEING PUBLISHED IN THE NATIONAL GEODETIC SURVEY AS "ROGER" (PID: DM5422) AND HAVING NC GRID COORDINATES OF NORTHING: 726,051.43' & EASTING: 2,025,090.57', THENCE S 47° 08' 55" W DISTANCE OF 303.99' TO A POINT; SAID POINT LYING ON THE SOUTH MARGIN OF US HWY 64 AND BEING A COMMON RIGHT OF WAY CORNER FOR THE EASTERN MARGIN OF ROGERS ROAD AND HAVING GRID COORDINATES OF NORTHING: 725,844.69' AND EASTING 2,024,867.71' HEREBY KNOWN AS **THE POINT OF BEGINNING**;

THENCE FROM THE **POINT OF BEGINNING**, N 82° 55' 17" E, 197.05 FEET TO A POINT
THENCE N 82° 54' 21" E, 242.00 FEET TO A POINT;
THENCE N 82° 54' 21" E, 24.53 FEET TO A POINT;
THENCE S 01° 32' 16" W, 687.52 FEET TO A POINT;
THENCE S 88° 09' 09" E, 191.11 FEET TO A POINT;
THENCE S 32° 08' 55" E, 332.26 FEET TO A POINT;
THENCE S 00° 49' 54" E, 351.99 FEET TO A POINT;
THENCE S 00° 16' 23" W, 65.13 FEET TO A POINT;
THENCE S 27° 27' 56" W, 104.70 FEET TO A POINT;
THENCE S 27° 32' 58" W, 70.01 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 92.50 FEET, A CHORD BEARING OF S 52° 45' 59" W, A CHORD DISTANCE OF 78.82 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 52.50 FEET, A CHORD BEARING OF S 65° 22' 19" W, A CHORD DISTANCE OF 22.92 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 92.50 FEET, A CHORD BEARING OF S 76° 21' 47" W, A CHORD DISTANCE OF 75.72 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 92.50 FEET, A CHORD BEARING OF N 78° 42' 10" W, A CHORD DISTANCE OF 6.18 FEET TO A POINT;
THENCE N 76° 47' 20" W, 15.12 FEET TO A POINT;
THENCE N 76° 47' 20" W, 33.34 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 1000.00 FEET, A CHORD BEARING OF N 80° 40' 51" W, A CHORD DISTANCE OF 135.75 FEET TO A POINT.
THENCE N 84° 33' 48" W, 65.57 FEET TO A POINT;
THENCE N 84° 28' 16" W, 141.51 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 1000.00 FEET, A CHORD BEARING OF N 78° 07' 30" W, A CHORD DISTANCE OF 224.53 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 265.00 FEET, A CHORD BEARING N 66° 43' 00" W, A CHORD DISTANCE OF 45.85 FEET TO A POINT;
THENCE N 61° 42' 14" W, 177.13 FEET TO A POINT;
THENCE N 64° 58' 02" W, 197.28 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 699.98 FEET, A CHORD BEARING OF N 66° 07' 03" W, A CHORD DISTANCE OF 98.05 FEET TO A POINT;
THENCE S 36° 35' 24" W, 410.82 FEET TO A POINT;
THENCE N 89° 15' 15" W, 3.04 FEET TO A POINT;
THENCE N 00° 25' 12" W, 341.43 FEET TO A POINT;
THENCE N 00° 25' 12" W, 29.94 FEET TO A POINT;

#24CZ18

THENCE N 00° 25' 12" W, 30.06 FEET TO A POINT;
THENCE N 00° 25' 12" W, 581.68 FEET TO A POINT;
THENCE N 90° 00' 00" E, 157.10 FEET TO A POINT;
THENCE N 00° 00' 00" E, 21.32 FEET TO A POINT;
THENCE S 90° 00' 00" E, 146.50 FEET TO A POINT;
THENCE S 00° 00' 00" W, 224.34 FEET TO A POINT;
THENCE N 90° 00' 00" E, 40.34 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 500.00 FEET, A CHORD BEARING OF
S 83° 30' 21" E, A CHORD DISTANCE OF 113.10 FEET TO A POINT;
THENCE S 77° 00' 41" E, 66.11 FEET TO A POINT;
THENCE N 04° 58' 22" E, 64.19 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 851.00 FEET, A CHORD BEARING OF
N 05° 16' 37" E, A CHORD DISTANCE OF 8.88 FEET TO A POINT;
THENCE N 04° 58' 19" E, 28.14 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 849.06 FEET, A CHORD BEARING OF
N 15° 46' 04" E, A CHORD DISTANCE OF 318.25 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 1843.98 FEET, A CHORD BEARING OF
N 31° 58' 30" E, A CHORD DISTANCE OF 58.60 FEET TO A POINT;
THENCE, N 32° 41' 37" E, 160.09 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 761.95 FEET, A CHORD BEARING OF
N 29° 13' 26" E, A CHORD DISTANCE OF 89.44 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 753.00 FEET, A CHORD BEARING OF
N 20° 09' 10" E, A CHORD DISTANCE OF 95.86 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 45.00 FEET, A CHORD BEARING OF
N 05° 43' 31" W, A CHORD DISTANCE OF 34.05 FEET TO A POINT;
THENCE ALONG A CURVE WITH A RADIUS OF 50.00 FEET, A CHORD BEARING OF
N 64° 34' 11" W, A CHORD DISTANCE OF 53.73 FEET TO **THE POINT AND PLACE OF
BEGINNING.**

CONTAINING 1,578,737 SQFT OR 36.243 ACRES MORE OR LESS.

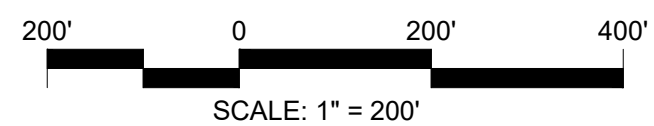


RCA AREAS REQUIRED:

TOTAL TRACT(S) AREA:	164.79 AC
AREA OF DEVELOPMENT:	164.79 AC
- PERCENTAGES BELOW ARE OF DEVELOPED AREA RCA BUFFERS	
NON-RESIDENTIAL AREA (PHASES 9 & 10) 46.59 AC (28.27%)	
RCA1	STREAM BUFFERS 0.00 AC
RCA2	PERIMETER BUFFERS 1.90 AC
RCA3	OTHER BUFFERS (TRACT PIN 0722730032) 0.00 AC
RCA4	STREET BUFFERS (RICHARDSON RD) 1.70 AC
TOTAL RCA AREA = 3.60 AC (2.18%)	
RESIDENTIAL AREA (PHASES 1-8) 105.44 AC (63.98%)	
RCA1	STREAM BUFFERS 26.41 AC
RCA2	PERIMETER BUFFERS 1.26 AC
RCA4	STREET BUFFERS (RICHARDSON RD) 1.88 AC
TOTAL RCA AREA = 29.55 AC (17.93%)	
DEDICATED VACANT TRACT (NOT PART OF DEVELOPED AREA)	
RCA3	OTHER BUFFERS (TRACT PIN 0722730032) 13.20 AC
TOTAL RCA AREA: 46.35 AC	
RCA AREA AS A PERCENTAGE OF DEVELOPED AREA: 28.13%	

*NOTE: 10' TYPE 'A' BUFFER: IF A BUFFER IS REQUIRED BY THE UDO, IT SHALL NOT EXCEED 10' IN WIDTH. IF THE ADJACENT PROPERTY DEVELOPS AS COMMERCIAL BEFORE THIS ONE, THEN NO BUFFER WILL BE REQUIRED. IF THE ADJACENT PROPERTY DEVELOPS AS MULTI-FAMILY OR IS STILL VACANT, THEN ONLY A 10' BUFFER WILL BE REQUIRED.

