



AGENDA | REGULAR TOWN COUNCIL MEETING

October 08, 2024 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 Executive Leadership

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

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

Town Manager: Randy Vosburg

Deputy Town Manager: Shawn Purvis

Assistant Town Managers: Marty Stone and Demetria John

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 - Developer Agreement between Town of Apex and Beazer Homes -
Roadway Improvements Old US 1 and Friendship Road - Budget Ordinance
Amendment No. 3 and Capital Project Ordinance Amendment No. 2025-2**

Russell Dalton, Traffic Engineering Manager, Transportation and Infrastructure Dev. Dept.

**CN2 Agreement - ElectriCities and Town of Apex - Load Management Control System -
October 8 through September 30, 2025**

Eric Neumann, Director, Electric Utilities Department

**CN3 Contract Multi-Year - Garrison Enterprise, Inc. - On-Call Water and Sewer Repairs, Hot
Taps, Line Stops, and Valve Insertions - October 08, 2024 through September 30, 2027**

Michael S. Deaton, P.E., Director, Water Resources Department

**CN4 Contract Multi-Year - L.G. Jordan Oil Co., Inc. - On-Call Fuel Delivery, Tank
Maintenance, and Access to Plant for Diesel Refueling - October 08, 2024 through
September 30, 2027**

Michael S. Deaton, P.E., Director, Water Resources Department

CN5 Contract Multi-Year - Pete Duty and Associates, Inc. - On-Call Services Pump Repairs, Wastewater Infrastructure Maintenance - October 08, 2024 through September 30, 2027

Michael S. Deaton, P.E., Director, Water Resources Department

CN6 Contract Multi-Year - Southern Grounds Control, Inc. - On-Call Water or Sewer Valve and Service Tap or Main Repair, Replacement, or Installation - October 08, 2024 through September 30, 2027

Michael S. Deaton, P.E., Director, Water Resources Department

CN7 Council Meeting Minutes - Various

Allen Coleman, Town Clerk

CN8 Election Voting Leave Pay - 2024 General Election Only

Mary Beth Manville, Director, Human Resources Department

CN9 Encroachment Agreement - 723 Meadowside Court Lot 93

Chris Johnson, P.E., Director, Transportation and Infrastructure Development Dept.

CN10 Unified Development Ordinance (UDO) Amendments - September 2024 Statement

Amanda Bunce, Current Planning Manager, Planning Department

PRESENTATIONS

PR1 Proclamation - Cyber Security Awareness Month 2024 - October 2024

Mayor Jacques K. Gilbert

PR2 Proclamation - Fire Prevention Week 2024 - October 8 through October 14, 2024

Mayor Jacques K. Gilbert

PR3 Proclamation - Indigenous Peoples' Day 2024 - October 14, 2024

Mayor Jacques K. Gilbert

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 Annexation No. 788 - Oliver Property - Humie Olive Road - 15.9428 acres

Joshua Killian, Planner I, Planning Department

AND

PH2 Rezoning Case No. 24CZ12 - Oliver Property

Joshua Killian, Planner I, Planning Department

NEW BUSINESS

**NB1 Land Exchange Agreement between Town of Apex and ACRE Manager LLC - Perry Road
Land Exchange**

Marty Stone, Assistant Town Manager - Development and Operations Portfolio

UPDATES BY TOWN MANAGER

CLOSED SESSION - *None Scheduled*

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Russell Dalton, Traffic Engineering Manager

Department(s): Transportation and Infrastructure Development

Requested Motion

Motion to approve a Development Agreement between Town of Apex and Beazer Homes for reimbursement of roadway improvements at the intersection of Old US 1 and Friendship Road, authorize the Town Manager, or their designee, to execute the agreement on behalf of the Town, and approve corresponding Budget Ordinance Amendment 3 and Capital Project Ordinance Amendment 2025-2.

Approval Recommended?

Yes

Item Details

Beazer Homes has proposed a plan to construct improvements along Old US 1, Holland Rd, and Friendship Rd to satisfy the transportation zoning commitments associated with the residential phase of The Summit (Holland Road Mixed-Use PUD) project. A portion of that scope of work is beyond the minimum required improvements for The Summit and is proposed to fulfill the Town's commitment to construct turn lanes at the intersection of Old US 1 at Friendship Rd for Pleasant Park Phase 3A.

A Development Agreement is proposed to satisfy the combined transportation requirements of both projects. Beazer Homes will construct the road improvements and receive reimbursement from Apex according to the terms of the Agreement, and the Town will assume responsibility for the traffic signal at Holland Road, to be designed and installed along with a traffic signal at Friendship Road so the two can operate together due to the close proximity. A cost share table is attached. \$200,000 is currently budgeted in the CIP for a reimbursement toward road improvements, so the budget will need to be increased to \$519,000 to cover both the cost share (\$189k) and estimated cost of the traffic signals (\$30k design plus \$300k construction), with Holly Springs anticipated to reimburse Apex up to \$150,253. Costs attributed to Town of Holly Springs are from fee-in-lieu payments directed toward improvements at that intersection, anticipated to be collected from pending development projects in that jurisdiction and reimbursed to Apex by Holly Springs under separate agreement.

Anticipated cost share from Holly Springs is not included in the budget amendment since there is no agreement in place. The Capital Project Ordinance Amendment includes reallocation of \$189,000 already available in the project fund while Budget Ordinance Amendment 3 allocates the remaining \$130,000 from General Fund fund balance.

Attachments

- CN1-A1: Development Agreement - Roadway Improvements Old US 1 and Friendship Rd
- CN1-A2: Cost Share Table - Roadway Improvements Old US 1 and Friendship Rd
- CN1-A3: Budget Ordinance Amendment 3 - Roadway Improvements Old US 1 and Friendship Rd
- CN1-A4: Capital Project Ordinance Amendment 2025-2 - Roadway Improvements Old US 1 and Friendship Rd



NORTH CAROLINA

DEVELOPMENT AGREEMENT

WAKE COUNTY

This Development Agreement (the “**Agreement**”), made this the ____ day of _____, 2024, by and between the Town of Apex, a municipal corporation under the laws of North Carolina (the “**Town**”) and Beazer Homes, LLC a North Carolina limited liability company (the “**Developer**”).

W I T N E S S E T H:

WHEREAS, Developer is the owner of that certain tract of real property totaling approximately 16.8 acres and located at 3104 Holland Road Apex, NC 27502 as depicted on the map entitled The Summit MSP Recombination Plat (the “**Developer Map**”), recorded in Book of Maps 2024, Page 1254 at the Wake County Register of Deeds (the “**Developer Property**”) and plans to develop a residential subdivision commonly known as “The Summit” on the Developer Property; and

WHEREAS, the Town is the owner of that certain tract of real property totaling approximately 92.19 acres and located between Pleasant Plains Road to the west, Kings View Trail to the north, and NC 540 Highway to the east as depicted on the map entitled Survey for Progressive Farms, LLC & Hazel J. Pleasant (the “**Town Map**”), recorded in Book of Maps 2014, Page 1539 at the Wake County Register of Deeds (the “**Town Property**”) and plans to develop a public park known as “Pleasant Park” on the Town Property; and

WHEREAS, Town has committed, as part of the Pleasant Park Phase 3A Site Plan, to provide (1) 150 feet of storage length for the westbound left turn lane on Old US Highway 1 at Friendship Road, and (2) 100 feet of storage length for the northbound left turn lane on Friendship Road at Old US Highway 1 (“**Town Improvements**”); and

WHEREAS, Developer has committed, as part of rezoning # 21CZ14 and its associated traffic impact analysis, to provide (1) an eastbound left turn lane on Old US Highway 1 at Holland Road, (2) an additional 50 feet of storage length for the northbound turn lane on Friendship Road at Old US Highway 1, (“**Developer Improvements**”); and

WHEREAS, as a condition of rezoning #21CZ14, developer is required to install a traffic signal at the intersection of Old US Highway 1 at Holland Road or pay fee in lieu for the anticipated signal design and construction costs based upon an engineer’s estimate for the same (“**Traffic Signal A**”); and

WHEREAS, as a condition of installation of Traffic Signal A, NCDOT requires a traffic signal be installed contemporaneously at the intersection of Old US Hwy 1 and Friendship Road (“**Traffic Signal B**”); and

WHEREAS, Old US Highway 1, Holland Road, and Friendship Road are busy thoroughfares within the corporate limits and extra-territorial jurisdiction of the Town and the Town and Developer desire to coordinate construction of the Town Improvements and Developer Improvements (collectively, the “**Improvements**”) with Developer acting as the contracting and managing party with third parties hired to construct the Improvements; and

WHEREAS, pursuant to North Carolina General Statute § 160A-309, the Town is authorized to contract with a developer for public intersection and roadway improvements that are adjacent of ancillary to a private land development project; and

WHEREAS, the Town finds that the expenditure of public funds will not exceed \$250,000 and the coordination of separately constructed public intersection or roadway improvements would be impracticable.

NOW, THEREFORE, IT IS HEREBY AGREED between the Town and the Developer:

1. Recitals. The foregoing recitals shall constitute an integral part of this Agreement, and this Agreement shall be construed in light thereof.

2. Construction of Improvements. The Developer shall, at its own expense, construct the Improvements, which are more particularly describing in **Exhibit A** attached hereto and incorporated herein by reference (“**Plans**”). The Developer shall design, construct and install the Improvements (i) in a good and workmanlike manner, (ii) in compliance with this Agreement, Town Specifications, and all applicable Federal, State, and local laws, statutes, ordinances, rules, regulations, policies, and specifications, and (iii) in accordance with the Plans.

The Developer shall administer the construction contract without cost or expense to the Town except as provided for in this Agreement, and the Town may require the Developer to file reports of its administration with the Town’s Engineer.

3. Certification, Inspection, and Acceptance of Facilities. Upon completion of construction of the Improvements, Developer shall provide the Town with written certification and as-built drawings from Developer’s designated consulting engineering firm that the Improvements are complete and have been constructed and installed in compliance with this Agreement and within appropriate easements or fee simple parcels. Fee simple interest is required for street rights-of-way. The Improvements shall be offered for public dedication to the North Carolina Department of Transportation (“**NCDOT**”) upon completion of construction and shall be subject to inspection and

acceptance by the NCDOT. Upon the inspection and acceptance of the Improvements, Developer shall take any steps necessary to transfer title to and possession of the Improvements, and all related easements and fee simple parcels to the NCDOT. Thereafter, the NCDOT shall own the Improvements and have exclusive possession and control of the Improvements. In the event that any defect or breach of warranty claim becomes known after acceptance and dedication of the Improvements, Developer agrees either to pursue its rights and claims against the contractor or other party responsible for the defect or breach of warranty and pay over any recoveries to NCDOT or to assign such rights and claims to NCDOT as directed by NCDOT.

4. Approved Project Costs. The “**Approved Project Costs**” are those costs attributed to Town Improvements, as shown in the estimate provided by the Developer’s Engineer and attached hereto as **Exhibit B**. The Town agrees that within thirty (30) days after inspection and acceptance of the Improvements by NCDOT, the Town shall pay to Developer an amount equal to forty percent (40%) of the costs attributed to the construction of the westbound left turn lane, not to exceed \$111,000.00, and thirty-four percent (34%) of the costs attributed to the construction of the northbound left turn lane, not to exceed \$78,000.00, within the scope of the Improvements as shown in Exhibit B as may be modified as provided herein.

Costs that are not certified by the Developer’s Engineer and approved by the Town’s Engineer shall not be included in the Approved Project Costs. Approved Project Costs shall not include any costs for designing, bidding, and managing services.

The Town shall not participate in or be responsible to pay or reimburse any change order increasing the costs of the Improvements unless agreed to by the Town and approved by the Town’s Engineer in writing prior to execution of the change order. In other words, the costs associated with a change order shall be excluded from the Approved Project Costs unless the change order is pre-approved by the Town’s Engineer, which approval will not be unreasonably withheld, conditioned or delayed. Developer shall immediately upon learning of a proposed change order provide the Town with all the documentation and information needed for the Town to evaluate the proposed change order. In addition, the Approved Project Costs incurred by Developer in constructing the Improvements shall reflect any cost savings that reduce the amount that the Developer actually pays to construct the Improvements.

Developer agrees to provide the Town with any additional information reasonably requested by the Town in connection with the Approved Project Costs, provided that the Town requests such additional information within ten (10) business days of receipt of the detailed invoices from Developer.

5. Satisfaction of Traffic Signal Condition. The completion of the Improvements and payment of Approved Project Costs shall satisfy Condition E of the Holland Road Assembly Planned Unit Development zoning conditions which is associated with the approved rezoning # 21CZ14. Developer shall have no further responsibility for signal warrant analysis, installation of traffic signal,

or payment of fee-in-lieu for a traffic signal at the intersection of Holland Road and Old US Highway 1.

6. Notices. Any notice given pursuant to this Agreement shall be deemed given if (a) delivered by hand, or (b) faxed to the addressee and then deposited in the United States Mail to the addressee, postage paid certified mail, return receipt requested and addressed as follows:

If to the Town: Town of Apex
 Post Office Box 250
 Apex, NC 27502-0250
 Attention: Russell Dalton, Traffic Engineering Manager
 Email: russell.dalton@apexnc.org

If to Developer: Beazer Homes LLC
 801 Corporate Center Dr
 Raleigh, NC 27607
 Attn: Daniel Zinner
 Email: daniel.zinner@beazer.com

7. Termination for Failure to Complete. If Developer does not complete construction of the Improvements on or before the fifth anniversary of the full execution of this Agreement absent force majeure delays (as defined below), the Town may terminate this Agreement and have no further obligations to Developer.

8. Delay Beyond the Control of the Parties. Neither Developer 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 Developer or Developer's contractors or the Town. There could be changes in anticipated performance times and service costs. Developer 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.

9. Indemnification. To the extent permitted by law, the Developer 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 Developer or Developer's contractors.

10. Anti-Human Trafficking. The Developer warrants and agrees that no labor supplied by the Developer or the Developer'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. Insurance. The Developer 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 Developer shall require all of the Developer's subcontractors to maintain and show proof of workers' compensation and employer's liability insurance in the minimum amount of \$1,000,000. The Developer 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 Developer 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.

12. Nondiscrimination. Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, Developer hereby warrants and agrees that Developer 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. E-Verify Compliance. The Developer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). Developer shall require all of the Developer's subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North

Carolina General Statutes (E-Verify). Town shall comply with North Carolina General Statute § 160A-169.1 (E-Verify).

14. Complete Agreement, Modifications, Waiver and Assignment. This Agreement constitutes the entire agreement between the parties hereto and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had between these parties are merged herein. This Agreement may not be changed, modified, or amended orally, but only by an agreement in writing signed by both the Town and the Developer. No waiver of any of the provisions to this Agreement shall be valid unless in writing and signed by the party against whom it is sought to be enforced. This Agreement is not assignable without the written consent of all parties to this Agreement. There are no third-party beneficiaries of this Agreement.

15. No Agency, Joint Venturer Relationship. The Town and the Developer agree to exercise good faith in dealing with each other. The Town and the Developer are not agents, partners, or joint venturers of any kind, and the Town shall have no relationship via this Agreement with any third party with whom the Developer contracts in furtherance of this Agreement.

16. Choice of Law, Jurisdiction, and Venue. This Agreement shall be governed, interpreted and construed under the laws of the State of North Carolina without regard to principals of conflicts of laws. The parties agree that any dispute or other matter concerning this Agreement shall be decided by state or federal courts sitting in Wake County, North Carolina. The parties irrevocably submit to the sole and exclusive jurisdiction of such courts and waive all objections and defenses based on jurisdiction and/or improper or inconvenient venue. The parties agree that this Agreement may be enforced by specific performance.

17. 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.

[REMAINDER OF PAGE INTENTIONALLY BLANK – SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the Town and the Developer have duly executed this Agreement under seal as of the day and year first above written.

TOWN OF APEX

BY: _____(SEAL)
Randal E. Vosburg, Town Manager

ATTEST:

Allen Coleman, Town Clerk

STATE OF NORTH CAROLINA)
WAKE COUNTY)

I, a Notary Public of the County and State aforesaid, certify that Allen Coleman, personally came before me this day and acknowledged that he is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Town Manager, sealed with its corporate seal and attested by her as its Town Clerk.

Witness my hand and official stamp or seal, this the _____ day of _____, 20__.

_____ [AFFIX NOTARIAL STAMP SEAL]
[Signature of Notary Public]

My Commission Expires: _____

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

By:
Antwan Morrison, Finance Director
Town of Apex

BEAZER HOMES, LLC

BY: _____

Print Name: _____

Title: _____

STATE OF _____

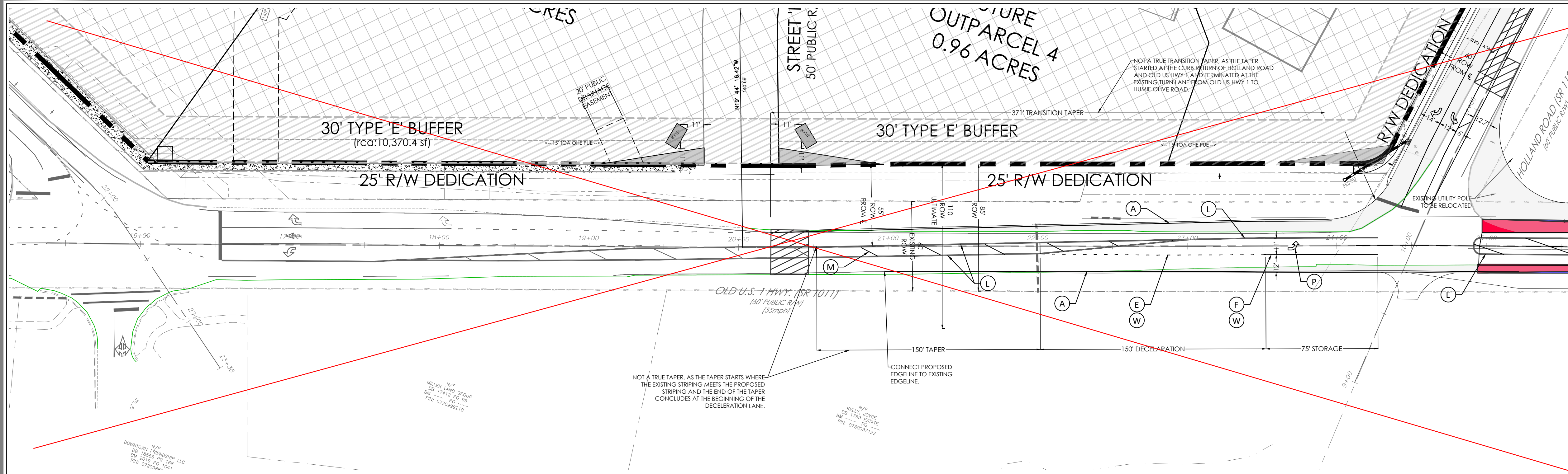
COUNTY OF _____

I, a Notary Public of the County and State aforesaid, do hereby certify that
_____, _____ of Beazer Homes, LLC a North Carolina limited liability
company, personally appeared before me this day and acknowledged due execution of the foregoing
instrument on behalf of Beazer Homes, limited liability company.