RESIDENTIAL	
MIXED USE	
RCA - (CURRENT) 46.35 AC. (28.13%)	



CE GROUP

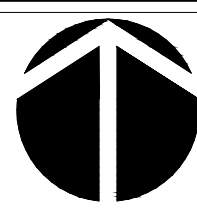
301 GLENWOOD AVE. 220
RALEIGH, NC 27603
PHONE: 919-367-8790
FAX: 919-322-0032

www.cegroupinc.com

License # C-1739

SWEETWATER
PUD AMENDMENT
LAYOUT PLAN

12/04/2024



NORTH

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.

9/12/2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

0722550034, 0722544876, 0722544404, 0722457646, 0722454406, 0722443942, 0722441499

1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

0148944, 0120755, 072204, 0444531, 0436584, 0436595, 0444460

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type		Approving Authority
<input checked="" type="checkbox"/>	Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/>	Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/>	Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/>	Special Use Permit	Board of Adjustment (QJPH*)
<input type="checkbox"/>	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

This rezoning is to add an allowable use to the permitted use table for all parcels north of Core Bank Road.

The permitted use that is being requested is "Bars, Nightclubs, Wine Bar or Taproom."

Estimated submittal date: 10/1/2024

MEETING INFORMATION:

Property Owner(s) name(s):

See attached list

Applicant(s):

Owners

Contact information (email/phone):

See attached list

Meeting Address:

Virtual (via attached Zoom Meeting Letter)

Date/Time of meeting**:

September 26, 2024 5:30 pm - 7:30 pm

Welcome: 5:30-5:45 pm Project Presentation: 5:45-6:15 pm Question & Answer: 6:15-7:30 pm

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.

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: Sweetwater Commercial PUD Amendment Zoning: PUD-CZ

Location: 1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

Property PIN(s): See Attached List Acreage/Square Feet: 41.32 acres

Property Owner: See Attached List

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Developer: ExperienceOne Homes, LLC. - David Schmidt

Address: PO Box 5509

City: Cary State: NC Zip: 27512

Phone: (919) 991-1428 Fax: N/A Email: DSchmidt@E1Homes.com

Engineer: CE Group, Inc - Mitch Craig, PE

Address: 301 Glenwood Avenue, Suite 220

City: Raleigh State: NC Zip: 27603

Phone: (919) 218-0990 Fax: N/A Email: Mitch@CEGroupInc.com

Builder (if known): N/A

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

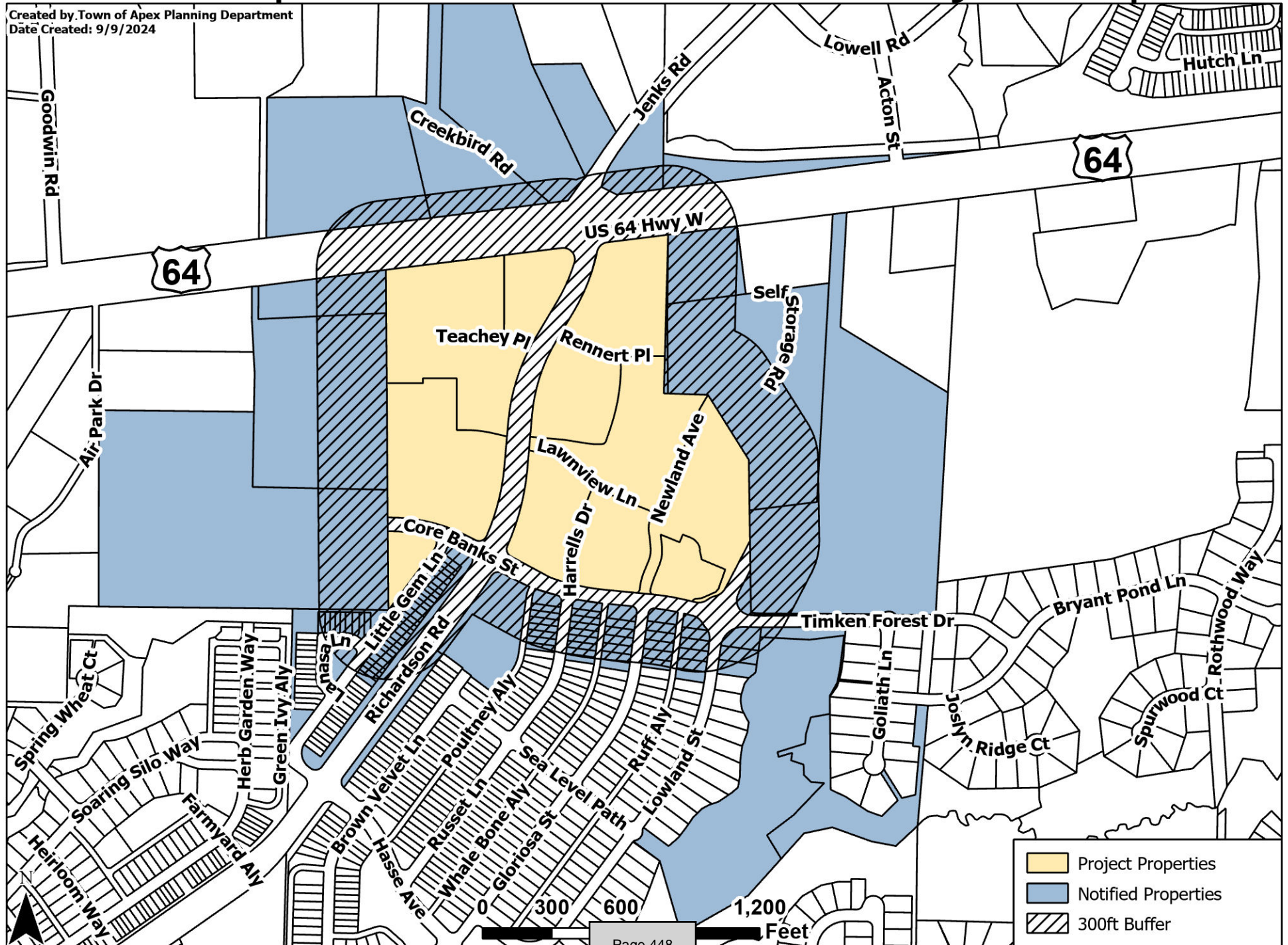
Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager	(919) 372-7468
Transportation & Infrastructure Development Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Matt Reker, Utility Engineer/FOG Program Manager (Water & Sewer)	(919) 946-4394
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

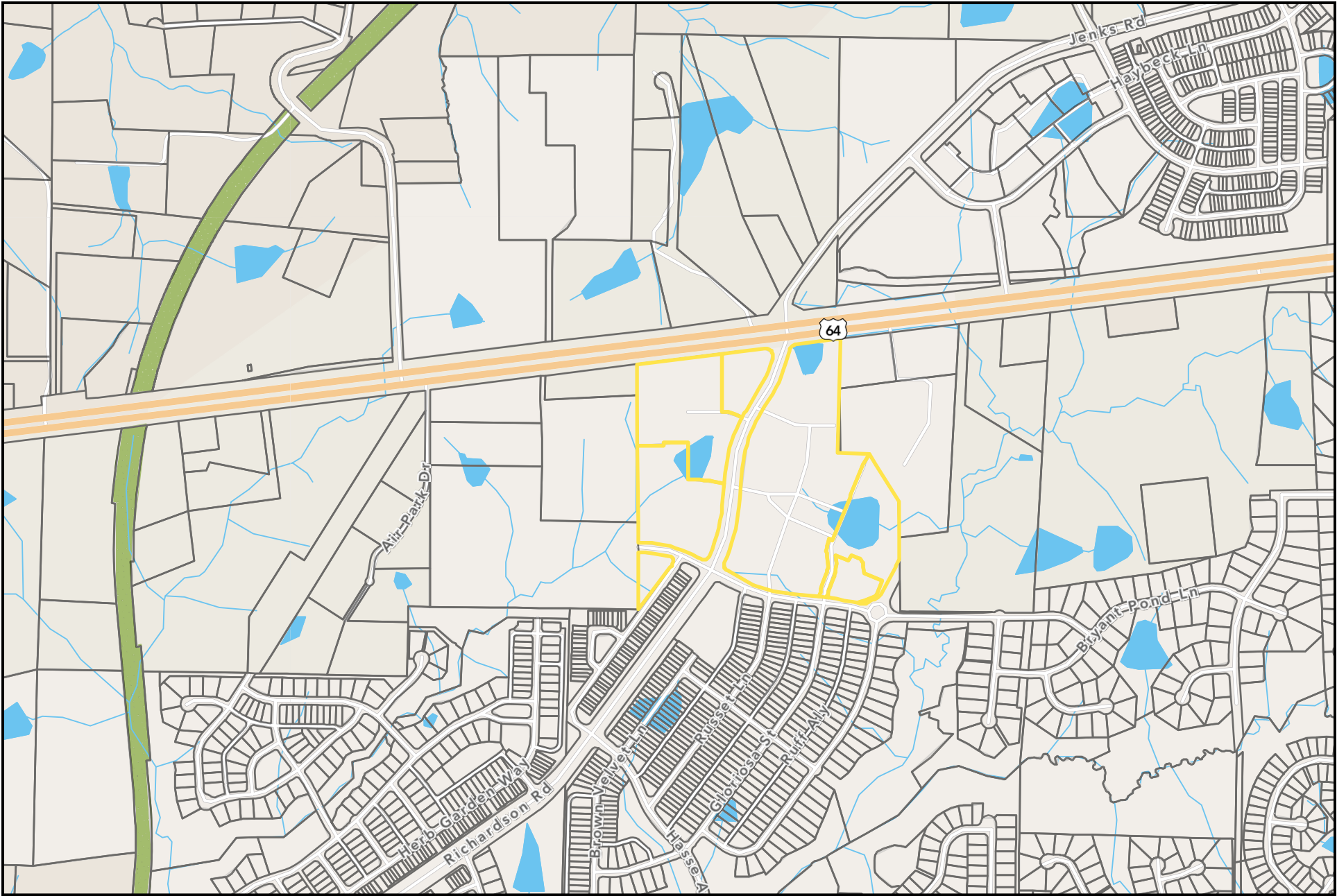
Notified Properties within 300ft of the Project Properties

Created by: Town of Apex Planning Department
Date Created: 9/9/2024

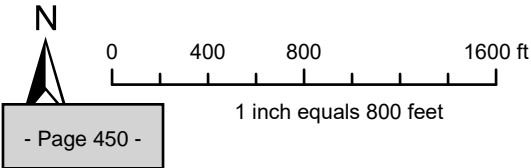


#24CZ18

PIN	Real Estate ID	Site Address	City	Owner	Mail Address 1	Mail Address 2	Deed Book	Deed Page	Deed Acres
0722-55-0034	148944	1451 RICHARDSON ROAD	APEX	KEPE1 STC, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51-55	18.33
0722-54-4876	120755	1051 NEWLAND AVE	APEX	KEPE1 STC, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51-55	4.87
0722-54-4404	476653	1075 NEWLAND AVE	APEX	SWEETWATER LIGHTBRIDGE LLC	PO BOX 5509	CARY NC 27512-5509	17764	1056	1.38
0722-45-7646	444531	2800 TEACHEY PL	APEX	HARRIS TEETER PROPERTIES, LLC	701 CRESTDALE RD	MATTHEWS, NC 28105-1700	19411	1576-1579	2.06
0722-45-4406	436584	2810 TEACHEY PL	APEX	HARRIS TEETER PROPERTIES, LLC	701 CRESTDALE RD	MATTHEWS, NC 28105-1700	19411	1576-1579	7.56
0722-44-3942	436595	2820 TEACHEY PL	APEX	KEPE1 STC WEST, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873-876	6.18
0722-44-1499	444460	0 CORE BANKS ST	APEX	KEPE1 HOLDINGS, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056-2060	0.94



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.

#24CZ18

Mitch Craig is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/83253987610?pwd=83kQZ0yll6j9wuyTMD3g90u2NOqQf1.1>

Meeting ID: 832 5398 7610

Passcode: 500934

One tap mobile

+13092053325,,83253987610#,,,500934# US

+13126266799,,83253987610#,,,500934# US (Chicago)

Dial by your location

- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 9128 US (San Jose)

Meeting ID: 832 5398 7610

Passcode: 500934

Find your local number: <https://us02web.zoom.us/u/kbjRirG75W>

NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Virtual

Date of meeting: 11/19/24 Time of meeting: 6:00pm - 7:00 pm

Property Owner(s) name(s): See Attached List

Applicant(s): ExperienceOne Homes, LLC

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.	Jere McKinley	2826 Lanasa Lane			
2.					
3.	Alex Thomas	1109 Lowland St.			
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): See Attached List

Applicant(s): ExperienceOne Homes, LLC

Contact information (email/phone): DSchmidt@E1Homes.com/919-991-1428

Meeting Address: Virtual

Date of meeting: 11/19/24 Time of meeting: 6:00 pm - 7:00 pm

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be “Noted” or “No Response”. There has to be documentation of what consideration the neighbor’s concern was given and justification for why no change was deemed warranted.

Question/Concern #1:
Can we eliminate the nightclub use out of the bundle?

Applicant’s Response:
I will send an email to Planning and ask.

Question/Concern #2:
Can we limit the location of the where the use is within Sweetwater?

Applicant’s Response:
Most of the uses face away from the residential portion of Sweetwater anyway. The only one that possibly would not would be anything associated with the future hotel. It will be relayed to the hotel that any rooftop bar is requested to be on the north side of the building.

Question/Concern #3:

Applicant’s Response:

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, Joseph M. Craig, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Virtual via Zoom (location/address)
on November 19, 2024 (date) from 6:00 pm (start time) to 7:00 pm (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

11/20/24

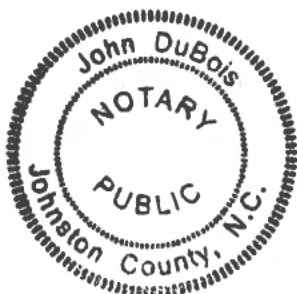
Date

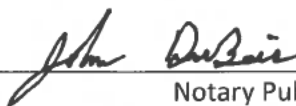
By: 

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, John DuBois, a Notary Public for the above State and County, on this the 20th day of November, 20 24.

SEAL




Notary Public
John DuBois
Print Name

My Commission Expires: 10/17/2028

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.

9/12/2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

0722550034, 0722544876, 0722544404, 0722457646, 0722454406, 0722443942, 0722441499

1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

0148944, 0120755, 072204, 0444531, 0436584, 0436595, 0444460

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type		Approving Authority
<input checked="" type="checkbox"/>	Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/>	Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/>	Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/>	Special Use Permit	Board of Adjustment (QJPH*)
<input type="checkbox"/>	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

This rezoning is to add an allowable use to the permitted use table for all parcels north of Core Bank Road.

The permitted use that is being requested is "Bars, Nightclubs, Wine Bar or Taproom."

Estimated submittal date: 10/1/2024

MEETING INFORMATION:

Property Owner(s) name(s):

See attached list

Applicant(s):

Owners

Contact information (email/phone):

See attached list

Meeting Address:

Virtual (via attached Zoom Meeting Letter)

Date/Time of meeting**:

September 26, 2024 5:30 pm - 7:30 pm

Welcome: 5:30-5:45 pm Project Presentation: 5:45-6:15 pm Question & Answer: 6:15-7:30 pm

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.