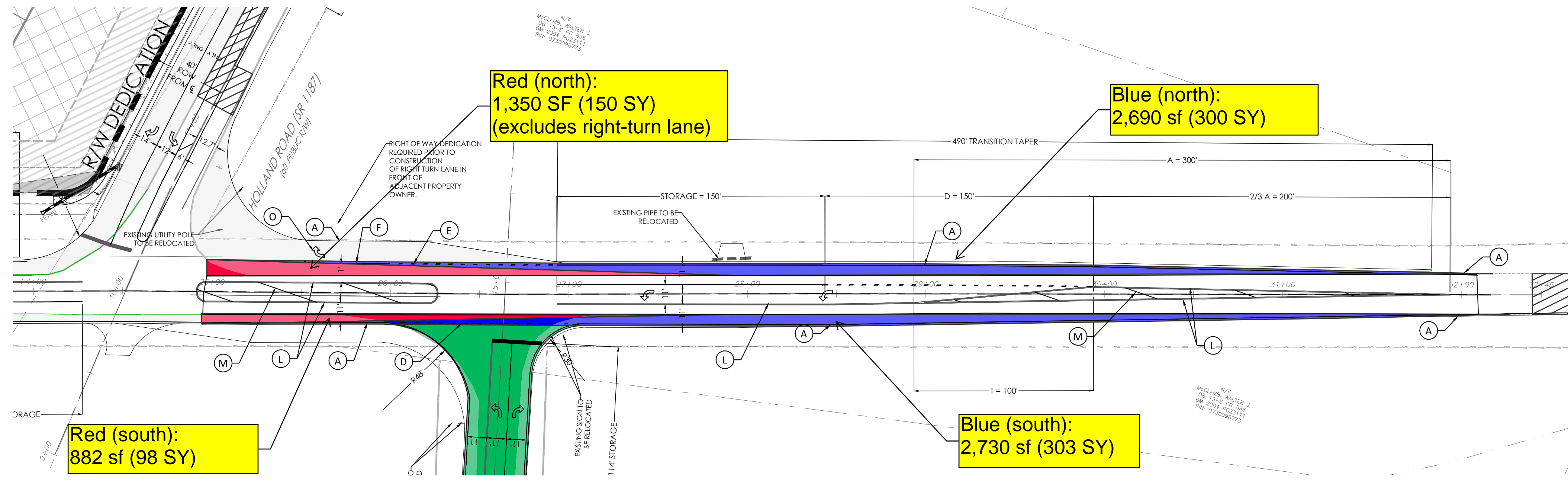
Witness my hand and official stamp or seal, this the _____ day of _____, 20__.

[Signature of Notary Public] [AFFIX NOTARIAL STAMP SEAL]

My Commission Expires: _____



1 OLD US1 HWY SIGNAGE & STRIPING PLAN
C540 SCALE: 1"=40'



2 OLD US1 HWY SIGNAGE & STRIPING PLAN
C540 SCALE: 1"=40'

RED Hatch: roadway improvements required per approved Summit TIA, including taper widening for 360 LF east of Holland Road to Holland Road (widening required to off-set the eastbound left turn lane from Old US 1 to Holland Road).

BLUE Hatch: roadway improvements above and beyond the Summit required improvements (as shown in red) for a Town sponsored westbound left turn lane from Old US 1 to Friendship Road. The turn lane adds ~240' of full lane widening to support the 150' full storage, 150' decel, and 200' approach/departure tapers (6' offset x 50 mph design speed).

GREEN Hatch: Friendship Road widening improvements. Cost sharing agreement for Friendship Road is 67% (Town of Apex) and 33% (The Summit builder). See following sheets for total improvements.

Exhibit A
1 of 2

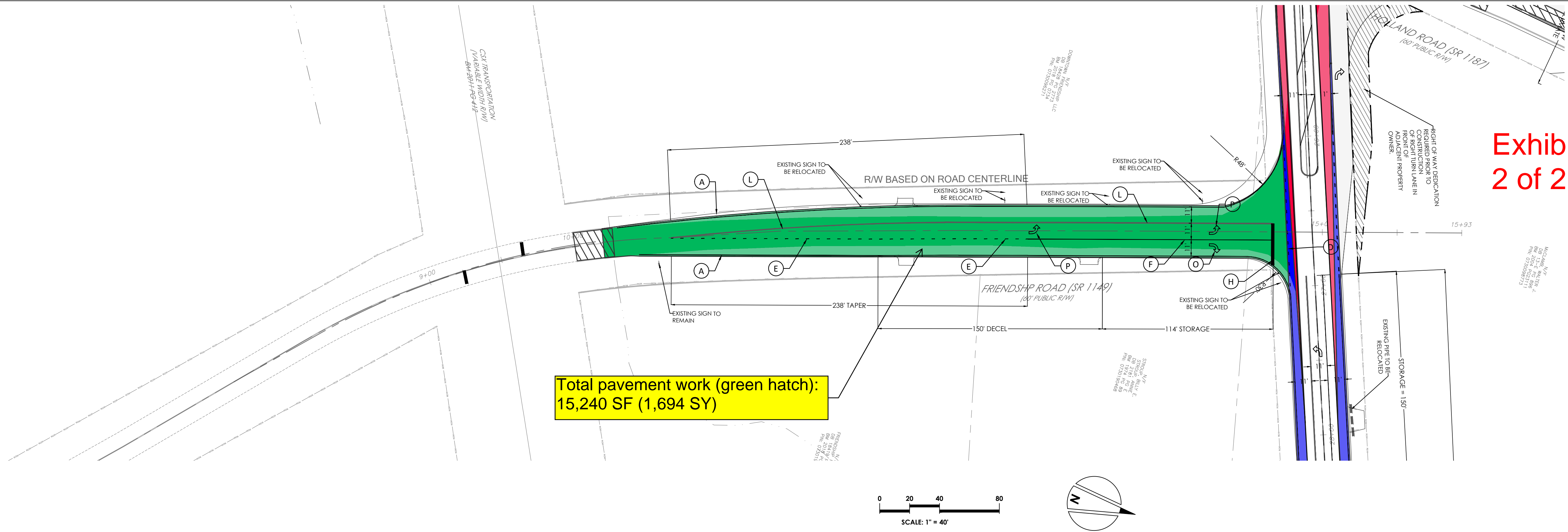
- (A) THERMOPLASTIC (4" WHITE, 90 MILS) EDGELINE
- (B) THERMOPLASTIC (4" WHITE, 120 MILS) 4"X10' SKIP
- (C) THERMOPLASTIC (12" WHITE, 120 MILS) 12"X3' WITH 3' MINI-SKIP
- (D) THERMOPLASTIC (4" WHITE, 120 MILS) 4"X2' WITH 6' MINI-SKIP
- (E) THERMOPLASTIC (4" WHITE, 120 MILS) 4"X3' WITH 9' MINI-SKIP
- (F) THERMOPLASTIC (4" WHITE, 120 MILS) SOLID LANE LINE
- (G) THERMOPLASTIC (12" WHITE, 90 MILS) DIAGONAL LINE
- (H) THERMOPLASTIC (24" WHITE, 120 MILS) STOP BAR
- (I) THERMOPLASTIC (4" YELLOW, 120 MILS) EDGELINE
- (J) THERMOPLASTIC (4" YELLOW, 120 MILS) 4"X10' SKIP LINE
- (K) THERMOPLASTIC (4" YELLOW, 120 MILS) SINGLE CENTER LINE
- (L) THERMOPLASTIC (4" YELLOW, 120 MILS) DOUBLE CENTER LINE
- (M) THERMOPLASTIC (12" YELLOW, 90 MILS) DIAGONAL LINE 2H:1V SLOPE (REFER TO NCDOT STANDARD DRAWING 1205.09)
- (N) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-STRAIGHT
- (O) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-STRAIGHT AND RIGHT
- (P) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-RIGHT
- (Q) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-LEFT
- (R) 4:1 TAPER
- (S) THERMOPLASTIC (8" WHITE, 120 MILS) PEDESTRIAN CROSSWALK LINE
- (T) MUTCD R4-7 (KEEP RIGHT)
- (U) MUTCD OM1-3 (TYPE 1 OBJECT MARKER)
- (V) MUTCD R3-4 (NO U-TURN)
- (W) MUTCD R6-1R (ONE WAY ONLY)
- (X) MUTCD R3-7R (RIGHT TURN ONLY)
- (Y) MUTCD R1-1 (STOP SIGN)
- (Z) MUTCD R3-SR (RIGHT TURN ONLY)
- (AA) THERMOPLASTIC (4" WHITE, 120 MILS) SOLID "ONLY" TEXT LINE
- (AB) REFER TO DETAIL 1205.01 SHEET C707 FOR WIDE STRIP REFERENCES

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.	
Transportation Engineering	Planning
Building Inspections	Planning - Transportation
Water Resources - Utility Engineering	Fire
Water Resources - Stormwater & S&EC	Parks, Recreation & Cultural Resources
Electric	

NO.	DATE	REVISION	BY
1	July 7, 2023	TOWN OF APEX - CD Review No. 1	JE
2	September 15, 2023	TOWN OF APEX - CD Review No. 2	JE
3	November 3, 2023	TOWN OF APEX - CD Review No. 3	JE
4	February 2, 2024	TOWN OF APEX - CD Review No. 4	JE

title:
**OLD US1 HWY
SIGNAGE &
STRIPING
PLAN**

proj #: 200304
date: APRIL 3, 2023
dwg by: chkd by: FS JR
scale: As Noted
sheet:



1
C510 **FRIENDSHIP ROAD SIGNAGE & STRIPING PLAN**
SCALE: 1"=40'

GREEN Hatch: Friendship Road improvements required per discussions with Town of Apex. Summit zoning required 50' full storage left turn lane while Town of Apex Pleasant Park Phase 2 required 150' full storage.
Overall Friendship Road cost would be split commensurate with required improvements for each project:
- 66.67% (2/3) to Town of Apex
- 33.33% (1/3) to The Summit

Improvement summary provided within the Construction Estimate provided to the Town of Apex for reimbursement agreement.

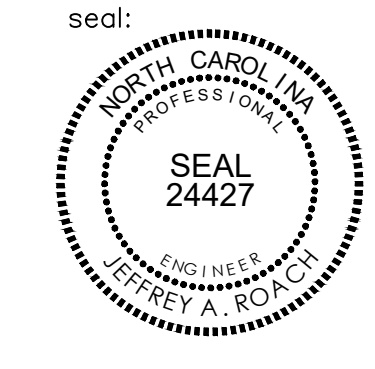
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- (D) THERMOPLASTIC (4" WHITE, 120 MILS) 4"x2' WITH 6' MINI-SKIP
- (E) THERMOPLASTIC (4" WHITE, 120 MILS) 4"x3' WITH 9' MINI-SKIP
- (F) THERMOPLASTIC (4" WHITE, 120 MILS) SOLID LANE LINE
- (G) THERMOPLASTIC (12" WHITE, 90 MILS) DIAGONAL LINE
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- (N3) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-STRAIGHT AND RIGHT
- (O) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-RIGHT
- (P) THERMOPLASTIC (WHITE, 120 MILS) DIRECTIONAL ARROW-LEFT
- (Q) 4:1 TAPER
- (R) THERMOPLASTIC (8" WHITE, 120 MILS) PEDESTRIAN CROSSWALK LINE
- (S) MUTCD R4-7 (KEEP RIGHT)
- (S8) MUTCD OM1-3 (TYPE 1 OBJECT MARKER)
- (S9) MUTCD R3-4 (NO U-TURN)
- (S10) MUTCD R6-1R (ONE WAY ONLY)
- (S11) MUTCD R3-7R (RIGHT TURN ONLY)
- (S12) MUTCD R1-1 (STOP SIGN)
- (S13) MUTCD R3-5R (RIGHT TURN ONLY)
- (T) THERMOPLASTIC (4" WHITE, 120 MILS) SOLID "ONLY" TEXT LINE
- (W) REFER TO DETAIL 1205.01 SHEET C707 FOR WIDE STRIP REFERENCES

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.

Transportation Engineering	Planning
Building Inspections	Planning - Transportation
Water Resources - Utility Engineering	Fire
Water Resources - Stormwater & S&EC	Parks, Recreation & Cultural Resources
Electric	

Exhibit A
2 of 2

project: (FKA: HOLLAND ROAD MIXED USE)
THE SUMMIT
2236 OLD US 1 HIGHWAY
BUCKHORN TOWNSHIP
APEX, NORTH CAROLINA 27502



No.	DATE	REVISION	BY
1	July 7, 2023	TOWN OF APEX - CD Review No. 1	JE
2	September 15, 2023	TOWN OF APEX - CD Review No. 2	JE
3	November 3, 2023	TOWN OF APEX - CD Review No. 3	JE
4	February 2, 2024	TOWN OF APEX - CD Review No. 4	JE

title:
**FRIENDSHIP
ROAD
SIGNAGE &
STRIPING
PLAN**

proj #:
200304
date:
APRIL 3, 2023
dwg by: chkd by:
FS JR
scale:
As Noted

sheet:
C510
(CONSTRUCTION DRAWINGS)

The Summit - Old US 1 Highway (south-west bound) Left Turn Lane Construction Estimate

June 1, 2024 Revision

Peak Engineering									
Overall Project Cost				Town of Apex Reimbursement					
Item	Quantity	Unit	Unit Price	Total	Quantity	%	Reimbursement	Quantity	Total
Paving Mobilization	1.00	LS	\$5,000.00	\$5,000.00	0.71	0.71	\$5,000.00	LS	\$3,550.00
Clear, Grub & Haul Off	1.00	LS	\$12,000.00	\$12,000.00	0.71	0.71	\$12,000.00	LS	\$8,520.00
Utility Location	1.00	LF	\$3,900.00	\$3,900.00	0.71	0.71	\$3,900.00	LF	\$2,769.00
Traffic Control	1.00	LS	\$40,000.00	\$40,000.00	0.71	0.71	\$40,000.00	LS	\$28,400.00
Silt Fence/Tree Fence/Limits Dist.	1100.00	LF	\$3.50	\$3,850.00	781.00	0.71	\$3.50	LF	\$2,733.50
Seeding - Permanent	0.75	ACRE	\$1,837.50	\$1,837.50	0.53	0.53	\$2,450.00	LF	\$1,304.63
Milling (ex. Pymt section only)	1728.00	SY	\$5,616.00	\$5,616.00	1226.88	0.71	\$3.25	SY	\$3,987.36
1.5" Mill & Butt Joints (tie ins) (Cardinal)	200.00	SY	\$3.25	\$660.00	100.00	0.50	\$6,000.00		\$0.00
Butt Joint Milling (Southern Cross)	1.00	LS	\$15.00	\$15.00	0.50	0.50	\$15.00	SY	\$28,126.65
Pavement 1.5" Overlay (entire road overlay)	2641.00	SY	\$15.00	\$12,765.00	1875.11	0.71	\$15.00	SY	\$9,045.00
Pavement 1.5" (1st Lift)	851.00	SY	\$0.00	\$0.00	603.00	0.71	\$0.00	SY	\$0.00
Pavement 3" S9.5C	0.00	SY	\$0.00	\$0.00	0.00	0.71	\$0.00	SY	\$0.00
Pavement 4" 119.0	851.00	SY	\$35.00	\$29,785.00	603.00	0.71	\$35.00	SY	\$21,105.00
Pavement 10" ABC	240.00	TON	\$48.00	\$11,520.00	170.40	0.71	\$48.00	TON	\$8,179.20
Pavement 5" B25.0	425.00	TON	\$60.00	\$25,500.00	301.75	0.71	\$60.00	SY	\$18,105.00
Pavement - Wedge (ALLOWANCE)	30.00	TON	\$250.00	\$7,500.00	21.30	0.71	\$250.00	TON	\$5,325.00
Increte Driveway (1 driveways)	30.00	SY	\$100.00	\$3,000.00	20.10	0.67	\$100.00	SY	\$2,010.00
Pavement Markings - Thermo	1.00	LS	\$30,000.00	\$30,000.00	0.71	0.71	\$24,000.00	LS	\$17,040.00
Pavement Markings - 12"-24" Thermo	0.00	LF	\$14.35	\$0.00	0.00	0.71	\$14.35	LF	\$0.00
Pavement Markings - 4" Thermo	0.00	LF	\$3.50	\$0.00	0.00	0.71	\$3.50	LF	\$0.00
Pavement Markings - Symbols	0.00	EA	\$215.00	\$0.00	0.00	0.71	\$215.00	EA	\$0.00
Road Signs	6.00	EA	\$500.00	\$3,000.00	4.26	0.71	\$500.00	EA	\$2,130.00
Earthwork & grading	1.00	LS	\$18,500.00	\$18,500.00	0.50	0.50	\$18,500.00	LS	\$9,250.00
30" Curb and Gutter	0.00	LF	\$18.70	\$0.00	0.00	0.00	\$18.70	LF	\$0.00
Curb Ramps	0.00	EA	\$2,000.00	\$0.00	0.00	0.00	\$2,000.00	EA	\$0.00
Drainage Structures	0.00	EA	\$2,500.00	\$0.00	0.00	0.00	\$2,500.00	EA	\$0.00
18" Storm Pipe	0.00	LF	\$81.00	\$0.00	0.00	0.00	\$81.00	LF	\$0.00
15" RCP Class IV Storm Pipe	40.00	LF	\$70.00	\$2,800.00	38.86	0.67	\$70.00	LF	\$2,720.20
Storm Pipe Bedding	40.00	LF	\$20.00	\$800.00	38.86	0.67	\$20.00	LF	\$777.20
15" FES	0.00	EA	\$950.00	\$0.00	0.00	0.00	\$950.00	EA	\$0.00
Rip-Rap	10.00	TN	\$72.00	\$720.00	6.70	0.67	\$72.00	TN	\$482.40
Dry Utility Relocation ALLOWANCE	1.00	LS	\$14,000.00	\$14,000.00	0.50	0.50	\$14,000.00	LS	\$7,000.00
Total				\$277,708.50					\$185,560.14
Overhead and Profit				\$0.00					\$0.00
Final Construction Cost Estimate				\$277,708.50					\$185,560.14