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: Sweetwater Commercial PUD Amendment Zoning: PUD-CZ

Location: 1451 Richardson Rd, 1051 Newland Ave, 1075 Newland Ave, 2800 Teachey Pl, 2810 Teachey Pl, 2820 Teachey Pl, 0 Core Banks St

Property PIN(s): See Attached List Acreage/Square Feet: 41.32 acres

Property Owner: See Attached List

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Developer: ExperienceOne Homes, LLC. - David Schmidt

Address: PO Box 5509

City: Cary State: NC Zip: 27512

Phone: (919) 991-1428 Fax: N/A Email: DSchmidt@E1Homes.com

Engineer: CE Group, Inc - Mitch Craig, PE

Address: 301 Glenwood Avenue, Suite 220

City: Raleigh State: NC Zip: 27603

Phone: (919) 218-0990 Fax: N/A Email: Mitch@CEGroupInc.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 Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager	(919) 372-7468
Transportation & Infrastructure Development Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Matt Reker, Utility Engineer/FOG Program Manager (Water & Sewer)	(919) 946-4394
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

#24CZ18

Mitch Craig is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/87698442485?pwd=NTdlZMlKCFpj4RVjs11RXNTpkhtZg.1>

Meeting ID: 876 9844 2485

Passcode: 461425

One tap mobile

+13052241968,,87698442485#,,,*461425# US

+13092053325,,87698442485#,,,*461425# US

Dial by your location

- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 301 715 8592 US (Washington DC)
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 9128 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US

Meeting ID: 876 9844 2485

Passcode: 461425

Find your local number: <https://us02web.zoom.us/j/87698442485?pwd=NTdlZMlKCFpj4RVjs11RXNTpkhtZg.1>

#24CZ18

PIN	Real Estate ID	Site Address	City	Owner	Mailing Address 1	Mailing Address 2	Deed Book	Deed Page	Deed Date	Deed Acres
722544876	120755	1051 NEWLAND AVE	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	4.87
722459232	148944	1451 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	3.35
722452031	436595	2820 TEACHEY PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	3.08
722441499	444460	0 CORE BANKS ST	APEX	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056	11/12/2021	0.94
722441386	444532	0 LITTLE GEM LN	APEX	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19331	399	5/10/2023	0.01
722544404	476653	1075 NEWLAND AVE	APEX	SWEETWATER LIGHTBRIDGE LLC	PO BOX 5509	CARY NC 27512-5509	17764	1056	2/27/2020	1.38
722551642	516816	1425 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	4.01
722551082	516817	2707 STOKESDALE AVE	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	5.13
722540585	516818	2701 LAWNVIEW LN	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	2.81
722448618	516819	1481 RICHARDSON RD	APEX	KEPE1 STC LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51	11/10/2021	3.02
722444629	521557	1121 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03
722444853	521558	1111 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03
722444977	521559	1101 MONCURE PL	APEX	KEPE1 STC WEST LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	19340	873	5/22/2023	1.03

NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Virtual

Date of meeting: 9/26/24 Time of meeting: 5:30 pm - 7:30 pm

Property Owner(s) name(s): See Attached List

Applicant(s): ExperienceOne Homes, LLC

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.	Yogev Neumann	1125 Russet Lane			
2.	Gennell Kessler	1110 Russet Lane			
3.	Tom Butler				
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): See Attached List

Applicant(s): ExperienceOne Homes, LLC

Contact information (email/phone): DSchmidt@E1Homes.com/919-991-1428

Meeting Address: Virtual

Date of meeting: 9/26/24 Time of meeting: 5:30 pm - 7:30 pm

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be “Noted” or “No Response”. There has to be documentation of what consideration the neighbor’s concern was given and justification for why no change was deemed warranted.

Question/Concern #1:
Why was this use not included in the PUD before now?

Applicant’s Response:
It was overlooked as a use that would be needed.

Question/Concern #2:

Applicant’s Response:

Question/Concern #3:

Applicant’s Response:

Question/Concern #4:

Applicant’s Response:

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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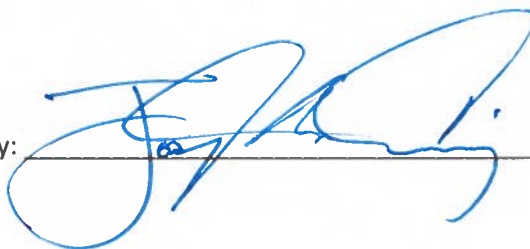
I, Joseph M. Craig, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Virtual via Zoom (location/address) on September 26, 2024 (date) from 5:30 pm (start time) to 7:30 pm (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

10/1/24

Date

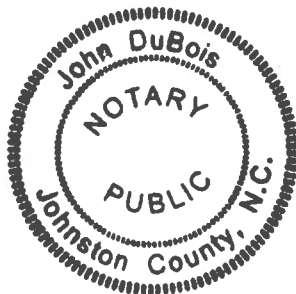
By:

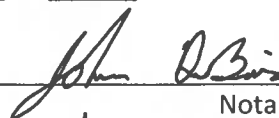


STATE OF NORTH CAROLINA
COUNTY OF ~~WAKE~~ JOHNSTON

Sworn and subscribed before me, John DuBois, a Notary Public for the above State and County, on this the 1ST day of OCTOBER, 20 24.

SEAL




Notary Public
John DuBois
Print Name

My Commission Expires: 10/17/2028



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #24CZ18
Sweetwater PUD Amendment**

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 a public hearing before the Planning Board of the Town of Apex. The purpose of this hearing is to consider the following:

- Applicant:** ExperienceOne Homes, LLC
- Authorized Agent:** Mitch Craig, PE, CE Group, Inc
- Property Addresses:** 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl
- Acreage:** ±36.24 acres
- Property Identification Numbers (PINs):** 0722441499, 0722441386, 0722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 0722452031
- 2045 Land Use Map Designation:** Mixed Use: High Density Residential/Office Employment/Commercial Services
- Existing Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)
- Proposed Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: December 9, 2024 4:30 PM
You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (322 N. Mason Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/4868>.

Dianne F. Khin, AICP
Planning Director

Published Dates: November 22-December 9, 2024

**TOWN OF APEX**

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS**ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ18****Sweetwater PUD Amendment**

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 de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: ExperienceOne Homes, LLC

Agente autorizado: Mitch Craig, PE, CE Group, Inc

Dirección de las propiedades: 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, & 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl

Superficie: ±36.24 acres

Números de identificación de las propiedades: 0722441499, 0722441386, 0722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 0722452031

Designación en el Mapa de Uso Territorial para 2045: Mixed Use: High Density Residential/Office Employment/Commercial Services

Ordenamiento territorial existente de las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 9 de diciembre de 2024 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (322 N. Mason Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:

Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/48668>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 22 de noviembre - 9 de diciembre de 2024



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**
CONDITIONAL ZONING #24CZ18
Sweetwater PUD Amendment

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 a public hearing before the Planning Board of the Town of Apex. The purpose of this hearing is to consider the following:

Applicant: ExperienceOne Homes, LLC
Authorized Agent: Mitch Craig, PE, CE Group, Inc
Property Addresses: 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl
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2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services
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Public Hearing Location: Apex Town Hall
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A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/48668>.



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ18
Sweetwater PUD Amendment

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Designación en el Mapa de Uso Territorial para 2045: Mixed Use: High Density Residential/Office Employment/Commercial Services

Ordenamiento territorial existente de las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
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73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 9 de diciembre de 2024 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (322 N. Mason Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/48668>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #24CZ18

Project Location: 0 Core Banks St; 0 Little Gem Ln; 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, & 1481 Richardson Rd; 2701 Lawnview Ln; 2707 Stokesdale Ave; & 2820 Teachey Pl

Authorized Agent: Mitch Craig, PE

Firm: CE Group, Inc.

Planning Board: December 9, 2024

Public Hearing Date:

Project Planner: Joshua Killian

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on November 22, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

11/25/2024

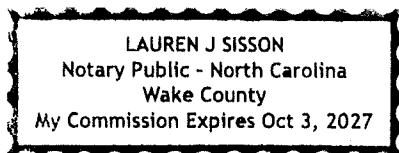
Date

Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, LAUREN J Sisson, a Notary Public for the above

State and County, this the 25th day of NOVEMBER, 2024.



Notary Public

My Commission Expires: 10/03/2027



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ18

Sweetwater PUD Amendment

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: ExperienceOne Homes, LLC

Agente autorizado: Mitch Craig, PE, CE Group, Inc

Dirección de las propiedades: 0 Core Banks St, 0 Little Gem Ln, 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln, 2707 Stokesdale Ave, & 2820 Teachey Pl

Superficie: ±36.24 acres

Números de identificación de las propiedades: 0722441499, 0722441386, 722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 722452031

Designación en el Mapa de Uso Territorial para 2045: Mixed Use: High Density Residential/Office Employment/Commercial Services

Ordenamiento territorial existente de las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 14 de enero de 2025 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <https://www.apexnc.org/DocumentCenter/View/478>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/48668>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 - 14 de enero de 2025

**TOWN OF APEX**

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**
CONDITIONAL ZONING #24CZ18
Sweetwater PUD Amendment

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: ExperienceOne Homes, LLC

Authorized Agent: Mitch Craig, PE, CE Group, Inc

Property Addresses: 0 Core Banks St, 0 Little Gem Ln, 1051 & 1075 Newland Ave, 1101, 1111, & 1121 Moncure Pl;
1425, 1451, 1481 Richardson Rd, 2701 Lawnview Ln, 2707 Stokesdale Ave, & 2820 Teachey Pl

Acreage: ±36.24 acres

Property Identification Numbers (PINs): 0722441499, 0722441386, 722544876, 0722544404, 0722444977,
0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 722452031

2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services

Existing Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)

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

Public Hearing Location: Apex Town Hall

Council Chamber, 2nd Floor

73 Hunter Street, Apex, North Carolina

*Comments received prior to the Planning Board public hearing will not be provided to the Town Council.
Separate comments for the Town Council public hearing must be provided by the deadline specified below.*

Town Council Public Hearing Date and Time: January 14, 2025 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at:

<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/48668>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #24CZ18
Sweetwater PUD Amendment**

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Acreage: ±36.24 acres
Property Identification Numbers (PINs): 0722441499, 0722441386, 722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 722452031
2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services
Existing Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)
Proposed Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall
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73 Hunter Street, Apex, North Carolina

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX
PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ18

Sweetwater PUD Amendment

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Designación en el Mapa de Uso Territorial para 2045: Mixed Use: High Density Residential/Office Employment/Commercial Services

Ordenamiento territorial existente de las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 14 de enero de 2025 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

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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.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/48668>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #24CZ18

Project Location: 0 Core Banks St, 0 Little Gem Ln, 1051 & 1075 Newland Ave; 1101, 1111, & 1121 Moncure Pl; 1425, 1451, 1481 Richardson Rd; 2701 Lawnview Ln, 2707 Stokesdale Ave, & 2820 Teachey Pl

Authorized Agent: Mitch Craig, PE

Firm: CE Group, Inc.

Town Council January 14, 2025

Public Hearing Date:

Project Planner: Joshua Killian

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on December 20, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

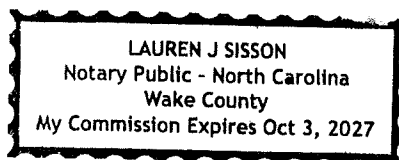
12/23/2024
Date

Deanne F. Shinn
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lauren J Sisson, a Notary Public for the above

State and County, this the 23rd day of DECEMBER, 2024.



[Signature]
Notary Public

My Commission Expires: 10/03/2027

Public Hearing Sign Posted By


Signature

10/3/2024
Date

Rezoning #24CZ18

Harris Teeter

Teachey Pl

Rennert Pl

Sweetwater
Ph 9A2 & 9B

Lawnview Ln

Harrells Dr

Newland Ave

Self St
Orange Rd

Timken Forest Dr

Sweetwater

0 300 600
Feet

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ18 Sweetwater PUD Amendment

Planning Board Meeting Date: December 9, 2024



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: +/- 36.24

PIN(s): 0722441499, 0722441386, 0722544876, 0722544404, 0722444977, 0722444853, 0722444629, 0722551642, 0722459232, 0722448618, 0722540585, 0722551082, 7

Current Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ20)

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

Current 2045 Land Use Map: Mixed Use: High Density Residential/Office Employment/Commercial Services

If rezoned as proposed, the 2045 Land Use Map Designation will change to: Mixed Use: High Density Residential/Office Employment/Commercial Services

Town Limits: Inside Corporate Limits

Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☐ Parks, Recreation, Open Space, and Greenways Plan
☐ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 24CZ18 Sweetwater PUD Amendment

Planning Board Meeting Date: December 9, 2024



Legislative Considerations:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

1. *Consistency with 2045 Land Use Plan.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan.

☒ Consistent

☐ Inconsistent

Reason: _____

2. *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

☒ Consistent

☐ Inconsistent

Reason: _____

3. *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 *Supplemental Standards*, if applicable.

☒ Consistent

☐ Inconsistent

Reason: _____

4. *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

☒ Consistent

☐ Inconsistent

Reason: _____

5. *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

☒ Consistent

☐ Inconsistent

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL
Rezoning Case: 24CZ18 Sweetwater PUD Amendment

Planning Board Meeting Date: December 9, 2024



6. *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

☒ Consistent ☐ Inconsistent Reason: _____

7. *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

☒ Consistent ☐ Inconsistent Reason: _____

8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

☒ Consistent ☐ Inconsistent Reason: _____

9. *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

☒ Consistent ☐ Inconsistent Reason: _____

10. *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL
Rezoning Case: 24CZ18 Sweetwater PUD Amendment

Planning Board Meeting Date: December 9, 2024



Planning Board Recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Keith Braswell

Seconded by Planning Board member: Jeff Hastings

- ☐ *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 7 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 9th day of December 2024.

Attest:

Tina Sherman, Planning Board Chair

Dianne Khin, Planning Director

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: January 14, 2025

Item Details

Presenter(s): Bruce Venable, Planner II and Amanda Bunce, Current Planning Manager

Department(s): Planning

Requested Motion

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance (UDO).

Approval Recommended?

The Planning Department recommends approval.

The Planning Board heard these amendments at their December 9, 2024 meeting and unanimously recommended approval.

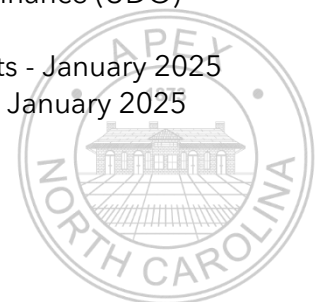
Item Details

Requested by Planning Staff:

1. Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.
2. Amendments to 12.2 *Terms Defined* in order to update the definition of "Built-Upon Area" to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.
3. Amendments to Sec. 8.7.1 *Permitted Signs: Location, Size, and Number*; Table 8.7.1 in order to make corrections to the symbols for "allowed with permit", "not allowed", and "allowed without permit" shown for the On-premises, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.

Attachments

- PH3-A1: Staff Report - Unified Development Ordinance (UDO) Amendments - January 2025
- PH3-A2: Planning Board Report to Town Council - Unified Development Ordinance (UDO) Amendments
- PH3-A3: Public Notice - Unified Development Ordinance (UDO) Amendments - January 2025
- PH3-A4: Ordinance - Unified Development Ordinance (UDO) Amendments - January 2025



STAFF REPORT

Amendments to the Unified Development Ordinance

January 14, 2025 Town Council Meeting



Requested by Planning Staff:

1. **Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.**

Background: Since the adoption of the Unified Development Ordinance's (UDO) new exterior lighting standards in January 2024, applicants and design professionals have expressed concerns about their ability to comply with the standards in Sec. 8.6 *Exterior Lighting*, while maintaining a safe and adequate level of lighting on their industrially zoned sites. This issue particularly applies to areas such as loading docks and outdoor storage, where the amount of space required for the safe and orderly movement of large vehicles prevents installation of light poles thereby creating dark zones that reduce the overall safety and functionality of the site.