The Summit - Friendship Road (northbound) Turn Lane Construction Estimate

June 1, 2024 Revision

Peak Engineering									
Overall Project Cost					Town of Apex Reimbursement				
Item	Quantity	Unit	Unit Price	Total	Quantity	%	Reimbursement Quantity	Unit Price	Total
Paving Mobilization	1.00	LS	\$5,000.00	\$5,000.00	1.00	0.67	0.67	\$5,000.00	\$3,350.00
Clear, Grub & Haul Off	1.00	LS	\$12,000.00	\$12,000.00	1.00	0.67	0.67	\$12,000.00	\$8,040.00
Utility Location	1.00	LS	\$3,500.00	\$3,500.00	1.00	0.67	0.67	\$3,500.00	\$2,345.00
Traffic Control	1.00	LS	\$28,450.00	\$28,450.00	1.00	0.67	0.67	\$28,450.00	\$19,061.50
Silt Fence/Tree Fence/Limits Dist.	600.00	LF	\$3.50	\$2,100.00	600.00	0.67	402.00	\$3.50	\$1,407.00
Seeding - Permanent	0.20	ACRE	\$2,450.00	\$490.00	0.20	0.67	0.13	\$2,450.00	\$328.30
Milling (ex. Pymt section only)	959.00	SY	\$3.25	\$3,116.75	959.00	0.67	642.53	\$3.25	\$2,088.22
1.5" Mill & Butt Joints (tie ins) (Cardinal)	150.00	SY	\$0.00	\$0.00	150.00	0.67	100.50	\$0.00	\$0.00
Butt Joint Milling (Southern Cross)	1.00	LS	\$6,000.00	\$6,000.00	1.00	0.67	0.67	\$6,000.00	\$4,020.00
Pavement 1.5" Overlay (entire road overlay)	1694.00	SY	\$15.00	\$25,410.00	1694.00	0.67	1134.98	\$15.00	\$17,024.70
Pavement 1.5" (1st Lift)	735.00	SY	\$15.00	\$11,025.00	735.00	0.67	603.00	\$15.00	\$9,045.00
Pavement 3" S9.5C	0.00	SY	\$0.00	\$0.00	0.00	0.67	0.00	\$0.00	\$0.00
Pavement 4" 119.0	765.00	SY	\$35.00	\$26,775.00	765.00	0.67	603.00	\$35.00	\$21,105.00
Pavement 10" ABC	382.00	TON	\$48.00	\$18,336.00	382.00	0.67	255.94	\$48.00	\$12,285.12
Pavement 5" B25.0	355.00	SY	\$60.00	\$21,300.00	355.00	0.67	237.85	\$60.00	\$14,271.00
Therm - Wedge (ALLOWANCE)	0.00	TON	\$250.00	\$0.00	0.00	0.67	0.00	\$250.00	\$0.00
Concrete Driveway (1 driveways)	0.00	SY	\$100.00	\$0.00	0.00	0.67	0.00	\$100.00	\$0.00
Therm Markings - Thermo	1.00	LS	\$30,000.00	\$30,000.00	1.00	0.67	0.67	\$30,000.00	\$20,100.00
Therm Markings - 12"-24" Thermo	0.00	LF	\$14.35	\$0.00	0.00	0.67	0.00	\$14.35	\$0.00
Therm Markings - 4" Thermo	0.00	EA	\$3.50	\$0.00	0.00	0.67	0.00	\$3.50	\$0.00
Therm Markings - Symbols	0.00	EA	\$215.00	\$0.00	0.00	0.67	0.00	\$215.00	\$0.00
Road Signs	5.00	EA	\$500.00	\$2,500.00	5.00	0.67	3.35	\$500.00	\$1,675.00
Earthwork & grading	1.00	LS	\$18,500.00	\$18,500.00	1.00	0.67	0.67	\$18,500.00	\$12,395.00
30" Curb and Gutter	0.00	LF	\$18.70	\$0.00	0.00	0.67	0.00	\$18.70	\$0.00
Curb Ramps	0.00	EA	\$2,000.00	\$0.00	0.00	0.67	0.00	\$2,000.00	\$0.00
Drainage Structures	0.00	EA	\$2,500.00	\$0.00	0.00	0.67	0.00	\$2,500.00	\$0.00
18" Storm Pipe	0.00	LF	\$81.00	\$0.00	0.00	0.67	0.00	\$81.00	\$0.00
15" RCP Class IV Storm Pipe	55.00	LF	\$70.00	\$3,850.00	55.00	0.67	36.85	\$70.00	\$2,579.50
Storm Pipe Bedding	55.00	LF	\$20.00	\$1,100.00	55.00	0.67	36.85	\$20.00	\$737.00
15" FES	0.00	EA	\$950.00	\$0.00	0.00	0.67	0.00	\$950.00	\$0.00
Rip-Rap	0.00	TN	\$72.00	\$0.00	0.00	0.67	0.00	\$72.00	\$0.00
Dry Utility Relocation ALLOWANCE	1.00	LS	\$10,000.00	\$10,000.00	1.00	0.67	0.67	\$10,000.00	\$6,700.00
Total				\$229,452.75					\$158,557.34
Overhead and Profit				\$0.00					\$0.00
Final Construction Cost Estimate				\$229,452.75					\$158,557.34



Jeffrey A. Roach
2024-09-19 18:13:59

Total Town of Apex Reimbursement for Friendship Road Widening (67.7% of total cost)

\$153,044.98

Cost Share Table - Developer Agreement between Town of Apex and Beazer Homes					
Intersection	Improvements	Total Cost	Estimated Funding Breakdown		
			<i>Beazer Homes</i>	<i>Apex</i>	<i>Holly Springs</i>
Old US 1 / Holland Rd	Old US 1 EB LT + WB RT + Holland Rd SB RT	Unknown	100%	\$0	\$0
	Holland Rd Traffic signal	\$150,000	\$0	\$150,000	\$0
Old US 1 / Friendship Rd	Old US 1 WB Left Turn Lane	\$278,000	\$167,000	\$39,890	\$71,110
	Friendship Rd NB LT	\$230,000	\$152,000	\$6,890	\$71,110
	Friendship Rd Traffic signal	\$150,000	\$0	\$141,967	\$8,033
		\$808,000	\$319,000	\$338,747	\$150,253
Est. Cost Share (%):			39.5%	41.9%	18.6%



Town of Apex

Budget Ordinance Amendment No. 3

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:

10-0000-39902: Fund Balance Appropriated	130,000
Total Revenues	\$130,000

Section 2. Expenditures:

10-9030-49663: Transfer to Street Capital Project Fund	130,000
Total Expenditures	\$130,000

Section 3. Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 8th day of October 2024.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk



Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2025-2

63 - Street Improvement Capital Project Fund

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

Section 1. The revenues anticipated for the projects are:

63-9250-1126-39710: Transfer from General Fund	130,000
63-9250-1129-39710: Transfer from General Fund	100,000
63-9250-0104-39710: Transfer from General Fund	54,000
63-9250-1115-39778: Transfer from Transportation Reservice	35,000
Total Expenditures	\$319,000

Section 2. The expenditures anticipated are:

63-9250-1126: Old US 1 / Friendship Road Improvements	319,000
Total Expenditures	\$319,000

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 8th day of October, 2024.

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: October 8, 2024

Item Details

Presenter(s): Eric Neumann, Director

Department(s): Electric Utilities

Requested Motion

Motion to approve an Agreement between the Town of Apex and ElectriCities, to update the load management control system, effective October 8, 2024 through September 30, 2025, and authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

ElectriCities currently manages and operates the Town's load management control system Yukon (an Eaton software). New switch technology requires an update to this control system which will be hosted by Eaton. The Town would like for ElectriCities to continue to operate the system on its behalf due to staff limitations. As such a new agreement between the Town and ElectriCities for the load management program has been drafted and requires Council approval. The agreement includes indemnification from the Town to ElectriCities.

Attachments

- CN2-A1: Agreement - ElectriCities and Town of Apex - Load Management Control System
- CN2-A2: Staff Memo - State of Town of Apex Load Management Program - ElectriCities and Town of Apex - Load Management Control System



October __, 2024

Randal E. Vosburg
Town Manager
Town of Apex
P.O. Box 250
Apex, NC 27502

The Town of Apex ("Town") has indicated to North Carolina Eastern Municipal Power Agency ("Power Agency") its interest in participating in an updated load management project. The proposed project involves the installation and operation of system to control residential appliances, water heaters, and air conditioners, as well as other selected electrical loads, to achieve power cost reductions and related benefits for these municipalities (the "Project").

The load management system (the "System") would consist of software, associated materials, the use of cellular technology, hosted energy management system controls, and load control switches (the "Switches").

Under the Project, Power Agency will provide the Town with Load Management Services (defined in Section 2 hereof) on the following terms and conditions:

1. Term of Agreement

- a. The term of this Agreement shall begin on the date it is executed and delivered to Power Agency and shall automatically continue for successive one (1) year periods until terminated as hereinafter provided. The Town may terminate this Agreement at any time upon six (6) months prior written notice to Power Agency that it no longer desires to receive the Load Management Services. Power Agency may terminate this Agreement at any time (i) upon thirty (30) days prior written notice to the Town if the Board of Commissioners of Power Agency decides to cease providing the Load Management Services to all municipalities under the Project or (ii) upon thirty (30) days prior written notice to the Town if the services provided by Power Agency's Hosted Services provider are terminated for any reason. Notwithstanding anything herein contained to the contrary, the Town will remain obligated to Power Agency for all liabilities or obligations incurred by the Power Agency pursuant to this Agreement.

2. Load Management Services

- a. Power Agency shall (i) acquire, lease, maintain, and replace such software, and equipment as is necessary to provide

control signals to end-use load control switches, (ii) provide, if commercially available, user accounts to approved town staff for integration of load control switches into the hosted energy management system, and (iii) operate the hosted energy management system in a fashion Power Agency deems appropriate and potentially beneficial to the Town (collectively, the "Load Management Services").

- b. Power Agency shall develop and provide the Load Management Services with the objective of reducing Power Agency's and the Town's cost of power. Power Agency shall use its reasonable good faith efforts to achieve that objective but makes no representations or warranties that the Town will achieve any specifically desired result(s). The Town shall cooperate with Power Agency to develop strategies for the operation of the System and provide Power Agency with all information as may be reasonably necessary to develop such strategies. Power Agency shall use its reasonable good faith efforts to incorporate into the System such strategies as are developed with the Town.

3. Switches

- a. The Town shall acquire, install, maintain, and replace the Switches or other required equipment to the extent necessary to participate in the Project, and shall be solely responsible for all dealings with its customers related thereto. Additionally, Town is solely responsible for acquiring cellular services needed for operation of load control switches. Power Agency shall furnish to the Town the energy management system vendor specifications for the Switches, and cellular service requirements to be used initially in conjunction with the operation of the Project. The Town shall have no authority to make any representations or warranties on behalf of Power Agency or otherwise represent or hold itself out as being an agent of Power Agency, in either case in conjunction with the Load Management System.

4. Costs and Charges

- a. The Town shall be responsible for all costs and charges Power Agency incurs or obligates itself to incur to provide the Load Management Services including, but not limited to, costs and charges of acquisition and installation, operation, and maintenance of the System as follows:
 - 1. Acquisition and Installation
 - i. Subscriptions, Licenses, and Setup Fees

- 2. Operation
 - i. Vendor Hosting, and Communication charges
 - 3. Maintenance
 - i. Upgrades and Replacement of the Energy Management System.
- b. Power Agency shall bill the Town for the costs and charges (including deferred payments costs, if any), the Town is obligated to pay hereunder. The total of those costs and charges shall be set out as a separate line item (other than Monthly Project Power Costs and Supplemental Power Costs) on the monthly bill rendered by Power Agency pursuant to the provisions of SECTION 5(b) of the Amended and Restated Full Requirements Power Sales Agreement dated September 22, 2023 between Power Agency and the Town as the same may be amended or succeeded ("FRPSA") and the rights and obligations of Power Agency and the Town for the payment of those costs and charges (including the payment of late penalty charges) and any dispute related thereto, shall be as provided in SECTIONS 6(c), (d), (e), and (f) of the FRPSA, the provisions of which are hereby incorporated herein by reference.
- c. An estimate of the costs and charges to provide the Load Management Services is provided on Exhibit A, attached hereto.

5. Default

- a. Subject to the provisions of Section 16 hereof regarding force majeure, any one or more of the following events shall constitute events of default hereunder ("Event of Default"):
- 1. The Town's failure to make any payment in full when due under this Agreement and the continuance of such failure for a period of fifteen (15) days after the due date for that payment; or
 - 2. The failure of Power Agency or the Town to perform any other covenants or obligations under this Agreement and the continuance of such failure without cure within thirty (30) days (or such other time as is reasonably necessary to cure such failure) of being given notice thereof by the complaining party.
- b. In addition to the remedies provided Power Agency as a non-defaulting party under Subsection (b) above, if the Town

commits an Event of Default hereunder, Power Agency may withhold the provision of the Load Management Services until such time as the Town cures its default hereunder and such withholding of the Load Management Services shall not be deemed an Event of Default under this Agreement.

- c. No remedy conferred upon or reserved to the parties hereto is intended to be exclusive of any other remedy or remedies available hereunder now or hereafter existing, but each and every such remedy shall be cumulative and shall be in addition to every other such remedy.
- d. Any waiver at any time by either party to this Agreement of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Agreement, shall not be considered a waiver with respect to any subsequent default, right or matter.

6. Liability and Indemnification

- a. Power Agency shall not be responsible for any loss, liability or damage whatsoever (including, without limitation, direct, indirect, special, incidental or consequential damages) sustained by or to any person (including, without limitation, any injury or death), property or otherwise (including, without limitation, the Town, its officers, agents, employees or customers, or its/their property), arising, accruing, or resulting from, in any manner, the development, transmission, distribution, receipt, control, use, application or availability, at any time, of the Load Management Services provided under this Agreement (including, without limitation, any loss, liability or damage resulting (in whole or in part) from the acts or omissions (excluding negligent acts or omissions) of Power Agency), and the Town, to the fullest extent permitted by law, hereby RELEASES Power Agency from and shall INDEMNIFY, DEFEND AND HOLD HARMLESS Power Agency from and against any and all such loss, liability or damage, whether arising from contract, tort or otherwise. The loss, liability or damage for which Power Agency is released and to be held harmless and indemnified hereunder includes, without limitation, any and all liability, damage, losses, injuries, fines, penalties, costs and expenses, including, without limitation, expenses incurred by it, in connection with defending any claim or action and including reasonable attorney's fees incurred or suffered by them by reason of any assertion of any claim. All reference in this Section to the Power Agency shall include the Power Agency and its officers, employees, and agents (including, without limitation, Electricities of North

Carolina, Inc. and its officers, agents and employees).

- b. This Agreement shall not affect the allocation of risk and indemnification from liability related to the receipt, transmission, control, use, application or distribution of electric power as provided in the Supplemental Power Sales Agreement between the Town and Power Agency.
- c. The provisions of this Section shall survive the expiration or other termination of this Agreement.

7. Proprietary Information

- a. The Town hereby acknowledges that signals, information, or other data provided to, or obtained by, Power Agency may be proprietary in nature and subject to agreements restricting its disclosure and/or use. The Town agrees that this Agreement will be subject to any such agreement(s) and that signals, information or data subject thereto will not be disclosed by Power Agency to the Town except when done in compliance therewith. The Town agrees to take such action and execute such documents as are necessary to permit Power Agency to comply with such agreement(s).

8. Assignment of Agreement

- a. Neither this Agreement, nor any interest herein, may be assigned, transferred, or sold by the Town without the prior written consent of Power Agency, which consent may not be unreasonably withheld.

9. Amendments

- a. This Agreement may not be modified, supplemented or amended except by agreement in writing signed by the Parties hereto; provided, however, that no modification, supplement or amendment shall be made to this Agreement unless the same modification, supplement or amendment shall be made to all similar agreements of municipalities then participating in the Project.

10. Notices

- a. All notices, requests, demands or other documents to be made or given hereunder, shall be sent to and addressed as follows:

Power Agency: North Carolina Eastern Municipal Power Agency
Attn: Jason Thigpen
Post Office Box 29513
Raleigh, NC 27626-0513

The Town: The Town of Apex
Attn: Eric Neumann
Post Office Box 250
Apex, NC 27502

All notices, requests, demands or other documents to be made or given hereunder shall be in writing and deemed given when personally delivered or, if mailed, when placed in a depository of the United States Mail, postage prepaid, addressed as hereinabove provided. Any party may change the address to which notices, requests, demands or other documents are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving of notice.

11. Severability

- a. If any provision of this Agreement or portion thereof is determined to be void or unenforceable by a court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement or portions hereof, all of which other provisions and portions hereof shall remain in full force and effect.

12. Relationship to Other Instruments

- a. It is recognized by the parties hereto that Power Agency in the ownership, construction, acquisition and operation of the Initial Project and any other Project financed pursuant to the Bond Resolution must comply with the requirements of the applicable Project Agreements, the Bond Resolution, and all licenses, permits and regulatory approvals necessary for such ownership, construction, acquisition and operation of such Projects, and it is therefore agreed that if any provision of this Agreement is inconsistent with the terms and provisions of the Project Agreements, the Bond Resolution, or any such licenses, permits or regulatory approvals that such inconsistency shall be resolved in favor of the terms and provisions of the Project Agreements, the Bond Resolution, and such licenses, permits or regulatory approvals, as the case may be. As used in this Section 15, the term "Bond Resolution" shall mean Resolution (R-2-82) adopted April 1, 1982 by the Board of Commissioners of Power Agency and as used in this Section 15, the terms "Initial Project," "Project Agreements" and "Project" shall be as defined in the Bond Resolution.

13. Force Majeure

- a. Except for the payment of any amounts due hereunder, failure to fulfill any covenant or obligation hereunder as a result of a force majeure shall not constitute an Event of Default hereunder. Either party rendered unable to fulfill any covenant or obligation under this Agreement by reason of a force majeure shall make reasonable efforts to remove such inability within a reasonable time. The term "force majeure" as used in this Agreement shall mean any cause beyond the control of the party affected, including, without limitation, natural hazards outside of human control for which no person or persons may be held responsible, fire, storm, casualty or equipment breakdown.

14. Entire Agreement

- a. This Agreement shall constitute the entire understanding between the Town and Power Agency regarding the subject matter hereof, superseding any and all previous understandings.

If you desire to receive the Load Management Services under the foregoing terms and provisions, please have the appropriate officials of the Town sign, seal, and date the enclosed copy of this Agreement provided for your convenience and return it to Power Agency.

Sincerely,

AGREED AND ACCEPTED

Randal E. Vosburg, AICP, CPM
Town Manager

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

[SEAL]

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Allen Coleman personally came before me this day and acknowledged he is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Town Manager sealed with its corporate seal and attested by him as its Town Clerk.

Witness my hand and official stamp or seal, this the ____ day of _____, 2024.

[Notary Signature]

_____,
Notary Public [Print or Type Notary Name]

My Commission Expires: _____

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

Antwan Morrison, Finance Director

EXHIBIT A

Line Item	Description	Occurrence	Quantity	Unit Price
Yukon Demand Response Software & Project Management				
License				
Yukon - Cellular Cat-M1 Module License	Yukon Two-way and Assets Software Modules	One Time	1	\$10,000
	Software platform modules for managing cellular Cat-M1 load control switches.			
Setup and Configuration Services				
Yukon Upgrade - Onsite Assessment	Yukon - Onsite Assessment Eaton Professional Service staff member to come onsite.	One Time	1	\$2,500 + travel expenses
	Assessment to understand and document configuration and connections			
Yukon - Hosting System Design and Configuration	Yukon Hosting Setup, Design & Configuration	One Time	1	\$20,000
	Eaton service provided to install, design and configure system at Tier III hosting facility.			
	Existing Server Migration and Configuration			
	Configure system for Cellular Cat-M1 Module.			
	Administrator & Operator training.			
Annual Support and Maintenance Services				
Yukon - Hosting - Base	Yukon Hosted Software as a Service - Base	Annual	1	\$25,000
	Software platform managed by Eaton at the Tier III hosting facility			
	Eaton to provide system maintenance and security			
	Support up to 5,000 two-way communicating devices.			
Yukon - Cellular Cat-M1 Connection Fee	Connectivity Management Fees - Per Device	Annual - Per Connected Device	N/A	\$1.00/unit
	Secure Cloud Connection			
	Device Data Storage			

State of the Town of Apex Load Management Program and Recommended Changes

Program Summary

Load Management is a program to reduce the Town's total electric usage during peak or high-demand hours. Roughly two thirds of the Town's power bill is based on its usage during the monthly peak demand hour. By lowering the demand on the electric system through load management, the Town can reduce the total bill, and ultimately, the customer's electricity cost. The program involves a switch on the devices in homes that use the most energy. These devices include electric water heaters, central air conditioning compressor units and heat pumps as well as auxiliary heat strips. During times of peak demand, the Town's load management devices receive a signal from ElectriCities to have these devices cycled off for brief intervals. This typically occurs a few times each month, and lasts for several hours.

Central Air Conditioners and HVAC Heat Pumps: These contribute significantly to peak demands in the summer and can be cycled off and back on without discomfort. Air conditioner compressor is typically cycled off for about one to two hours over the entire load management period. Customers may choose to participate in 25%, 50%, or 100% control levels. For example, a customer on 25% control would have their compressor turned off 7 minutes out of every half hour for a total of one hour during a four-hour load management period. The impact to comfort level for most customers is very minor.

Electric Water Heaters: The heating element of the electric hot water heater is turned off, typically for about one to two hours.

Heat Strips: Heat strips are supplemental, and when they are on, electricity is consumed at a rate three times greater than that of the heat pump alone. During peak hours, heat strips will not run. This will typically last for 1-2 hours. The load management switch will control the heat strip, but the compressor will continue to provide heat to the home.

Current Program Administration

Under the current program, the Town provides the load management device free to residents (\$125/device), and residents are given credits to their power bill for participating in the program. Load management credits are based on the following schedule:

- \$2.00 per month for Electric Water Heaters
- \$10.00 per month in January, February, March & April for Electric Heat Strips
- \$4.00 per month in June, July, August, and September for 25% A/C Control
- \$8.00 per month in June, July, August, and September for 50% A/C Control
- \$20.00 per month in June, July, August, and September for 100% A/C Control

Customers may opt out of the program at any time by notifying the Town, who will remove the device from the customer's house.

Article II section 12-19 of the Town's code of ordinances requires all new residential structures have the load management switches installed as a condition of electric service. The ordinance also requires a device be installed if not present for on building permits over \$10,000. This requirement is imperative to the program, after initial construction, the installation of building wiring to the load management switches becomes cost prohibitive.

Current Program Status

Since the inception of the program in the early 90's over 20,000 load management switches have been installed in the Town.

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.

Technology changes and other detrimental factors have led to switch inoperability. The various factors impacting the program are listed below

- The LCR-2000 series use radio frequency communication and have been inoperable for several years.
- The LCR-5000 and 5600 series switches utilize 1-way paging signals. The paging network is now eroding in the town, so more and more switches are failing to reliably receive a signal. These switches have also been obsolesced by the manufacturer and will be unavailable once the last orders are received.
- HVAC technicians and Owners often bypass the switches in the false belief that the switches are the cause of HVAC systems failing to work.
- Physical deterioration of the switches without sufficient personnel to maintain the currently installed switches.

Due to the issues above, it is estimated that only between 40-50% of the installed switches are currently operational.

Proposed Path Forward

In order to continue the program, the load management switches need to be replaced with new switches that use cell technology with 2-way communication. These new switches will have several benefits over the previous models. The new switches will enable the Town to know if devices are working, and if they have been bypassed in the field without having to do site audits. If a customer wishes to opt out of or into the program this can be done remotely without sending personnel to physically bypass the switch.

It is recommended that the Town does the following:

- Revise the Town's ordinance
- Replace the existing LCR-2000 model switches in short-term capital project

- Replace the existing LCR-5000 and 5600 model switches in a long-term service contract
- Monitor the system with AMI and potentially add staff in future to optimize, manage, and maintain the system. This will help ensure the system does not fall into the level of disrepair it has currently going forward.

Initial Costs

The Town's power manager ElectriCities will need to update its control platform (Yukon) to work with the cell based switches, which will have a initial cost to the Town is between \$35,000 and \$45,000.

Recurring Costs

The new load management system will have the following annual expenses

- Annual Cost - \$25,000 [Hosting] – escalates 4% per year
- Data charges with a cell carrier – estimated \$1 per device per year- escalates 4% per year
- New device cost - \$175 per device

Proposed Program Administration Changes

While it is imperative to the success the of the program for the ordinance requiring the load management switches on new construction to remain, the following changes to the ordinance and the administration of the project are recommended.

- Revision to the ordinance that allows Residents/Owners to remove the load management device from their home. The Resident/Owner will be able to opt out of the program but the device will remain installed unless special permission is granted.
- Revision to the Ordinance to clarify that the Town's responsibility ends at the switch, the building wiring is the Owner/Customers responsibility.
- Revision to the Ordinance that the Owner must request a new switch when replacing the main HVAC unit in the home. This will help ensure that load management switches are replaced prior to their end of life, increasing the efficacy of the program. These switches will also be provided by the town.
- Removal of the 50% and 100% control options. There are very few customers that use these tiers of the program, and removing it will relive administration burden.
- Removal of the credit incentive for participating in the program. Rather than receiving a credit for participating, Customers will receive a higher rate if they choose not to participate. This will reduce complexity to the billing system.

Program Payout

Each new switch has an estimated yearly savings of \$114 and with the estimated installation costs will pay itself off in 4 to 6 years. The total return on investment for the 15 year life of the system is estimated to be between \$12M & \$20M.

Additional Benefits

In addition to the cost savings the program also benefits the Town with the ability to reduce the load on the system, this reduces the amount of reserve capacity required in the system and provides flexibility in emergency situations.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Michael S. Deaton, P.E., Director

Department(s): Water Resources

Requested Motion

Motion to approve a Master Services Agreement between Garrison Enterprise, Inc. and the Town of Apex, effective October 8, 2024 through September 30, 2027, to perform emergency on-call services including water and sewer repairs, hot taps, line stops, and valve insertions, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

This agreement extends Garrison Enterprise, Inc. services through a new 3-year agreement. Upon request, Garrison Enterprise, Inc., will provide all labor, materials, and equipment necessary to perform water and sewer repairs, hot taps, line stops, and valve insertions. Contractor will provide a quote and scope of service at the time of request for service by the Town.

Attachment

- CN3-A1: Contract - Multi-Year - Garrison Enterprise Inc. - On-Call Services



STATE OF NORTH CAROLINA

Contract Identification # _____

COUNTY OF WAKE

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (hereinafter "Agreement") is entered into this the _____ day of _____, 2024, by and between, Garrison Enterprise, Inc., a North Carolina Corporation with its principal business offices located at 1320 Bobbitt Drive, Garner, NC 27529 (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:

WHEREAS, Town, is engaged in the operation of water and sewer utilities including pipes, drains, facilities and associated equipment, which from time to time requires maintenance, repair, installation, removal testing, and inspection as well as other projects related to wastewater treatment and soil and erosion control; and

WHEREAS, the professional services of outside firms or consultants and/or others will from time to time in the future be needed by the Town for the services as described above; and

WHEREAS, Contractor provides professional services of the nature required by the Town and employs trained and experienced technical personnel possessing adequate knowledge, skills, and experience to provide such professional services to the Town; and

WHEREAS, the Parties contemplate that the services of the Contractor will be performed in various stages in accordance with separate authorizations to be issued by the Town, and the Parties desire to set forth the basic terms of their agreement in this Master Services Agreement rather than in the separate authorizations issued by the Town; and

WHEREAS, the Parties acknowledge and agree that this Agreement shall act as a base agreement under which the Parties can enter into multiple specific transactions by executing a Purchase Order and written confirmation to proceed pursuant to a Scope of Services, quote, and/or rate sheet; and

WHEREAS, the Parties agree that this Agreement is non-exclusive and does not require or commit the Contractor to being available to perform services until a Scope of Services and quote is submitted, and does not preclude the Town from hiring other vendors or contractors to perform the same or similar work.

NOW THEREFORE, in consideration of the foregoing recitals, and the premises and mutual covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereto do contract and agree as follows:

1. SCOPE OF SERVICES.

The Contractor agrees to perform for the Town the following general services when requested by the Town: All labor, materials, and equipment necessary to perform emergency on-call services as requested at the prices provided in a quote by the Contractor for each individual water and sewer repair, hot tap, line stops and valve insertion.

When service is requested by the Town, Contractor shall provide a detailed Scope of Services and quote that shall be governed by the terms of this Agreement. If a rate sheet is provided and attached to this Agreement then the quote shall be consistent with the rate sheet. The quote and Scope of Services shall reference this Agreement and this Agreement shall be incorporated into and made a part of the Scope of Services and quote whether or not expressly incorporated by reference in the Scope of Services and quote.

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

2. SPECIFICATIONS.

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 the provided plans and specifications and this Agreement, this Agreement shall control.

3. TIME OF COMMENCEMENT AND COMPLETION.

This Agreement shall terminate on October 31, 2027 unless terminated sooner in accordance with the terms of this Agreement. Contractor shall commence and complete the work required by this Agreement in accordance with the dates provided in the Scope of Services as agreed upon by the Parties. Contractor shall immediately notify the Town of any event or circumstance that may, immediately or in the future, impede the proper and timely execution of any work so that remedial action may be taken. Contractor shall not begin any work pursuant to this Agreement or a Scope of Services until written confirmation has been provided by the Town. The Parties hereby agree that written confirmation may be provided through electronic communication from the Town's representative identified in Section 13 of this Agreement. 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 Scope of Services 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 amount authorized by the issued Purchase Order corresponding to the agreed upon Scope of Services and quote. After services are agreed upon pursuant to this Agreement and the associated Scopes of Service, Contractor will invoice the Town for work performed. 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 within thirty (30) days of receipt 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 contract 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. 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. Contractor shall provide services in accordance with all federal, state and local law and 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 the Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina.

9. 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.

10. PRE-PROJECT SAFETY REVIEW MEETING.

If requested by the Town, 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.

11. 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.

12. 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.

13. 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: Contractor: Garrison Enterprise, Inc.
Attn: John Hamling
Address: 211 West Elmer Rd
Vineland, NJ 08360
Email: jhamling@garrisonenterprise.com

TO TOWN: Town of Apex
Attention: Michael Deaton, P.E.
Address: PO Box 250
Apex, NC 27502

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. BINDING EFFECT.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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.

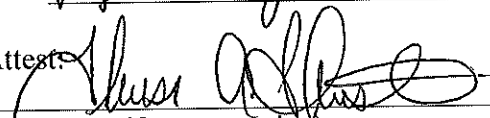
In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals this, _____ day of _____, 2024.

Contractor

Name: Garrison Enterprise

By: 
(Signature)

Title: Reginald Murray

Attest: 
(Secretary, if a corporation)

Town of Apex

Randal E. Vosburg, Town Manager

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

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

Antwan Morrison, Finance Director

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Michael S. Deaton, P.E., Director

Department(s): Water Resources

Requested Motion

Motion to approve a Master Services Agreement between L.G. Jordan Oil Co., Inc., and the Town of Apex, effective October 8, 2024 through September 30, 2027, to perform fuel delivery, tank maintenance and access to the plant for diesel refueling of town vehicles and equipment and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

This agreement extends L.G. Jordan Oil Co., Inc. services through a new 3-year agreement. Upon request, L.G. Jordan Oil Co., Inc., will provide all labor, materials, and equipment necessary to service tanks and deliver fuel oil and propane gas to tanks at town facilities and generators at pump stations, as well as access to the plant for diesel refueling of town vehicles and equipment.

Attachment

- CN4-A1: Contract - Multi-Year - L.G. Jordan Oil Co. Inc. - On Call Services



STATE OF NORTH CAROLINA

Contract Identification # _____

COUNTY OF WAKE

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (hereinafter "Agreement") is entered into this the _____ day of _____, 2024, by and between, L.G. Jordan Oil Co., Inc. a North Carolina Corporation with its principal business offices located at 314 N Hughes Street, Apex, NC 27502 (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:

WHEREAS, Town, is engaged in the operation of water and sewer utilities including pipes, drains, facilities and associated equipment, which from time to time requires maintenance, repair, installation, removal testing, and inspection as well as other projects related to wastewater treatment and soil and erosion control; and

WHEREAS, Town is engaged in the operation and maintenance of a fleet of vehicles to provide services to Town residents and visitors, which require fuel to operate; and

WHEREAS, the professional services of outside firms or consultants and/or others will from time to time in the future be needed by the Town for the services as described above; and

WHEREAS, Contractor provides professional services of the nature required by the Town and employs trained and experienced technical personnel possessing adequate knowledge, skills, and experience to provide such professional services to the Town; and

WHEREAS, the Parties contemplate that the services of the Contractor will be performed in various stages in accordance with separate authorizations to be issued by the Town, and the Parties desire to set forth the basic terms of their agreement in this Master Services Agreement rather than in the separate authorizations issued by the Town; and

WHEREAS, the Parties acknowledge and agree that this Agreement shall act as a base agreement under which the Parties can enter into multiple specific transactions by executing a Purchase Order and written confirmation to proceed pursuant to a Scope of Services, quote, and/or rate sheet; and

WHEREAS, the Parties agree that this Agreement is non-exclusive and does not require or commit the Contractor to being available to perform services until a Scope of Services and quote is submitted, and does not preclude the Town from hiring other vendors or contractors to perform the same or similar work.

NOW THEREFORE, in consideration of the foregoing recitals, and the premises and mutual covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, contract and agree as follows:

1. SCOPE OF SERVICES.

The Contractor agrees to perform for the Town the following general services when requested by the Town: All labor, materials, and equipment necessary to service tanks and deliver fuel oil and propane gas to tanks at town facilities and generators, as well as access to the plant for diesel refueling of town vehicles.

When service is requested by the Town, Contractor shall provide a detailed Scope of Services and quote that shall be governed by the terms of this Agreement. If a rate sheet is provided and attached to this Agreement then the quote shall be consistent with the rate sheet. The quote and Scope of Services shall reference this Agreement and this Agreement shall be incorporated into and made a part of the Scope of Services and quote whether or not expressly incorporated by reference in the Scope of Services and quote.

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

2. SPECIFICATIONS.

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 the provided plans and specifications and this Agreement, this Agreement shall control.

3. TIME OF COMMENCEMENT AND COMPLETION.

This Agreement shall terminate on October 31, 2027 unless terminated sooner in accordance with the terms of this Agreement. Contractor shall commence and complete the work required by this Agreement in accordance with the dates provided in the Scope of Services as agreed upon by the Parties. Contractor shall immediately notify the Town of any event or circumstance that may, immediately or in the future, impede the proper and timely execution of any work so that remedial action may be taken. Contractor shall not begin any work pursuant to this Agreement or a Scope of Services until written confirmation has been provided by the Town. The Parties hereby agree that written confirmation may be provided through electronic communication from the Town's representative identified in Section 13 of this Agreement. 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 Scope of Services 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 amount authorized by the issued Purchase Order corresponding to the agreed upon Scope of Services and quote. After services are agreed upon pursuant to this Agreement and the associated Scopes of Service, Contractor will invoice the Town for work performed. 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 within thirty (30) days of receipt 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 contract 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. 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. Contractor shall provide services in accordance with all federal, state and local law and 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 the Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina.

9. 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.

10. PRE-PROJECT SAFETY REVIEW MEETING.

If requested by the Town, 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.

11. 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.

12. 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.

13. 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: Contractor: L.G. Jordan Oil Co., Inc.
Attn: Amy Jordan Dean
Address: PO Box 220
Apex, NC 27502
Email: customerservice@lgjordanoil.com

TO TOWN: Town of Apex
Attention: Michael Deaton, P.E.
Address: PO Box 250
Apex, NC 27502

14. 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.

15. 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.

Revision date 11/9/2021

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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. BINDING EFFECT.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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

Name: LG Jordan Oil Co.