Planning staff is proposing amendments to the UDO in order to address how the current lighting standards unintentionally pose challenges for loading docks and outdoor storage areas by granting the Planning Director the authority to approve deviations from Secs. 8.6.3, *Illumination Standards* and 8.6.4 *Design Requirements* when a lighting plan demonstrates that the deviations are necessary to ensure site functionality and safety while maintaining the intent of the Ordinance. In addition, staff is also proposing changes to the lighting standards in Secs. 8.6.4.E *Design Requirements, Lumens* and 8.6.4.F *Design Requirements, Building, Ground Mounted Fixtures and Accent Lighting*, to include a provision that building mounted light fixtures with lamps up to 15,500 lumens within a designated loading dock area are allowed only when associated with Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial Districts. These amendments will provide property owners sufficient flexibility to address unique site challenges that currently hinder compliance with the UDO, while supporting the Town's goals to reduce light pollution.

On November 14, 2024, Planning staff presented the proposed amendments to the Town of Apex Environmental Advisory Board (EAB). The EAB recommended approval of the amendments with the addition of the following language to the proposed Sec. 8.6.3.C, *Alternative Compliance, Planning Director Considerations*: "10. Proximity to Resource Conservation Areas and all state and/or federal designated environmentally sensitive areas." This addition directs the Planning Director to consider the potential environmental impacts of alternative compliance on sensitive areas located on or adjacent to the site when making decisions.

8.6.3 Illumination Standards

...

C)

Alternative Compliance

The Planning Director may approve an alternative form of compliance to Secs. 8.6.3 *Illumination Standards* and 8.6.4 *Design Requirements* when it has been

clearly demonstrated on a lighting plan submitted by a licensed lighting professional holding the PE, LC, CLEP, or similar certification that the proposed deviations are necessary in order to improve the safety and/or functionality of the site. The lighting plan shall show compliance with all other sections of this Ordinance, including Sec. 8.5.5 *Operational/Physical Compatibility*, which may be invoked in the event the alternative form of compliance garners zoning complaints once installed.

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

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

8.6.4 Exterior Lighting, Design Requirements

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

...

- E) *Lumens*
Lamps for full cut-off **pole mounted** fixtures shall not exceed 15,500 lumens.
- F) *Building, Ground Mounted Fixtures and Accent Lighting*
Lighting shall not be mounted to buildings or used to illuminate buildings or other site features unless approved as integral elements on the development

plan. Lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto limited parts of the building façade, specimen landscape, and site features, and spillover light is minimized (see also Secs. 8.6.4.C *Architectural/Site Compatibility*, 8.6.4.D *Spillover Light and Glare Control*, and 8.6.4.E *Lumens*. Building, ground mounted fixtures and accent lighting must meet the following criteria:

- 1) Lights ~~must~~ **shall** not be used to illuminate entire portions of building(s), landscape, or site features.
- 2) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, full cut-off type fixtures (concealed lamp/light source). The lighting ~~must~~ **shall** be directed downward, and the **lamps shall not exceed 2,500 lumens; provided, however, that Industrial Service or Production uses within the TF Tech/Flex, or LI Light Industrial Districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.**
- 3) Accent lights ~~must~~ **shall** be low-lumen or low-voltage and the maximum illumination on any surface shall not exceed 5.0 average initial foot-candles.

...

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

12.2 TERMS DEFINED

...

Built-Up on Area

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

...

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

8.7.1 Permitted Signs: Location, Size, and Number

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

Table 8.7.1

P = allowed with permit X = not allowed √ = allowed without permit

Sign Type	Conditions	Residential Uses	Commercial Uses	Industrial Uses	Office & Institutional Uses	Illumination ¹
Permanent Sign Types						
...						
Temporary Sign Types						
1	On-premise, Non-commercial Temporary Signs	8.7.1.B.1	X-√	√-P	√ P	No
...						

PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed these amendments at their December 09, 2024, meeting and unanimously recommended approval.



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARING AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance that are applicable Town-wide:

Requested by Planning Staff:

1. Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.
2. Amendment to Sec. 12.2 *Terms Defined* in order to update the definition of "Built-Up Area" to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.
3. Amendments to Sec. 8.7.1 *Permitted Signs: Location, Size, and Number*; Table 8.7.1 in order to make corrections to the symbols for "allowed with permit", "not allowed", and "allowed without permit" shown for the On-premise, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: January 14, 2025 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: December 20, 2024 – January 14, 2025



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

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 el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Planificación:

1. Las enmiendas a la Sección 8.6 Iluminación exterior permiten al director de Planificación aprobar una forma alternativa de cumplimiento cuando sea necesario para garantizar la funcionalidad y la seguridad del lugar. Las enmiendas también incluyen una disposición que establece que los usos de servicios o producción industrial dentro de los distritos de zonificación TF Tech/Flex o industrial ligera (LI, en inglés) tengan iluminación montada en edificios con lámparas de hasta 15,500 lúmenes, pero solo dentro de un área designada para muelle de carga.
2. Enmienda a la Sección 12.2 Términos definidos para actualizar la definición de "Área urbana" para que sea coherente con la exigida por los Estatutos Generales de Carolina del Norte, Sección 143-214.7, y con la Ley de Sesiones de Carolina del Norte, Sección 2024-49.
3. Enmiendas a la Sección 8.7.1 Letreros permitidos: ubicación, tamaño y cantidad; Tabla 8.7.1, para hacer correcciones en los símbolos de "permitido con autorización", "no permitido" y "permitido sin autorización" que se muestran para el tipo de letrero temporal no comercial, en el local, para que sea coherente con las normas aprobadas a principios de este año para ese tipo de letrero.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 14 de enero de 2025 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, o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 – 14 de enero de 2025



TOWN OF APEX
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**PUBLIC NOTIFICATION
OF PUBLIC HEARING
AMENDMENTS TO THE UNIFIED
DEVELOPMENT ORDINANCE (UDO)**

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance that are applicable Town-wide:

Requested by Planning Staff:

1. Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.
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Public Hearing Location: Apex Town Hall
Council Chamber, 2nd floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: January 14, 2025 6:00 PM

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Dianne F. Khin, AICP
Planning Director



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NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

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 el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Planificación:

1. Las enmiendas a la Sección 8.6 Iluminación exterior permiten al director de Planificación aprobar una forma alternativa de cumplimiento cuando sea necesario para garantizar la funcionalidad y la seguridad del lugar. Las enmiendas también incluyen una disposición que establece que los usos de servicios o producción industrial dentro de los distritos de zonificación TF Tech/Flex o industrial ligera (LI, en inglés) tengan iluminación montada en edificios con lámparas de hasta 15,500 lúmenes, pero solo dentro de un área designada para muelle de carga.
2. Enmienda a la Sección 12.2 Términos definidos para actualizar la definición de "Área urbana" para que sea coherente con la exigida por los Estatutos Generales de Carolina del Norte, Sección 143-214.7, y con la Ley de Sesiones de Carolina del Norte, Sección 2024-49.
3. Enmiendas a la Sección 8.7.1 Letreros permitidos: ubicación, tamaño y cantidad; Tabla 8.7.1, para hacer correcciones en los símbolos de "permitido con autorización", "no permitido" y "permitido sin autorización" que se muestran para el tipo de letrero temporal no comercial, en el local, para que sea coherente con las normas aprobadas a principios de este año para ese tipo de letrero.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 14 de enero de 2025 6:00 PM

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Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 – 14 de enero de 2025

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

Planning Board Meeting Date: December 9, 2024



Report Requirements:

Per NCGS §160D-604, 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.

Planning Board Recommendation:

Motion:

Introduced by Planning Board member: _____

Seconded by Planning Board member: _____

- ☐ Approval of the proposed UDO amendment(s)
- ☐ Approval of the proposed UDO amendment(s) with the following conditions:

- ☐ Denial of the proposed UDO amendment(s)

With ____ Planning Board Member(s) voting "aye"

With ____ Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the ____ day of _____ 2024.