By: 
(Signature)

Title: President

Attest: 
(Secretary, if a corporation)

Town of Apex

Randal E. Vosburg, Town Manager

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

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

Antwan Morrison, Finance Director

Revision date 11/9/2021

EXHIBIT A



LG Jordan Oil & Gas Co.

P.O. Box 220
Apex, NC 27502
Phone (919) 362-8388
Fax (919) 362-8380

L.G. Jordan (1888-1977)
Guthrie T. Jordan (1912-1970)
Larry M. Jordan
Chairman
Amy Jordan Dean
President

The scope of service to the Town of Apex is listed below.

Fuel Oil and Propane Gas delivery to tanks at town facilities and town generators
Various town vehicles fuel with Diesel Fuel at our plant
Rate – price of fuel at time of delivery

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Michael S. Deaton, P.E., Director

Department(s): Water Resources

Requested Motion

Motion to approve a Master Services Agreement between Pete Duty & Associates, Inc., and the Town of Apex, effective October 8, 2024 through September 30, 2027, to perform emergency on-call services for pump repairs, wastewater infrastructure and appurtenance maintenance, repair, or replacement at pump station and the wastewater treatment plant and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

This agreement extends Pete Duty & Associates, Inc. services through a new 3-year agreement. Upon request, Pete Duty & Associates, Inc. will provide all labor, materials, and equipment necessary to perform pump repairs and wastewater infrastructure maintenance, repair or replacement at pump stations and the wastewater treatment plant. Contractor will provide a quote and scope of service at the time of request for service by the Town.

Attachment

- CN5-A1: Contract - Multi-Year - Pete Duty & Associates, Inc. - On-Call Services



STATE OF NORTH CAROLINA

Contract Identification # _____

COUNTY OF WAKE

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (hereinafter "Agreement") is entered into this the ____th day of _____, 2024, by and between, Pete Duty & Associates, Inc., a North Carolina Corporation with its principal business offices located at 2219 Leah Drive, Hillsborough, NC 27278 (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:

WHEREAS, Town, is engaged in the operation of water and sewer utilities including pipes, drains, facilities and associated equipment, which from time to time requires maintenance, repair, installation, removal testing, and inspection as well as other projects related to wastewater treatment and soil and erosion control; and

WHEREAS, the professional services of outside firms or consultants and/or others will from time to time in the future be needed by the Town for the services as described above; and

WHEREAS, Contractor provides professional services of the nature required by the Town and employs trained and experienced technical personnel possessing adequate knowledge, skills, and experience to provide such professional services to the Town; and

WHEREAS, the Parties contemplate that the services of the Contractor will be performed in various stages in accordance with separate authorizations to be issued by the Town, and the Parties desire to set forth the basic terms of their agreement in this Master Services Agreement rather than in the separate authorizations issued by the Town; and

WHEREAS, the Parties acknowledge and agree that this Agreement shall act as a base agreement under which the Parties can enter into multiple specific transactions by executing a Purchase Order and written confirmation to proceed pursuant to a Scope of Services, quote, and/or rate sheet; and

WHEREAS, the Parties agree that this Agreement is non-exclusive and does not require or commit the Contractor to being available to perform services until a Scope of Services and quote is submitted, and does not preclude the Town from hiring other vendors or contractors to perform the same or similar work.

NOW THEREFORE, in consideration of the foregoing recitals, and the premises and mutual covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereto do contract and agree as follows:

Revision date 11/9/2021

1. SCOPE OF SERVICES.

The Contractor agrees to perform for the Town the following general services when requested by the Town: All labor, materials, and equipment necessary to perform emergency on-call services as requested at the prices provided in a quote by the Contractor for each individual pump repair and / or wastewater infrastructure and appurtenance maintenance, repair or replacement at pump stations and the wastewater treatment plant.

When service is requested by the Town, Contractor shall provide a detailed Scope of Services and quote that shall be governed by the terms of this Agreement. If a rate sheet is provided and attached to this Agreement then the quote shall be consistent with the rate sheet. The quote and Scope of Services shall reference this Agreement and this Agreement shall be incorporated into and made a part of the Scope of Services and quote whether or not expressly incorporated by reference in the Scope of Services and quote.

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

2. SPECIFICATIONS.

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 the provided plans and specifications and this Agreement, this Agreement shall control.

3. TIME OF COMMENCEMENT AND COMPLETION.

This Agreement shall terminate on October 31, 2027 unless terminated sooner in accordance with the terms of this Agreement. Contractor shall commence and complete the work required by this Agreement in accordance with the dates provided in the Scope of Services as agreed upon by the Parties. Contractor shall immediately notify the Town of any event or circumstance that may, immediately or in the future, impede the proper and timely execution of any work so that remedial action may be taken. Contractor shall not begin any work pursuant to this Agreement or a Scope of Services until written confirmation has been provided by the Town. The Parties hereby agree that written confirmation may be provided through electronic communication from the Town's representative identified in Section 13 of this Agreement. 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 Scope of Services 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 amount authorized by the issued Purchase Order corresponding to the agreed upon Scope of Services and quote. After services are agreed upon pursuant to this Agreement and the associated Scopes of Service, Contractor will invoice the Town for work performed. 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 within thirty (30) days of receipt 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 contract 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. 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. Contractor shall provide services in accordance with all federal, state and local law and 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 the Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina.

9. 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.

10. PRE-PROJECT SAFETY REVIEW MEETING.

If requested by the Town, 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.

11. 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.

12. 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.

13. 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: Contractor: Pete Duty & Associates, Inc.
Attn: David Duty
Address: 2219 Leah Drive
Hillsborough, NC 27278
Email: dduty@peteduty.com

TO TOWN: Town of Apex
Attention: Michael Deaton, P.E.
Address: PO Box 250
Apex, NC 27502

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. BINDING EFFECT.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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 Pete Duty + Associates

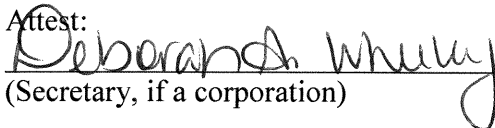
Town of Apex

Name: David Duty

Randal E. Vosburg, Town Manager

By: 
(Signature)

Title: President

Attest: 
(Secretary, if a corporation)

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

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

Antwan Morrison, Finance Director

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Michael S. Deaton, P.E., Director

Department(s): Water Resources

Requested Motion

Motion to approve a Master Services Agreement between Southern Grounds Control, Inc., and the Town of Apex, effective October 8, 2024 through September 30, 2027, to perform emergency on-call services for water or sewer valve and service tap or main repair, replacement, or installation and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

This agreement extends Southern Grounds Control, Inc., services through a new 3-year agreement. Upon request, Southern Grounds Control, Inc. will provide all labor, materials, and equipment necessary to perform water or sewer valve and service tap or main repair, replacement, or installation. Contractor will provide a quote and scope of service at the time of request for service by the Town.

Attachment

- CN6-A1: Contract- Multi-Year - Southern Grounds Control, Inc. - On-Call Services



STATE OF NORTH CAROLINA

Contract Identification # _____

COUNTY OF WAKE

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (hereinafter "Agreement") is entered into this the _____ day of _____, 2024, by and between, Southern Grounds Control, Inc. a North Carolina Corporation with its principal business offices located at 7113 Beaver Trail, Apex, NC 27502 (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:

WHEREAS, Town, is engaged in the operation of water and sewer utilities including pipes, drains, facilities and associated equipment, which from time to time requires maintenance, repair, installation, removal testing, and inspection as well as other projects related to wastewater treatment and soil and erosion control; and

WHEREAS, the professional services of outside firms or consultants and/or others will from time to time in the future be needed by the Town for the services as described above; and

WHEREAS, Contractor provides professional services of the nature required by the Town and employs trained and experienced technical personnel possessing adequate knowledge, skills, and experience to provide such professional services to the Town; and

WHEREAS, the Parties contemplate that the services of the Contractor will be performed in various stages in accordance with separate authorizations to be issued by the Town, and the Parties desire to set forth the basic terms of their agreement in this Master Services Agreement rather than in the separate authorizations issued by the Town; and

WHEREAS, the Parties acknowledge and agree that this Agreement shall act as a base agreement under which the Parties can enter into multiple specific transactions by executing a Purchase Order and written confirmation to proceed pursuant to a Scope of Services, quote, and/or rate sheet; and

WHEREAS, the Parties agree that this Agreement is non-exclusive and does not require or commit the Contractor to being available to perform services until a Scope of Services and quote is submitted, and does not preclude the Town from hiring other vendors or contractors to perform the same or similar work.

NOW THEREFORE, in consideration of the foregoing recitals, and the premises and mutual covenants herein contained, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereto do contract and agree as follows:

1. SCOPE OF SERVICES.

The Contractor agrees to perform for the Town the following general services when requested by the Town: All labor, materials, and equipment necessary to perform emergency on-call services as requested at the prices provided in a quote by the Contractor for each individual water or sewer valve and service tap or main repair, replacement, or installation.

When service is requested by the Town, Contractor shall provide a detailed Scope of Services and quote that shall be governed by the terms of this Agreement. If a rate sheet is provided and attached to this Agreement then the quote shall be consistent with the rate sheet. The quote and Scope of Services shall reference this Agreement and this Agreement shall be incorporated into and made a part of the Scope of Services and quote whether or not expressly incorporated by reference in the Scope of Services and quote.

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

2. SPECIFICATIONS.

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 the provided plans and specifications and this Agreement, this Agreement shall control.

3. TIME OF COMMENCEMENT AND COMPLETION.

This Agreement shall terminate on October 31, 2027 unless terminated sooner in accordance with the terms of this Agreement. Contractor shall commence and complete the work required by this Agreement in accordance with the dates provided in the Scope of Services as agreed upon by the Parties. Contractor shall immediately notify the Town of any event or circumstance that may, immediately or in the future, impede the proper and timely execution of any work so that remedial action may be taken. Contractor shall not begin any work pursuant to this Agreement or a Scope of Services until written confirmation has been provided by the Town. The Parties hereby agree that written confirmation may be provided through electronic communication from the Town's representative identified in Section 13 of this Agreement. 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 Scope of Services 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 amount authorized by the issued Purchase Order corresponding to the agreed upon Scope of Services and quote. After services are agreed upon pursuant to this Agreement and the associated Scopes of Service, Contractor will invoice the Town for work performed. 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 within thirty (30) days of receipt 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 contract 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. 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. Contractor shall provide services in accordance with all federal, state and local law and 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 the Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina.

9. 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.

10. PRE-PROJECT SAFETY REVIEW MEETING.

If requested by the Town, 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.

11. 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.

12. 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.

13. 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: Contractor: Southern Grounds Control, Inc.
Attn: Brian Yates
Address: 7113 Beaver Trail
Apex, NC 27502
Email: sogrounds@gmail.com

TO TOWN:
Attention: Town of Apex
Address: Michael Deaton, P.E.
PO Box 250
Apex, NC 27502

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. BINDING EFFECT.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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.

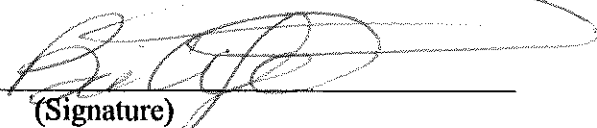
28. ELECTRONIC SIGNATURE.

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

Name: Brian C Yates

By: 
(Signature)

Title: President

Attest: 
(Secretary, if a corporation)

Town of Apex

Randal E. Vosburg, Town Manager

Attest:

Allen L. Coleman, CMC, NCCCC
Town Clerk

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

Antwan Morrison, Finance Director

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

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:

- September 10, 2024 - Regular Town Council Meeting
- September 17, 2024 - Town Council Work Session
- September 24, 2024 - Town Council Meeting 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 - September 10, 2024 - Regular Town Council Meeting Minutes
- CN7-A2: **DRAFT** Minutes - September 17, 2024 - Town Council Work Session Minutes
- CN7-A3: **DRAFT** Minutes - September 24, 2024 - Regular Town Council Meeting Minutes



DRAFT MINUTES

TOWN OF APEX REGULAR TOWN COUNCIL MEETING TUESDAY, SEPTEMBER 10, 2024 6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, September 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=vTsUNBFxa7I>

[ATTENDANCE]

Elected Body

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

Town Staff

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

[COMMECEMENT]

Mayor Gilbert called the meeting to order, and said it was honor to serve in this roll. He said that there were colors posted by a combination of the Honor Guard of the Apex Fire Department and Apex Police Department. He then led those in attendance in the reciting of the Pledge of Allegiance. He said he wanted to give a special appreciation to the Apex Fire Department and Apex Police Department for the display.

Mayor Gilbert then took a moment of silence for the invocation.

[CONSENT AGENDA]

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (5-0)

CN1 Agreement Amendment No. 1 - Town of Cary - Remix Transit Planning Software Cost Reimbursement - August 1, 2024 through July 31, 2025 (CONT-2024-258)

Council voted to approve an Agreement Amendment No. 1 between the Town of Cary and the Town of Apex for Remix Transit Planning software cost reimbursement, to assist with long range transit planning, not to exceed \$8,500, effective August 1, 2024 and ending July 31, 2025, and to authorize the Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN2 Annexation No. 788 - Oliver Property - Hie Olive Road - 15.9428 acres (REF: RES-2024-048, RES-2024-049, AND OTHER-2024-094)

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 September 24, 2024, on the Question of Annexation - Apex Town Council's intent to annex 15.9428 acres, known as Oliver Property - Hie Olive Road, Annexation No. 788, into the Town Corporate limits.

CN3 Appointments - Transit Advisory Committee (TAC)

Council voted to reappoint Linda Barrett to the Transit Advisory Committee (TAC) for a three-year (3) term expiring July 31, 2027.

AND Council voted to appoint Patrick Kirkley (new) and Wendy Perry (new) to the Transit Advisory Committee (TAC) for a three-year (3) term expiring July 31, 2027.

AND Council voted to appoint Frances Williams (new) to the Transit Advisory Committee for a partial term, previously occupied by Stuart Wagner, expiring July 31, 2025.

CN4 Contract Multi-Year - Clearwater Inc. - Master Services Agreement - Wastewater, Pp Station, Water Distribution Repairs, Replacements, and New Installations - October 1 2024 through September 30, 2027 (CONT-2024-259)

Council voted to approve a Master Services Agreement (MSA) between Clearwater, Inc. and the Town of Apex, to perform wastewater, pp station, water distribution repairs, replacements, and new installation as needed, effective through September 30, 2027 and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN5 Contract Multi-Year - Jack Moore and Associates - Master Services Agreement - Emergency Preventative Maintenance and Repair Elevated Water Towers - October 1 2024 through September 30, 2027 (CONT-2024-260)

Council voted to approve a Master Services Agreement (MSA) between Jack Moore & Associates, Inc. and the Town of Apex, to perform emergency preventative maintenance and repair for water appurtenances and altitude valve maintenance at water towers, effective

through September 30, 2027, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN6 Contract Multi-Year - KB Power Systems - Master Services Agreement - Emergency Electrical and Alternative Power Services at Town Facilities and Pp Stations - October 1 2024 through September 30, 2027 (CONT-2024-261)

Council voted to approve a Master Services Agreement (MSA) between KB Power Systems, LLC. and the Town of Apex, to perform emergency electrical and alternative power services at Town facilities and pp stations, effective through September 30, 2027, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN7 Contract Multi-Year - Vision NC LLC - Master Services Agreement - Emergency Pp and Haul, Pipe Cleaning, Video Inspection, and Flow Monitoring Services - October 1 2024 through September 30, 2027 (CONT-2024-262)

Council voted to approve a Master Services Agreement (MSA) between Vision NC, LLC., and the Town of Apex, to perform emergency pp and haul, pipe cleaning, video inspection, and flow monitoring services, effective through September 30, 2027 and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN8 Council Meeting Minutes - Various

Council voted to approve Meeting Minutes from the following meetings:

August 13, 2024 - Regular Town Council Meeting

August 20, 2024 - Town Council Work Session

CN9 Electronic Signature Policy - Amendment - Formal Bidding Range Electronic Signature Authorization (REF: PLCY-2024-011)

Council voted to approve amended Town of Apex Electronic Signature Policy, to allow electronic signatures for contracts in the formal bidding range, effective September 10, 2024.

CN10 Resolution Supporting Abandonment of a Portion of Chapel Ridge Road by North Carolina Department of Transportation (NCDOT) (REF: RES-2024-050)

Council voted to adopt a Resolution Supporting Abandonment of a Portion of Chapel Ridge Road (SR 1197, Wake County) by the North Carolina Department of Transportation.

CN11 Rezoning Case No. 23CZ24 - 1405 and 1407 Zeno Rd - Statement and Ordinance (REF: ORD-2024 (REF: ORD-2024-071)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ24, East West Partners Management Co, petitioner, for the properties located at 1405 and 1407 Zeno Road.

CN12 Rezoning Case No. 24CZ07 - The Townes at Parkside PUD - Statement and Ordinance (REF: ORD-2024-072)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 24CZ07 The Townes at Parkside PUD, Charm City Developers, LLC, petitioner, for the property located at 0 Olive Chapel Road and portion of 2437 Olive Chapel Road (PINs 0721572670, 0721585231 portion of).

CN13 Rezoning Case No. 24CZ13 - La Farm Bakery - Statement and Ordinance (REF: ORD-2024-073)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 24CZ13 La Farm Bakery, petitioner, for the property located at 202 South Salem Street (PIN 0742306498).

CN14 Veridea Pattern Book - Statement of Town Council (REF: OTHER-2024-095)

Council voted to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Veridea Pattern Book approved on August 27, 2024.

CN15 Tax Report - June and July 2024 (REF: OTHER-2024-096 AND OTHER-2024-097)

Council voted to approve Apex Tax Reports dated July 8, 2024 and August 6, 2024.

[PRESENTATIONS]

PR1 Proclamation - Italian American Heritage Month 2024 - October 2024 (REF: PRO-2024-024)

Mayor Gilbert invited the Council in the reading of the Proclamation for Italian American Heritage Month 2024.

Mayor Gilbert invited Michael D'Amore to come up and receive the proclamation and take a picture.

Mr. D'Amore thanked the Town of Apex, all of the representatives and citizens. He said that you may notice from all the traffic that has built up over the years that some Italians are coming down here from traditional enclaves like New York, Connecticut, and Pennsylvania. He said that this isn't Italians first time coming to North Carolina. He said Italians came here as one of the oldest original settlements, fleeing due to persecution. He said the town of Valdese in the mountains was settled by Italians and today, there is a welcoming community. He said that Apex is hosting its first Festa Italiana and celebrating its second Italian American Month Proclamation. He invited all to attend on September 21st from 11 AM to 7 PM to experience the richness of the culture. He thanked everyone.