Attest:

Tina Sherman, Planning Board Chair

Dianne Khin, Planning Director



TOWN OF APEX

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Town Council Public Hearing Date and Time: January 14, 2025 6:00 PM

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Dianne F. Khin, AICP
Planning Director

Published Dates: December 20, 2024 – January 14, 2025



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NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

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Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 14 de enero de 2025 6:00 PM

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Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 – 14 de enero de 2025

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Sections 8.6.3 and 8.6.4 of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

8.6.3 Illumination Standards

...

C) Alternative Compliance

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

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

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

8.6.4 Exterior Lighting, Design Requirements

Exterior lighting, such as that used in and around buildings, recreation areas, parking lots, and signs, shall be designed to prevent the excessive spillover of light onto adjacent properties. It shall also be designed to protect against glare onto public rights-of-way thereby impairing the vision of motorists and adversely impacting adjoining properties. All exterior lighting shall be shielded from adjacent properties by existing vegetation, thick evergreen vegetated buffers, berms, walls, or fences, and/or the use of directional lighting, lighting shields, special fixtures, timing devices, appropriate light intensities, luminaries, and mountings at appropriate heights. External and/or internal shields are required on all lights in vehicular use areas and lights mounted to buildings where they are immediately adjacent to residential uses (such as along the edges of parking lots

or mounted to the rear of buildings close to residential uses). All outdoor lighting shall conform to the following design standards **of this Section. When the standards of this Section cannot be reasonably met, the applicant may submit an alternative form of compliance per Sec. 8.6.3.C Alternative Compliance.**

...

E) *Lumens*

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

F) *Building, Ground Mounted Fixtures and Accent Lighting*

Lighting shall not be mounted to buildings or used to illuminate buildings or other site features unless approved as integral elements on the development plan. Lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto limited parts of the building façade, specimen landscape, and site features, and spillover light is minimized (see also Secs. 8.6.4.C *Architectural/Site Compatibility*, 8.6.4.D *Spillover Light and Glare Control*, and 8.6.4.E *Lumens*. Building, ground mounted fixtures and accent lighting must meet the following criteria:

- 1) Lights ~~must~~ **shall** not be used to illuminate entire portions of building(s), landscape, or site features.
- 2) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, full cut-off type fixtures (concealed lamp/light source). The lighting ~~must~~ **shall** be directed downward, and the **lamps shall must** not exceed 2,500 lumens; **provided, however, that Industrial Service or Production uses within the TF Tech/Flex, or LI Light Industrial Districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.**
- 3) Accent lights ~~must~~ **shall** be low-lumen or low-voltage and the maximum illumination on any surface shall not exceed 5.0 average initial foot-candles.

...

Section 2. Section 12.2 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

12.2 TERMS DEFINED

...

Built-Upon Area

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. In accordance with NCGS 143-214.7D, built upon area does not include the water area of swimming pools; slatted decks; and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in

G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); ~~or~~ landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle; **or artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.** The owner or developer of a property may opt out of any of the exemptions from built-upon area set out in this section.

...

Section 3. Section 8.7.1, Table 8.7.1 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

8.7.1 Permitted Signs: Location, Size, and Number

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

Table 8.7.1

P = allowed with permit X = not allowed √ = allowed without permit

Sign Type	Conditions	Residential Uses	Commercial Uses	Industrial Uses	Office & Institutional Uses	Illumination ¹
Permanent Sign Types						
...						
Temporary Sign Types						
1	On-premise, Non-commercial Temporary Signs	8.7.1.B.1	X -√	√-P	√ P	No
...						

Section 4. The Planning Director and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this ordinance.

Section 5. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 6. The ordinance shall be effective upon enactment on the ____ day of _____ 2025.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Allen Coleman, CMC, NCCCC
Town Clerk

Jacques K. Gilbert
Mayor

Approved as to Form:

Laurie L. Hohe
Town Attorney

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for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: January 14, 2025

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

- A. Discussion and consensus regarding which ten (10) of the sixteen (16) North Carolina League of Municipalities (NCLM) Legislative Goals the Town Council wishes to have the Town's appointed Delegate vote for in the NCLM Goals Process; and
- B. Motion to designate Councilmember Terry Mahaffey as the voting delegate on behalf of the Town of Apex.

Approval Recommended?

N/A

Item Details

The North Carolina General Assembly operates on a biennial (2-year) schedule. Regular (or "long") sessions begin in odd-years, typically beginning in January, and a "Short" session, which are held in even years.

The North Carolina League of Municipalities (NCLM) every two years works through a process to determine upon which goals to focus their advocacy efforts. The NCLM Executive Board, after receiving input from various municipal leaders, various internal and external committees, and League Staff, voted to approve sixteen statements. These proposals/statement follow a long and vetted process, involving 197 individuals representing 154 municipalities, of submitting several hundred ideas and then having those compiled, refined and whittled down by the NCLM Legislative Policy Committee, and then reviewed by the NCLM Board of Directors.

The Apex Mayor and Town Councilmembers will each provide a list of their top ten goals. Following the compilation of those results and discussion, if necessary, the Apex Town Council will vote to adopt the top ten goals that receive a majority support.

The Apex Mayor and Town Council are currently reviewing their legislative priorities and goals for the 2025-2026 session, too, which are slated for discussion and final adoption in February 2025. For more information about this process and how you can engage, please contact the Apex Town Clerk, Allen Coleman, by email at allen.coleman@apexnc.org, or by telephone at 919-249-1260.

Attachments

- NB1-A1: Proposed Legislative Goals - North Carolina League of Municipalities (NCLM) - Biennium 2025-2026
- NB1-A2: Ballot and Consensus SAMPLE - Proposed Legislative Goals - North Carolina League of Municipalities (NCLM) - Biennium 2025-2026



LEGISLATIVE GOAL STATEMENTS

RECOMMENDED BY THE NCLM BOARD OF DIRECTORS

The following goal statements are NOT listed in any priority order.

- **Expand funding opportunities for disaster resiliency and recovery efforts.**
 - North Carolina has faced a number of damaging natural disasters in recent years, including the unprecedented storm that devastated western North Carolina in the fall of 2024.
 - To fully recover from these natural disasters requires a broad approach that focuses on infrastructure, housing and economic losses.
 - Federal assistance and private insurance will not be enough to address these ongoing, critical needs or mitigate damage when future disasters hit.
- **Establish long-term funding streams that adequately address water, sewer, stormwater, transportation and other infrastructure needs.**
 - Infrastructure – including roads, water, sewer, stormwater, parks and beaches – are critical to economic development and job creation.
 - Many cities in the state are growing, creating a constant need for investment to keep pace with population growth; many cities and towns also have aging infrastructure that must be replaced.
 - Creating long-term and more permanent funding streams for infrastructure will ensure adequate investments so that North Carolina thrives now and into the future.
- **Expand state transportation funding streams for construction and maintenance of municipal and state-owned secondary roads.**
 - Current Powell Bill and other state funding is not adequate to address transportation needs, particularly as they affect municipal and state-owned secondary roads.
 - In many cities and towns, major commuting corridors are not receiving the level of investment needed to keep pace with traffic.
 - More investment is needed for these roads if existing residents are to embrace business and residential growth

- **Increase funds to remediate contamination in local water supplies.**
 - Local municipal water systems and their ratepayers increasingly are footing the costs of cleaning up PFAS and other “forever” chemicals from drinking water supplies.
 - As more regulations are set at the state and federal level to limit these chemicals in water supplies, costs will escalate.
 - Cities primary recourse to try to recoup the cost for utility ratepayers is through the courts.
- **Expand incentives and funding for local economic development.**
 - Funding is simply inadequate in many cities and towns to encourage job growth.
 - State grants and incentives are often targeted in ways that fail to assist the areas in greatest need of job creation.
 - Maintaining or expanding funding for film tax credits, major industrial site development, downtown development and renewable energy tax credits helps cities and towns across the state.
- **Create incentives to encourage the development of diverse housing options.**
 - Housing affordability continues to be a significant problem across many areas of North Carolina, affecting people of different income levels.
 - The lack of affordable housing acts as a major impediment to business and workforce recruitment.
 - State incentives to encourage the construction of housing for people of various income levels are extremely limited.
- **Provide resources to rehabilitate or purchase blighted properties.**
 - In many cities and towns, blighted properties act as an impediment to economic and business growth.
 - Cities and towns have limited means to address these properties, particularly in more rural, smaller communities.
 - Rehabilitating blighted properties can help address North Carolina’s housing needs.

- **Create incentives that encourage and adequately fund regionalized water and sewer solutions.**
 - A number of municipal water and sewer systems continue to financially struggle with deferred maintenance needs.
 - These challenges came about largely due to population and job losses in rural areas, leading to an erosion of taxpayer and ratepayer bases.
 - While legislators and municipalities have begun to address these issues with the creation of the Viable Utility Reserve and the use of ARPA funding, state estimates show needs still exceed expenditures by several billion dollars.
- **Reduce regulatory conflicts between state agencies that discourage voluntary consolidation, merger and interconnection of municipal utility systems.**
 - Municipalities have contractually obtained older, smaller utility systems of other municipalities and private enterprises in order to provide better and more efficient services to residents and businesses.
 - Older laws and regulations impose penalties on mid-size and large municipalities due to state agencies requiring them to pay for relocation of utilities when those penalties would have been reduced or eliminated for the smaller entities they were purchased from.
 - The State should work to reduce and eliminate these conflicts which have the effect of discouraging voluntary consolidation, merger and interconnection of municipal utility systems.
- **Create an orphan road program whereby the state improves those roads to N.C. Department of Transportation standards before municipalities assume maintenance responsibilities.**
 - So-called orphan roads are typically created when a street in a subdivision is not built to state or municipal standards, and the developer walks away without an agreement for maintenance.
 - The abandoned road can leave homeowners on the hook for the cost of maintenance.
 - For cities and towns, these abandoned roads can serve as a deterrent to voluntary annexation agreements even as the residents seek municipal services.

- **Provide local revenue options beyond the property tax.**
 - Roughly 40 percent of municipal general fund revenue is generated by local property taxes.
 - Cities have little to no authority to raise significant revenue in other ways.
 - A lack of diverse, local tax options can affect economic growth, as well as cause large swings in revenue based on economic changes.
- **Support technical assistance programs to assist municipalities with securing or maintaining grants or other necessary municipal resources.**
 - Many municipalities do not have the resources to seek or administer grants, even as that source of funding could help meet the needs of residents.
 - State, federal and other grant funding offers a significant opportunity for cities and towns to improve infrastructure or enhance services.
 - Providing technical assistance to these municipalities can provide them with access to grant funding, providing resources not otherwise available to them.
- **Address the needs of a changing municipal workforce through state assistance that supports employee retention, including training and recruitment.**
 - Municipalities across the state are facing staffing issues as current workers age and retire.
 - Training and retention resources are limited and competing with wages offered in the private sector can be difficult.
 - The use of training and recruitment tools across state and local government boundaries can improve public sector workforce availability.
- **Update the annexation petition thresholds to make voluntary annexations easier to initiate.**
 - Voluntary annexation by petition currently requires 100 percent consent from all property owners, a threshold that can be impossible to meet even if a majority of property owners can benefit by utilizing their property for business or residential purposes.
 - Lowering the threshold from 100 percent represents a middle ground that would still reflect the will of property owners but not handicap communities' ability to economically thrive.
 - The ability of a city or town to grow and reflect its urban footprint is vital to its financial health; city services are relied on by residents whether they live in or near municipal boundaries.

- **Preserve authority for extraterritorial jurisdiction to ensure that growth is well-planned and investments by homeowners and business owners are protected.**
 - A community's land-use planning tools, including ETJ, are vital as infrastructure investments are made that pave the way for economic growth.
 - Protecting homes and businesses from incompatible uses continues to be an important feature of ETJs. As of 2022, at least 14 counties in North Carolina had no zoning restrictions, with several others being only partially zoned.
 - Protecting neighborhoods from incompatible uses ultimately protects the value of residents' homes and property.

- **Protect the ability of municipal elected officials, acting on behalf of local voters, to determine election formats, districts and other election matters currently under their purview.**
 - Locally-elected municipal officials are best positioned to understand the wishes of local voters and how those should be applied to local election matters.
 - In many areas, residents prefer to avoid political polarization when it comes to the practical tasks of municipal government.
 - Locally-elected municipal officials are in their communities every day and accessible to voters.

TOWN OF APEX NORTH CAROLINA LEAGUE OF MUNICIPALITIES (NCLM) LEGISLATIVE GOALS STATEMENTS OFFICIAL RECORD									
Goal Statement Number <i>(As provided, Not Necessarily Priority Order)</i>	Proposed Legislative Goal Statement(s)		Mayor Jacques K. Gilbert	Mayor Pro-Tempore Ed Gray	Councilmember Audra Killingsworth	Councilmember Arno Zegerman	Councilmember Brett Gantt	Councilmember Terry Mahaffey	TOTAL
1	Expand funding opportunities for disaster resiliency and recovery efforts.		JKG	EG	AK	AZ	BG	TM	0
2	Establish long-term funding streams that adequately address water, sewer, stormwater, transportation and other infrastructure needs.		JKG	EG	AK	AZ	BG	TM	0
3	Expand state transportation funding streams for construction and maintenance of municipal and state-owned secondary roads.		JKG	EG	AK	AZ	BG	TM	0
4	Increase funds to remediate contamination in local water supplies.		JKG	EG	AK	AZ	BG	TM	0
5	Expand incentives and funding for local economic development.		JKG	EG	AK	AZ	BG	TM	0
6	Create incentives to encourage the development of diverse housing options		JKG	EG	AK	AZ	BG	TM	0
7	Provide resources to rehabilitate or purchase blighted properties.		JKG	EG	AK	AZ	BG	TM	0
8	Create incentives that encourage and adequately fund regionalized water and sewer solutions.		JKG	EG	AK	AZ	BG	TM	0
9	Reduce regulatory conflicts between state agencies that discourage voluntary consolidation, merger and interconnection of municipal utility systems		JKG	EG	AK	AZ	BG	TM	0
10	Create an orphan road program whereby the state improves those roads to N.C. Department of Transportation standards before municipalities assume maintenance responsibilities.		JKG	EG	AK	AZ	BG	TM	0
11	Provide local revenue options beyond the property tax.		JKG	EG	AK	AZ	BG	TM	0
12	Support technical assistance programs to assist municipalities with securing or maintaining grants or other necessary municipal resources.		JKG	EG	AK	AZ	BG	TM	0
13	Address the needs of a changing municipal workforce through state assistance that supports employee retention, including training and recruitment.		JKG	EG	AK	AZ	BG	TM	0
14	Update the annexation petition thresholds to make voluntary annexations easier to initiate		JKG	EG	AK	AZ	BG	TM	0
15	Preserve authority for extraterritorial jurisdiction to ensure that growth is well-planned and investments by homeowners and business owners are protected.		JKG	EG	AK	AZ	BG	TM	0
16	Protect the ability of municipal elected officials, acting on behalf of local voters, to determine election formats, districts and other election matters currently under their purview		JKG	EG	AK	AZ	BG	TM	0

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for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: January 14, 2025

Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Services

Requested Motion

Motion to enter into closed session pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney in order to preserve attorney-client privilege.

Approval Recommended?

Yes

Item Details

NCGS § 143-318.11(a)(3)

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

Attachments

- N/A



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Attachments

- N/A