PR2 Proclamation - National Hispanic Heritage Month 2024 - September 15 through October 15, 2024 (REF: PRO-2024-025)

Mayor Gilbert invited the Council in the reading of the Proclamation of National Hispanic Heritage Month 2024.

Mayor Gilbert invited Pastor Jose Luis Villasenor, with Fiesta Christiana, Juan Ortega, Pilar Rocha-Goldberg, and Mauricio Solano to come up and receive the proclamation and take a picture.

Pastor Villasenor thanked Mayor Gilbert, the Town Council and friends and family who were in attendance, on behalf of the Hispanic and Latino Community. He said that this

celebration is for the history, culture and contributions of Hispanic Americans. He said he had been a resident in Apex for 17 years. He said he accepts the challenge to continue to protect and advocate for all people to be treated with respect and dignity.

Mr. Ortega invited everyone to the Hispanic Heritage Festival Saturday, September 28th from 3:00 pm – 9:00 pm. He thanked the community for the support.

PR3 Proclamation - Patriot Day 2024 - September 11, 2024 (REF: PRO-2024-026)

Mayor Gilbert invited the Council in the reading of the Proclamation for Patriot Day 2024.

Mayor Gilbert invited the Apex Police Department and Apex Fire Department to accept the Proclamation and take pictures.

Fire Chief Tim Herman said that it was an honor to be representing the men and women of the Fire Department. He thanked Mayor Gilbert and Council for remembering and all the support that they give.

Police Chief Jason Armstrong thanked Mayor Gilbert and the Council for supporting the Apex Fire Department. He said that September 11, 2001 is a reminder that any day can be changed in a second. He said the Fire men and women are committed to serving every day.

Mayor Gilbert invited members of the Apex American Legion Post 124 to also receive the Proclamation for Patriots Day 2024 and take a picture.

An American Legion member thanked the Town on behalf of the men and women in Apex Post 124 in the American Legion. She said she was in the Pentagon 23 years ago on September 11, 2001. She said it is not a good day, but she appreciated the Town's support, and it is an honor. She thanked Mayor Gilbert and Council members for remembering and thanked them again.

Mayor Gilbert said he wanted to remind the community that Apex would be hosting the Patriot Day Memorial ceremony tomorrow, September 11, 2024 at 9:30 a.m.

PR4 Carolina Academy of Performing Arts (CAPA) - Potential Apex Site

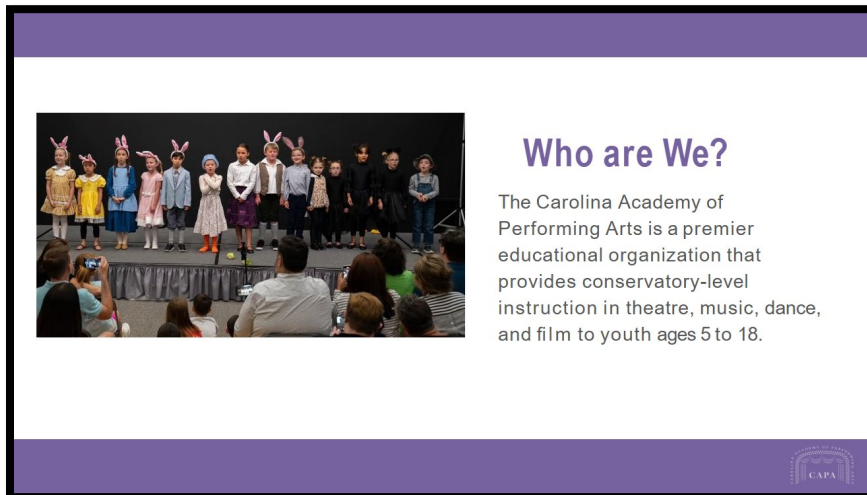
Mayor Gilbert introduced Tracy Weeks, *President, Carolina Academy of Performing Arts Theatre Inc.*

Ms. Weeks introduced Melanie Prince, Founder and Artistic Director and Reed Jacob, Vice President of the Board. She said that CAPA is a premier educational organization that focuses on Conservatory Level Training for the Performing Arts. She gave information on what CAPA stands for and their vision. She gave the following presentation:

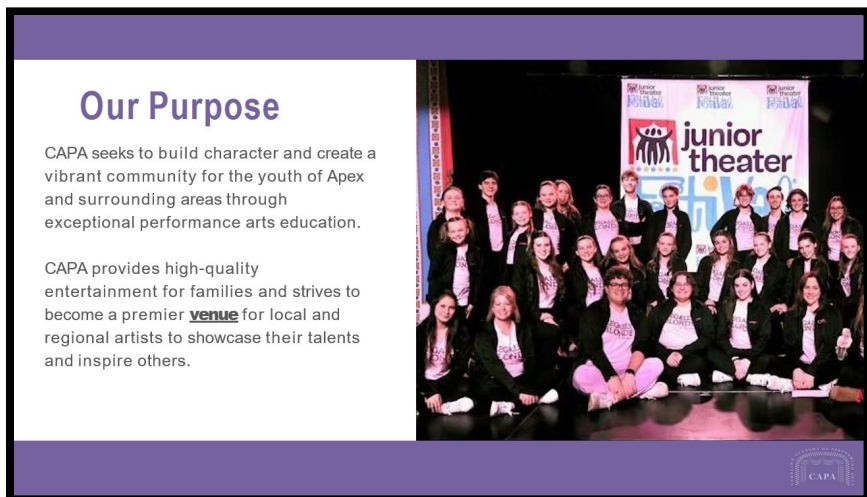
1 **[SLIDE 1]**



2
3 **[SLIDE 2]**



4
5 **[SLIDE 3]**



6

Ms. Prince spoke about the History of CAPA and gave the following presentation:
[SLIDE 4]




[SLIDE 5]



Ms. Weeks spoke on how CAPA could work with Apex and gave the following presentation.


1 [SLIDE 6]



Why We're Here

CAPA would like to partner with the community to elevate the performing arts in Apex and help drive growth.

Our key need is adequate rehearsal and performance space. CAPA needs a place to call HOME.



2
3 [SLIDE 7]

Why does Space matter?

- Dedicated facilities for instruction
- Ability to expand our programs
- **Ability to accommodate all interested students**
- Proper rehearsal and performance spaces
- Storage for costumes, props, and equipment
- Performance space that can support proper sets, cast sizes, and audience sizes
- *Other arts programs are closing because of space challenges!*

**We want to do more and give more
to the communities we serve!**



4
5 [SLIDE 8]

Current Performance Spaces are Inadequate

Where CAPA has searched:	Space Challenges:
<ul style="list-style-type: none">• Churches• Halle• Fuquay-Varina Arts Center• Holly Springs Cultural Center• Cary Arts Center• Fletcher• Wake County Schools• Universities	<ul style="list-style-type: none">• Seating Capacity• Wing Space• Stage Size• Technical Capacity• Expense• Distance• Bureaucracy• Availability



6

1 **[SLIDE 9]**

Long-term plans

Fundraising goal: \$40M for a permanent theatre

Timeline: 2 years to build

Plans for self-sustainability:

- Ticket sales from performances
- Workshop fees
- Summer programs
- Facility rentals
- Patrons
- Resident Programs
- Volunteers







2
3 **Mr. Jacob** spoke on the facilities and gave the following presentation:

4 **[SLIDE 10]**

Partnerships

John Storyk, co-founder of WSDG, an architectural and sound design firm, has partnered with CAPA to design and build our dream space.




1 **[SLIDE 11]**

CAPA Theatre Plans

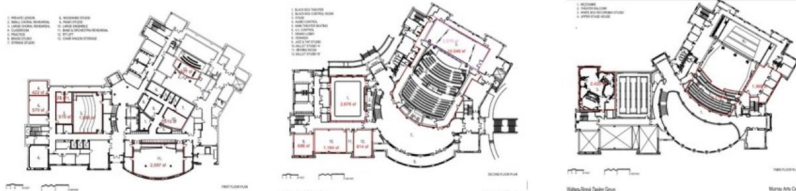
New 50,000 ft² facility will house:

- Main proscenium stage with seating capacity for 600-1000 seats
- A secondary flexible box theater with 150-200 seats
- Rehearsal spaces dedicated to dance, music, and theatre
- Educational spaces, including classrooms, library resource center, and acting studios
- Support film/audio recording
- Storage and administration spaces



MURRAY ARTS CENTER

<https://www.mtparamschool.com/arts/murray-arts-center>



2
3 **Ms. Weeks** spoke how this would benefit Apex and gave the following presentation:

4 **[SLIDE 12]**


Benefits of CAPA to Apex

**A Welcoming
Community**

**High Performing
Government**

Economic Vitality

- Increased youth engagement in positive after-school activities
- Cultural enrichment through performances and events
- Potential economic impact: • Audience attraction for performances • Increased foot traffic for local businesses
- Improved city image as a supporter of arts and youth



1 **[SLIDE 13]**


A Community Partnership

- Assistance with identification of suitable temporary facilities and long term location
 - Potential city-owned properties
 - Available land
- Introductions to key stakeholders or potential donors
- Support with grant applications for arts funding
- Waive town taxes
- Tax credits for investors and businesses
- Partnerships with county/other townships






2
3 **[SLIDE 14]**


Apex: The PEAK of Performing Arts!



4
5 **[SLIDE 15]**

Thank you

		
Tracy Weeks President Tracy@mycapa.org	Reed Jacob Vice-President Reed@mycapa.org	Melanie Prince, Founder/Artistic Director Melanie@mycapa.org



6

1
2 **Ms. Weeks** asked if there were any questions.

3 **Mayor Gilbert** thanked Ms. Weeks for coming in and sharing the vision. He said that
4 the performances by CAPA were extraordinary, and we would love to

5 **Councilmember Zegerman** asked about what size property CAPA was looking for.

6 **Ms. Weeks** said likely 20 to 25 acres for adequate parking and the potential room for
7 expansion.

8 **Councilmember Gantt** asked if there was a model of a city that has done this in the
9 last 10 years.

10 **Ms. Weeks** said that DPAC in Durham is a public-private partnership, and gave some
11 other examples that they can learn lessons from, like Roanoke Rapids.

12 **Councilmember Gantt** asked for an example of similarly sized town that has
13 partnered with a municipality or County.

14 **Ms. Weeks** said that you would have to go outside the Performing Arts and look at
15 other examples like sports programs.

16 **Councilmember Mahaffey** asked if they had any ideas of where they would like to
17 have this theater.

18 **Ms. Weeks** said that Apex would be the location, but that finding the right balance for
19 space and development around this.

20 **Ms. Prince** said that she would like to see Professional acts come through, as well. She
21 said she would like this to be a destination location. She said that she would like to embrace
22 the outlying areas of Apex.

23 **Councilmember Mahaffey** asked about the fundraising process and goals.

24 **Ms. Weeks** said that they are in the early stages of fundraising.

25 **Councilmember Zegerman** asked if they had any meetings with Apex staff.

26 **Ms. Weeks** said that they had met with Mayor Gilbert.

27 **Councilmember Killingsworth** said that logistics would be the biggest challenge but
28 supported the idea.

29 **Mayor Gilbert** thanked them and encouraged them to continue planning.

30
31 **Mayor Gilbert** moved to set the regular meeting Agenda.

32
33
34 **[REGULAR MEETING AGENDA]**

35
36 **Mayor Gilbert** said that there was an add-on Closed Session NCGS §143-
37 318.11(a)(3): Williams vs. the Town of Apex.

38
39 A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore**
40 **Gray** to approve the Regular Agenda, with the addition of the Closed Session for Williams vs.
41 Town of Apex.
42

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM]

Mayor Gilbert opened up Public Fors and invited the first speaker up.

First to speak was **Dawn Cozzalino** of 3632 Bosco Road:

"Good evening, simple presentation tonight messages town of Apex planning and transportation are emitting the secondary roads so the secondary roads on this map are all the purples and you can see the crashes and cars and such and there's 12 secondary roads so these aren't counted in zoning and if you notice Peak Landings right there so I want you to pay attention to that as I go through this so safety's easy comes with analyzing data, right? Mile post by mile post literally this is 3.1 miles and data like this shouldn't be excluded right from any planning decisions it's big decisions you're making but Peak Landing is coming out right here. There's three roads right in that area and already we've had in the past five years 60 wrecks, 104 Vehicles involved and an estimated, and this is estimated \$637,200 in damage. We're thankful no fatalities have actually happened in this area, and we want to keep it that way, right, safety first. We have even a reason to celebrate actually there's a success story warning signs were side warning signs were put here at the intersection of Bosco and that's dropped crashes on 11 out of 12 secondary roads to zero so real success story. Something you can't unsee, and you know this is where we come into the partnership with DOT, and doing traffic studies analyzing the data and helping to support the facts to make big decisions, but I as I understand a Peak Landing has not had one single engineering traffic study, volume or anything, which is interesting because, Russell Dalton's he had a November 2023 investigation in this area up here you know a Friendship intersection at Holland Road all that, you guys approved the signals which was awesome, that intersection is so dangerous and his traffic study said there was 13,260 vehicles traveling on old one which is a secondary road, 101 okay so somehow, I'm asking tonight if we can push forward that traffic study consider it because this is real data, there's real accidents, people are getting hurt, somebody's going to die and if you put two entrances right here on the bottom of a hill I don't know what's going to happen but I really want to take care of our neighborhood. I want to I really want to watch out for it, so I hope you do too. Thank you very much."

Mayor Pro Tempore Gray asked if they could keep the board she was using for a visual and they would return it to her.

Ms. Cozzolina said yes.

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

"I was listening to CAPA since the YMCA fell out why not look at that 25 acres for them to have a facility? I think Bill Baker in the Keith Corp are looking for something, so I wanted to

1 make sure you guys were aware of that. All right, to my regular comments. Tag teaming on
2 what Dawn just shared of that \$600 some thousand dollar of Damages 450,000 of it was at
3 the Friendship Holland Road Old us one intersection and Thursday of last week I was leaving
4 my house, and the end of my driveway to the intersection is 1,000 ft, it took me 24 minutes to
5 go 1,000 ft and I knew I was pulling out of my driveway at the wrong time thankfully
6 somebody was very kind let me get in but as I'm looking at everybody behind me there was a
7 school bus that was stuck in the traffic about six cars behind me and then three cars behind it
8 was an Apex police officer, who could not get out could not serve the community because he
9 was sitting or she was sitting in traffic, so things were going slow enough my neighbor picked
10 a few tomatoes came over to the car handed me a few tomatoes when he was getting his
11 mail. So, we need to do something about this and so previously we had talked about getting
12 a patrol officer out there for just certain periods of the time, and certain time periods of the
13 day. So, I think we need to put this back on the table. I should not have to wait 24 minutes to
14 go 1,000 feet. I sat and watched all of these cars playing chicken darting into Old US1. I know
15 the town had a vehicle that was called in an accident was rolled over not too long ago. So,
16 we'd like to have the conversation about what we have to do. Does the community, do we
17 need to chip in to pay for the overtime hours to have an officer out there, do we go to DOT? I
18 don't know where we start but there is going to be an email in your boxes very shortly to say
19 and help us do something for our community. I love the fact that you approved this traffic
20 light, but we've got to do something between now and then. Thank you."

21
22 **Mayor Gilbert** thanked Ms. Cozzolina and asked for the next speaker to come up.

23
24 Next speaker was **Beth Bland** of 3724 Friendship Road:

25
26 "I was at the Ag Board meeting today where the properties being affected by the force
27 main that are in is a VAD or the enhanced VAD program presented their cases. There were
28 two things that I'd like to bring to your attention, you're going to get questions from the Ag
29 Board after that meeting, they'll be coming in probably tomorrow or Friday because I think
30 they have to have answers by Friday. But the first has to do with fiscal responsibility, the force
31 main and the way it's aligned down US 1 and with knowing that there's an interchange going
32 in there's widening of the road, question is how can you be fiscally responsible when you
33 know this Force main is going to get moved? The CAMPO study has just put an interchange
34 into their 2030 plan. What I heard today it's supposed to be completed, the Force main, as far
35 as how it's set now by 2026. So, within 5 to 10 years of putting this in the ground and the
36 millions of dollars spent to do that it's going to get moved it's going to be affected. So, I
37 would just ask that you look at this again with the DOT because either the town's going to pay
38 for it, or DOT is going to be paying for it and they won't want to do that. The other question
39 that arose that I want to bring to your attention is liability, so the easement that the town is
40 going to put on all of our properties, who is liable if someone gets hurt, if someone
41 trespasses on there because now our buffer to US 1 is being taken down? So we're very
42 concerned about people coming up into our properties how that gets prevented, I don't think

1 it does, and who is liable? You have to come and you have to check, on everything with the
2 force main, if someone gets hurt on the property is the property owner liable or is the town,
3 or how does that work? So, I just wanted to make you aware there were a lot of issues that
4 came up in that meeting and I'm sure you'll have some questions that you'll need to answer.
5 So, thank you."

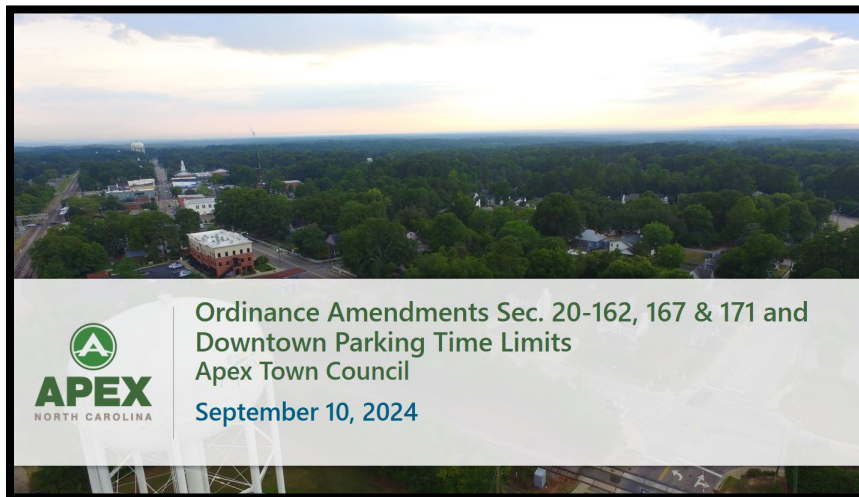
6
7 **Mayor Gilbert** thanked Ms. Bland. He said with there being no other speakers he
8 closed the Public Hearing and moved to New Business.

9
10 **[NEW BUSINESS]**

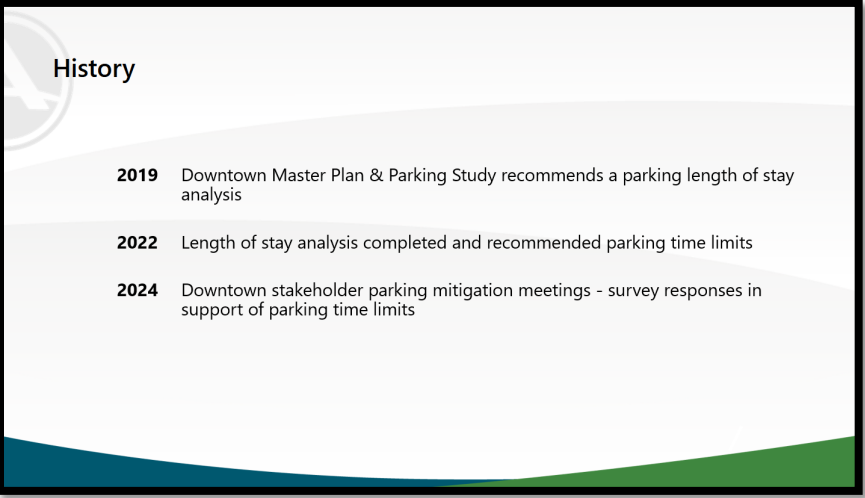
11
12 **NB1 Ordinance Amendments - Chapter 20 - Traffic, Article VIII. - Parking, Sub Sections**
13 **20-162, 167 and 171 - Downtown Parking Time Limits (REF: ORD-2024-074)**

14
15 **Russell Dalton**, Traffic Engineering Manager, Transportation and Infrastructure Dev.
16 Department gave the following presentation:

17
18 **[SLIDE 1]**



1 **[SLIDE 2]**

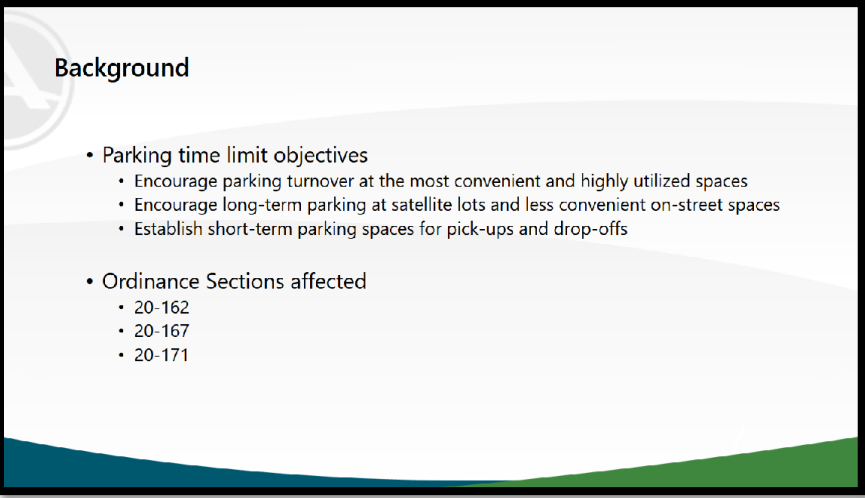


History

- 2019** Downtown Master Plan & Parking Study recommends a parking length of stay analysis
- 2022** Length of stay analysis completed and recommended parking time limits
- 2024** Downtown stakeholder parking mitigation meetings - survey responses in support of parking time limits

The slide features a light gray background with a white circular logo in the top left corner. The text is black and organized into a bulleted list. The slide is framed by a black border and has a decorative green and blue wavy shape at the bottom.

2
3 **[SLIDE 3]**

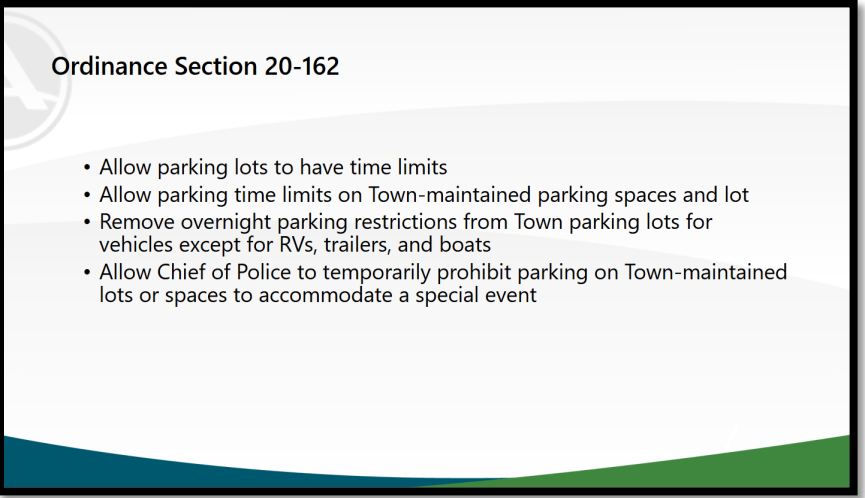


Background

- Parking time limit objectives
 - Encourage parking turnover at the most convenient and highly utilized spaces
 - Encourage long-term parking at satellite lots and less convenient on-street spaces
 - Establish short-term parking spaces for pick-ups and drop-offs
- Ordinance Sections affected
 - 20-162
 - 20-167
 - 20-171

The slide features a light gray background with a white circular logo in the top left corner. The text is black and organized into a bulleted list. The slide is framed by a black border and has a decorative green and blue wavy shape at the bottom.

4
5 **[SLIDE 4]**



Ordinance Section 20-162

- Allow parking lots to have time limits
- Allow parking time limits on Town-maintained parking spaces and lot
- Remove overnight parking restrictions from Town parking lots for vehicles except for RVs, trailers, and boats
- Allow Chief of Police to temporarily prohibit parking on Town-maintained lots or spaces to accommodate a special event

The slide features a light gray background with a white circular logo in the top left corner. The text is black and organized into a bulleted list. The slide is framed by a black border and has a decorative green and blue wavy shape at the bottom.

6

1 **[SLIDE 5]**

Ordinance Section 20-167

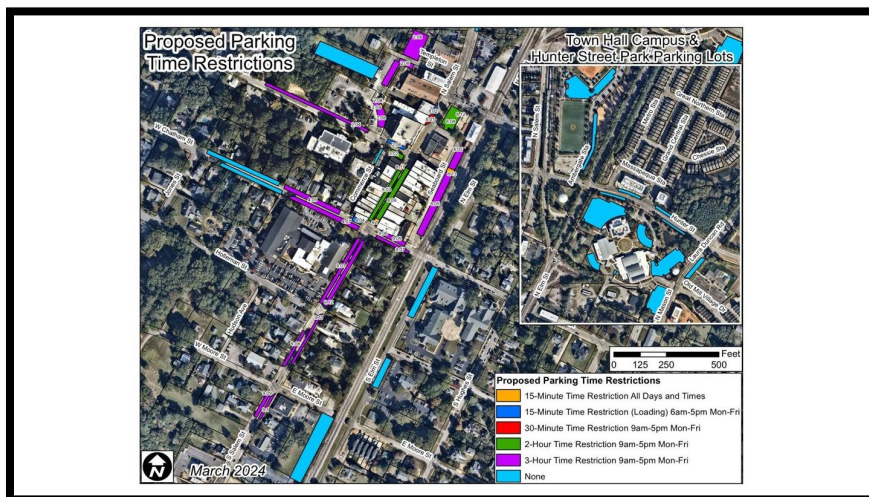
- Add a reference to the parking schedule – Traffic Schedule III, “Parking Time Limits”
- Separate violation for each interval of time a vehicle remains beyond the legal time interval designated for a limited time parking zone
- Allow the Chief of Police authority to temporarily prohibit parking in a time-limited parking area for emergency vehicle access

2
3 **[SLIDE 6]**

Proposed Downtown Apex Parking Time Limits

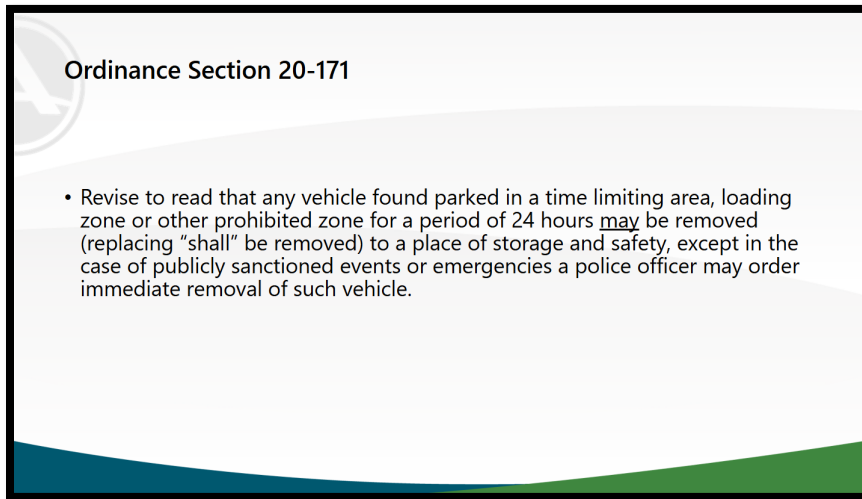
3-hour on-street parking	<ul style="list-style-type: none">• S Salem Street• E Chatham Street & W Chatham Street• Saunders Street
2-hour on-street parking	<ul style="list-style-type: none">• N Salem Street from Saunders Street to Chatham Street
3-hour off-street parking	<ul style="list-style-type: none">• Seaboard Lot• Saunders Lot spaces adjacent to businesses
2-hour off-street parking	<ul style="list-style-type: none">• Depot Lot
15-minute spaces	<ul style="list-style-type: none">• N Salem Street – one on each side• Seaboard Lot• Saunders Lot• Depot Lot

4
5 **[SLIDE 7]**

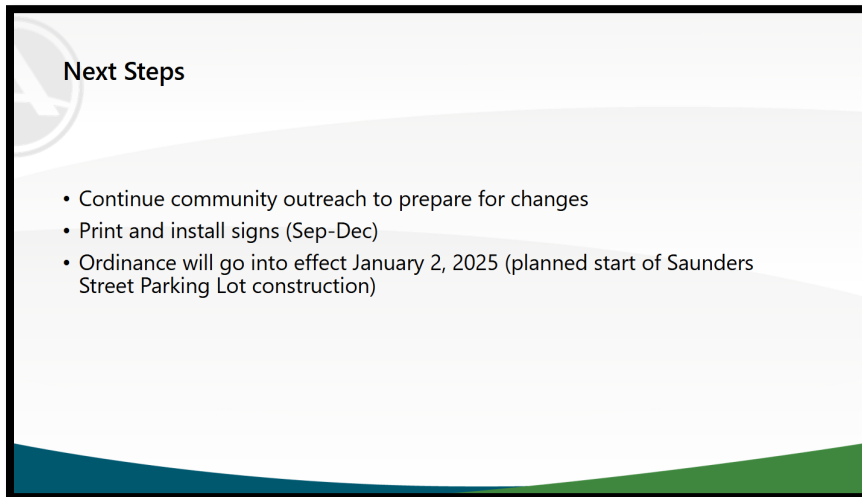


6

1 **[SLIDE 8]**



2
3 **[SLIDE 9]**



4
5 **Mr. Dalton** asked if there were any questions.

6 **Councilmember Mahaffey** asked if there were any concerns about the bid process
7 and update for the Saunders Street Lot.

8 **Mr. Dalton** said that there were no major concerns, but that questions can come up
9 from these types of bids.

10 **Councilmember Mahaffey** asked if it was still scheduled to be awarded in October.

11 **Mr. Dalton** said that was correct.

12 **Councilmember Mahaffey** asked about enforcement, and if there dedicated parking
13 for Police Officers.

14 **Captain Rosser** said that from an enforcement standpoint it would be like any other
15 new ordinance. He said it would be educating through social media and other means to
16 make the public aware before they would start enforcing it. He said they are exploring
17 options of covering this due to staffing restraints.

18 **Councilmember Mahaffey** asked if this was something a civilian could cover.

1 **Captain Rosser** said yes, civilian is an option.

2 **Councilmember Gantt** asked if this would be a complaint-based system from
3 business owners and other people in downtown.

4 **Captain Rosser** said it could be, especially the Saunders lot construction, but there
5 will be continuous monitoring from PD.

6 **Mayor Pro Tempore Gray** said that this would be a new process for the community to
7 learn. He asked if there was a plan to bring the businesses into the educating plan.

8 **Captain Rosser** there is a plan. He said they have CPOs meeting with the Downtown
9 businesses. He said it was a joint communication plan.

10 **Councilmember Zegerman** asked Mr. Dalton what feedback from the Downtown
11 employees about parking and any vision of the mitigation solutions.

12 **Mr. Dalton** said that there is a special parking team that has worked on this. He said
13 that Shannon Cox may have more information.

14 **Ms. Cox** said that she was not prepared to do a full update. She said that recently
15 there was a Downtown business outreach and coordination survey. She said that it was
16 specifically focused on the employee shuttle that the Council had asked to be investigated.
17 She said that they are working on these results now.

18 **Mayor Gilbert** asked Captain Rosser how much the ticket violation would cost.

19 **Captain Rosser** said he was not sure, but would get that to him

20 **Mayor Gilbert** asked if it was the cost of court.

21 **Captain Rosser** said he thought \$30.00. He said that the penalty was changed to Civil
22 which took the court cost piece out, unless a criminal citation is writte..

23
24 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
25 **Gantt**, to adopt Ordinance Amendments - Chapter 20 - Traffic, Article VIII. - Parking, Sub
26 Sections 20-162, 167 and 171 - Downtown Parking Time Limits.

27
28 **VOTE: UNANIMOUS (5-0)**

29
30 **Mayor Pro Tempore Gray** wished Mayor Gilbert a Happy Birthday. He asked anyone
31 attending to sing Happy Birthday.

32
33 **[UPDATES BY TOWN MANAGER]**

34
35 **Town Manager Vosburg** gave an update on the Utility Bill situation. He said they have
36 put more Customer Service in place and doubled the number of employees that are taking
37 calls to try to eliminate the wait times. He said the amount of time spent with each customer is
38 the reason for the long wait times. He said there are still some phone issues. He said they had
39 to go back to their old phone while this is being fixed, and they implemented a system for
40 leaving messages. He said that beginning on Thursday they would have extended hours, until
41 6:30 PM. He said that because of some of the issues with rebuilding the system, there is a
42 delay in the data entry which are trying to be caught up before the next billing cycle. He said

that they are avoiding service to be cut off and penalties, so residents should not be concerned about that. He said there upticks at certain times during the day, so they are encouraging citizens to use the off-peak times. He said that in the e-suite portal, the residents can analyze their data themselves, which can help with answering some of the questions. He said they will continue to generate paper bills. He will also be utilizing a 3rd party in the future to review the utility bills that were issued during this time to work on reconciliation and work with Apex. He said he wanted to thank the residents for their patience. He said he also wanted to thank the staff for how diligently they are working.

Councilmember Mahaffey thanked Town Manager Vosburg for the update. He was happy to see capacity for customer service increased for this. He said it was good to hear to have a 3rd party to be brought in to reconcile this.

Mayor Pro Tempore Gray said that throughout this billing disruption that the town is not turning off water or utilities if someone can't pay their bill.

[CLOSED SESSION]

A motion was made was made by **Councilmember Killingsworth** and seconded by **Councilmember Zegerman** to enter into closed session pursuant to **NCGS §143-318.11(a)(5) and NCGS §143-318.11(a)(3)**.

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **7:16** p.m.

**CS1 Steve Adams, Utilities Acquisition and Real Estate Specialist
NCGS § 143-318.11(a)(5):**

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease."

**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 - ADDED CS3 Mayor Gilbert - RE: Williams v. Town of Apex
NCGS § 143-318.11(a)(3)**

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

Council returned to Open Session at **7:52** p.m.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at **7:53** p.m.

Jacques K. Gilbert
Mayor

Allen Coleman, CMC, NCCCC

Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on _____.

DRAFT MINUTES

TOWN OF APEX TOWN COUNCIL WORK SESSION TUESDAY, SEPTEMBER 17, 2024 3:30 P.M.

The Apex Town Council met for a work session on Tuesday, September 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:

[2024.09.17 Town Council Work Session - You Tube](#)

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)

Mayor Pro-Tempore Ed Gray

Councilmember Brett Gantt (*arrived late*)

Councilmember Arno Zegerman

Councilmember Audra Killingsworth (*arrived late*)

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

Parks, Recreation, and Cultural Resources Director Craig Setzer

Special Events Manager Lisa Raschke

Planning Director Dianne Khin

All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 3:34 p.m., welcomed everyone, and led everyone in the pledge of allegiance.

[SPECIAL EVENTS PROCESS REVIEW]

Mayor Gilbert asked Town Manager Randy Vosburg to begin with the Special Events Process Review.

Town Manager Vosburg, thanked the Mayor and the Council. He said that there were two documents to review. He said that the first one was a slideshow, and one is the policy. He said that they were in draft form and that this presentation was for discussion. He thanked the Staff that have worked on this. He introduced Lisa Raschke, Special Events Manager of Parks, Recreation and Culture Resources Department, to give an overview of the Special Events Process.

Councilmember Gantt arrived at 3:36 p.m.

Ms. Raschke gave the following presentation on Special Events Process Review.

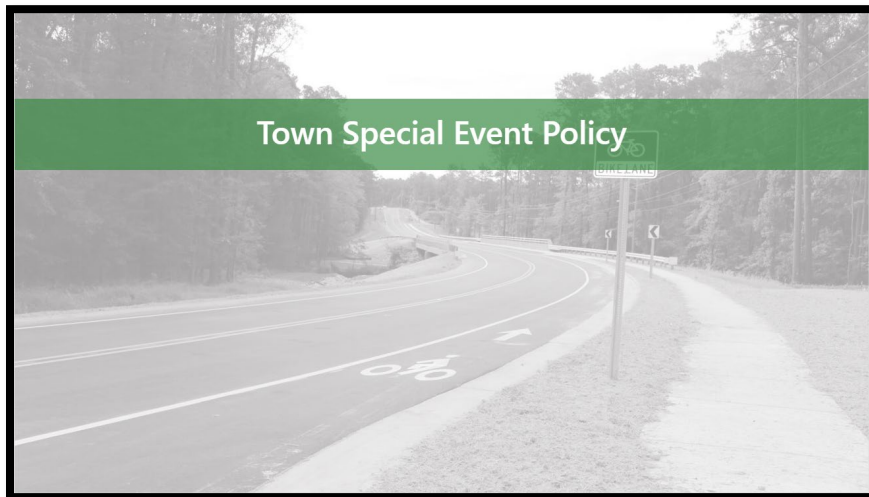
[SLIDE 1]



1 [SLIDE 2]



2
3 [SLIDE 3]



4
5 [SLIDE 4]



6

1 **Ms. Raschke** said that at this time it is at the discretion of the community organizer if
2 they want to have political parties at community events. She said that Peakfest had allowed
3 both the Republicans and the Democrats at the event. She said for Town events there was
4 information in the policy that the Town may not want to have political parties at events.

5 **Councilmember Mahaffey** asked for clarity of what the political parties could not do.

6 **Ms. Raschke** said that all political parties can walk around and hand out fliers, but that
7 they may not be allowed to be a vendor and set up tables. She said that there is no verbiage
8 at this time about if there can or can't be political parties and they want to clarify the
9 ordinance.

10 **Councilmember Mahaffey** said that makes sense, but that there could be
11 organizations which are viewed as highly partisan and that they may want a table.

12 **Ms. Raschke** said that when the Latino Arts Festival had groups that wanted to do
13 voter registration and she checked with Legal, and that were allowed. She said that when she
14 gets requests, she asks Legal if it is safe to move forward. She clarified that they would not
15 have political parties be able to table at the events.

16 **Mayor Pro Tempore Gray** asked what the concern is for having political parties.

17 **Ms. Raschke** said that the concern is trying to stay as nonpartisan as possible, and that
18 once they say yes to one, then they say yes to all. She said that having some verbiage that say
19 no political parties, and then she would work with Legal if there were questions. She said it
20 would be up to the Council, but having parameters would help.

21 **Town Manager Vosburg** said that it went beyond political parties when you get an
22 individual. He said that when there is an individual candidate is where there could be issues.
23 He said the approach was not to allow any political parties at Town events but did open up for
24 discussion.

25 **Councilmember Zegerman** gave examples of how this could be an issue. He said
26 that they could not say one or the other parties can't participate. He added that this could go
27 against the goal of inclusion, and some groups would have close political affiliations even if
28 they aren't parties.

29 **Councilmember Gantt** asked Councilmember Zegerman to clarify.

30 **Councilmember Zegerman** said that March for Liberty could be an example.

31 **Mayor Gilbert** asked Town Attorney Laurie Hohe to speak.

32 **Town Attorney Hohe** said that this was like the Town's rules about signage on Town
33 property, so that there is not an appearance that the Town is supporting one group or another
34 or one candidate.

35 **Mayor Gilbert** remarked about the amount of events the town does.

36 **Ms. Raschke** said that anybody is welcome to be at the events but who the Town
37 chooses to table is something different.

38 **Councilmember Zegerman** wondered if this was creating more problems. He said
39 that asking Legal makes this an arbitration scenario.

40 **Mayor Gilbert** said that it puts the Town staff in the position to make decisions about
41 this, and he doesn't like that.

1 **Councilmember Gantt** asked Mayor Gilbert if adding stronger language to the policy
2 helps with that.

3 **Mayor Gilbert** said yes.

4 **Director Setzer** said space for vendors was also a concern, and the possibility of bad
5 appearance if one party or candidate wanted to table and another didn't.

6 **Town Attorney Hohe** said that this would not prohibit them from coming to the event,
7 talking to people, handing out fliers etc., it would only prohibit political groups/candidates
8 from having vendor space.

9 **Councilmember Mahaffey** asked if a currently elected official who wanted to meet
10 with their constituents be allowed to be a vendor.

11 **Town Attorney Hohe** said that it would still be a partisan political activity.

12 **Councilmember Gantt** said that they are effectively running all the time.

13 **Councilmember Mahaffey** said that he had some concerns that making judgement
14 calls might not work. He said that that the only place where this is happening is a Community
15 Festival so this is not actually happening today.

16 **Councilmember Zegerman** said he shared some concerns, but was willing to go with
17 staff recommendations. He said that he did have concerns of proxies that now need to be
18 checked instead of the party of the candidate alone.

19 **Town Manager Vosburg** said that this would also come up later in the discussion
20 when sponsorships are talked about. He said that they would ask a little grace from Council
21 and that they were going to navigate this the best way that they can. He said that there may
22 be some things they don't know about an organization.

23 **Mayor Pro Tempore Gray** said that he liked where this was going but wanted to think
24 about the benefits, consequences, and how this could create some unintended issues.

25 **Councilmember Zegerman** asked what language was added and the problem in
26 regards to inclusion.

27
28 **Councilmember Killingsworth** arrived at 3:47 p.m.
29

30 **Ms. Raschke** said that she wanted to bring attention to the non-discrimination clause
31 and that she was on a special event committee for Regional People of the Southeast. She said
32 that they talk about inclusion and that all people are included in the festivals. She said it was a
33 big focus for the event this year.

34 **Mayor Gilbert** asked if everyone was ok with this.
35
36
37
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1 **[SLIDE 5]**

SECTIONS OF NOTE

Alcohol

Do you want alcohol allowed at Town Events?

- **Vendor Fee**
We surveyed other municipalities on their fees, which range from \$0 - \$500.00. All vendors face the same risks in attending an event. They do not have any guaranteed revenue and have to pay for a vendor fee, merchandise, supplies, and staffing up front. We currently charge the following rates:

TYPE	FEE
Non-Profit	\$0
Small Business	\$50
Commercial Business	\$100
Food Truck	\$100
Alcohol	\$300

- **Security** – The APD’s direction is to have extra officers to patrol the ABC permit areas.
- **Social District** – Alcohol vendors prefer social districts where guests can walk more freely with their beverages.

2
3 **Ms. Raschke** said that there was alcohol at the Juneteenth event. She said she had 4
4 questions for Council. She asked if the Council wanted to allow alcohol at Town Events.

5 **Mayor Gilbert** said yes

6 **Councilmember Killingsworth** said yes.

7 **Councilmember Gantt** said no.

8 **Councilmember Mahaffey** said no, and that it was a liability issue for the Town.

9 **Councilmember Gantt** said that he thought that Town Sponsored events are
10 supposed to be usually more family friendly and not just adults. He said that Pigfest is more
11 adult focused, and it’s a community event.

12 **Ms. Raschke** said that she has a table that shows what other municipalities are doing.
13 She said that she wanted to know what direction the Council wanted to take and if they say
14 yes to alcohol, then there are 3 other follow-up questions.

15 **Mayor Gilbert** asked what Cary was doing.

16 **Ms. Raschke** said that Cary does have a social district downtown, and they contract
17 with a third-party, and everything goes through the third party. She said that Cary does not try
18 to make any money off their vendors because they already have a third-party vendor that
19 handles most of their events.

20 **Councilmember Zegerman** said that setting up alcohol vending at events is different
21 than a social district.

22 **Ms. Raschke** said that the first piece is whether the Town wants to have alcohol at
23 Town events.

24 **Mayor Gilbert** asked if there were any issues at the one that had alcohol recently.

25 **Ms. Raschke** said that there were no issues with alcohol.

26 **Mayor Gilbert** said that there can be alcohol on Town property in a Community Event.
27 He asked what the difference was if this is on Town property for Town Event versus
28 Community event.

1 **Ms. Raschke** said that we can't hold an ABC permit, so when they do it they assume
2 liability. She said that what they were trying to put forward if we do have alcohol that the
3 liability is with the vendor and not with the Town, which is part of the next question.

4 **Councilmember Zegerman** asked if most of the vendors already have an ABC permit
5 and if that would have to be checked.

6 **Ms. Raschke** said yes. She said that most breweries already have an ABC offsite
7 permit.

8 **Mayor Gilbert** said that there are police officers with the operation with alcohol.

9 **Ms. Raschke** said that was question number three. She said Apex goes a step above
10 and beyond with security. She said that they have security at the event and if they have an
11 ABC boundary, they have extra police that is determined by the Apex Police Department.

12 **Mayor Gilbert** said that his point was whether the Town sponsored the event versus
13 Community events you still have to have police officers there to control the alcohol concern.
14 He asked was the difference in the liability was if Apex was providing police, wouldn't the
15 liability still be on Apex?

16 **Mayor Pro Tempore Gray** said that the concern is being associated with a community
17 event that has to go through all of the ABC permitting. He said vendors would be doing this.

18 **Ms. Raschke** explained which types of vendors would have or have to get ABC
19 permits and which ones are not allowed. She said it would vary by the vendor that would be
20 chosen.

21 **Mayor Pro Tempore Gray** said that would be seems to be where the real limiting
22 factor will be and the extension of the of the ABC permitting.

23 **Ms. Raschke** said that some municipalities just use local distributors, or Cary goes
24 through the third party a lot.

25 **Councilmember Zegerman** asked what the impact on the Town for liability if Apex
26 doesn't hold ABC permits, and what the expense for security was.

27 **Ms. Raschke** said that was a complicated question. She said that right now the Apex
28 Police Department has security fees, but that could change. She said that is something that
29 she would like Council to decide that. She said that if there are fees another question is would
30 the vendor be responsible for the fees. She said that extra security is not mandatory, but Apex
31 would like to have it and if they do have it who is going to pay for it. She said it would be
32 Apex's responsibility for the alcohol fencing for Town events.

33 **An APD Officer** said that it's not required to have any police presence at any kind of
34 event. That was something that the former Chief Police had extra police officers, but they do
35 not have to have extra police officers there. He said the current Chief of Police doesn't have a
36 strong feeling either way about extra police officers being there. He said it could save money,
37 but that it is good having increased presence.

38 **Town Manager Vosburg** said in his experience, it's a good idea to have increased
39 security if there is alcohol present.

40 **Mayor Gilbert** asked for consistency, by the size of events, how it is determined how
41 many police officers you have and who holds that cost.

1 **An APD Officer** said supervisors control that area and then there are officers who
2 walk the block. He said something on the Town campus like October Fest are small and the
3 amount of people decides cost.

4 **Mayor Pro Tempore Gray** said that there had been community events that served
5 alcohol. He asked if there was any tangible increase in fights, public issues or other
6 unlawfulness.

7 **Ms. Raschke** said not that she had seen, not at October Fest or Pig Fest and that
8 speaks to historically.

9 **Mayor Pro Tempore Gray** said that it is easy to say that we don't have those issues
10 because we have a large police presence. He said he is not sure if that's a correlation not an
11 official fact. He said that it was an interesting data point.

12 **Ms. Raschke** said that vendors are shying away from ABC permitted areas because
13 they are not inclusive with the festival officially. She said that they are doing Festa Italiana
14 differently and that all of Hunter Street is going to be the ABC permitted area and will be
15 fenced off. She said that Raleigh, Cary and Fuquay Varina do have social districts. She said
16 Wake Forest does not have a social district, but they are talking about having it again. She
17 said that a lot of vendors don't like the idea of having to stay in a small area because they feel
18 like they don't get as many sales and people are brought away from the event itself and it
19 doesn't flow.

20 **Mayor Pro Tempore Gray** asked what the recommendation was from staff.

21 **Town Manager Vosburg** said that there were two issues. He said that the issues are
22 liability and cost. He said the other piece is about the family feel of events and that's a policy
23 decision.

24 **Councilmember Zegerman** said that he would like to keep it as a family friendly
25 event, and his preference for Town events would be to exclude alcohol at the event. He said
26 community events would have their own themes, and Town events were often cultural.

27 **Councilmember Gantt** said that he was still a no.

28 **Mayor Gilbert** asked if they were still on Town property.

29 **Ms. Raschke** said yes. She said they are exploring Hunter Street and the Town
30 Courtyard.

31 **Mayor Gilbert** asked if the issue was the vendor of the alcohol and who has the
32 liability.

33 **Ms. Raschke** said the vendors don't have a problem with the liability, but they have a
34 problem with committing funds ahead of time without knowing ahead of time. She said that
35 they feel like they don't make much money when it is roped off in an ABC area. She also said
36 that they have to get to the event early.

37 **Councilmember Zegerman** said that is not the Town's responsibility to make sure that
38 the vendors are profitable.

39 **Councilmember Gantt** said that there were 3 no's. He asked could they move
40 forward.

41 **Councilmember Mahaffey** said that there were only so many festivals that Apex
42 could have and at a certain point they have to define what is a Town Festival.

Councilmember Gantt asked Councilmember Mahaffey if he means how much it adds to the effort of for the Town.

Councilmember Mahaffey said yes, and scalability is another thing. He said there's 20 plus events that have be managed.

Mayor Gilbert asked if they were going to talk about community comments.

Ms. Raschke said yes, and that she received staff comments and organizations comments, and she just was looking for the Council to say where to go and what to do.

Councilmember Zegerman said to go through the commentary and then they could make a decision based on the complete picture.

Ms. Raschke continued with the presentation.

[SLIDE 6]

SECTIONS OF NOTE			
MUNICIPALITY	SOCIAL DISTRICT	VENDOR FEES	SECURITY
Wake Forest	No	Need board approval, liability policy, additional police officers, only beer & wine \$500 beer vendor \$300 wine vendor (talk about all moving to \$300)	PD determines numbers. For external events \$65/hr/officer plus one \$20 vehicle fee and the Organizer assumes the costs.
Fuquay Varina	Yes, but not in the main event space, only for a beer garden for one event	\$75/beer vendor (they only allow beer vendors for now)	Extra security is determined by PD. Payment comes out of PD budget
Holly Springs	They only have temporary social districts in pre-determined facilities at specific events like Hollyfest, the International Festival and SpringFest. Their cultural arts center has an ABC permit. The other areas are Ting Field (with the baseball team), Sugg Farm, and Womble Park.	\$175 for the larger events \$125 for the smaller events They are working towards increasing this price now. <i>At this time</i> , they are only working with their three local breweries.	The vendors are responsible for paying the off-duty officer fees.

[SLIDE 7]

SECTIONS OF NOTE			
MUNICIPALITY	SOCIAL DISTRICT	VENDOR FEES	SECURITY
Morrisville	Yes Patrons are limited to a designated sip and stroll area Only sip and stroll during event – doubles as Healthy Food Hub	No charge	2 officers at the beer garden plus traffic officers in the vicinity just in case. Town pays – usually takes an officer from another area
Garner	They do not allow alcohol at Town Events. The Downtown Association handles the events with alcohol within a social district; https://downtowngarner.com/social-district/	N/A	Extra security is determined by PD. Payment comes out of PD budget

1 [SLIDE 8]

SECTIONS OF NOTE			
MUNICIPALITY	SOCIAL DISTRICT	VENDOR FEES	SECURITY
Raleigh	Yes The Special Events Office handles only third-party or community events. At this time, they do not know of any City events that serve alcohol. The City provides additional trash bins to the event organizers and the event organizers decide if they want to participate in the social district	Up to the event organizer	Security is the responsibility of the event organizer

2
3 [SLIDE 9]

SECTIONS OF NOTE			
MUNICIPALITY	SOCIAL DISTRICT	VENDOR FEES	SECURITY
Cary	Yes	They contract through one food and beverage vendor who handles all of the food and alcohol sales for their venue. This is a multi-year contract so they do not start getting into any percentages for the Town until the number has several zeros after it. With that, they are not looking to make any money. They feel they are providing a service to their residents and guests. When they have a festival like the Pimento Cheese Festival, they defer to the above mentioned vendor. For Lazy Daze, they said it is too hard to get a percentage of sales because they have concerns about vendors being honest about their sales and they do not have the manpower to follow up. They find taking a percentage from smaller vendors is just too much work so they focus and rely on their one main food and beverage vendor.	They have on-site security with the park.


4
5 [SLIDE10]

ALCOHOL AT TOWN EVENT

JUNETEENTH ALCOHOL FEEDBACK

Re-Evaluate Vendor Fees for Alcohol Vendors

- "Alcohol vendors cannot guarantee a profit from an event. It is not a good business practice to have them create a loss before they have a chance to sell any product."
- "The overhead that an alcohol vendor faces to be a part of an event is different from any other vendor with an exception of food being the closest to it. They must provide their product, pay workers, pay for items they will be using to serve the public, and pay for an additional permit."
- "We understand that the town charges all vendors but being more business minded for Alcohol Vendors would be beneficial in cooperation. Charging them a percentage of their sales or just charging them the same \$100 fee as a food vendor."
- "Seeing what other municipalities are doing , looking into big events in the area that have a ton of alcohol vendors (such as Brewgaloo in Downtown Raleigh / Pimento Cheese Festival, Cary) and see what their protocols are, see what the industry average is for vendor payment, speaking with local alcohol vendors to hear what works best for them, etc. and providing that research to event committees to help aid them in their conversations with the alcohol reps."



1 **Mayor Pro Tempore Gray** asked if the fees were for the vendors to attend or the ABC
2 fees.

3 **Ms. Raschke** said it is two fees. She said it is the vendor fees of \$300.00 and if they ask
4 that they assume part of the cost of the off-duty officers.

5 **Mayor Pro Tempore Gray** asked if is separate from any ABC license.

6 **Ms. Raschke** said yes.

7 **Councilmember Killingsworth** said her preference was food and drinks be the same.

8 **Councilmember Zegerman** said that alcohol vendors would need to pick up the cost
9 of the extra police.

10 **Councilmember Mahaffey** asked if other municipalities made the distinction
11 between town events and community events.

12 **Ms. Raschke** said yes. She said that Raleigh doesn't do town events with alcohol
13 unless they go with a partner. She said that their special events office only handles community
14 third-party events. She gave other examples of what other communities do. She said it looks
15 like other towns are picking and choosing except for Raleigh and Cary.

16 **Councilmember Mahaffey** asked if setting up a Social District would be easier for
17 vendors.

18 **Councilmember Gantt** said based on Pig Fest people would love that.

19 **Ms. Raschke** said from personal experience that it would be easier. She said that
20 when you have a Social District it would have to be worked out with the breweries if they
21 would be part of it or not. She said there would have to be strict rules in place and some
22 parameters, and they could allow downtown businesses to always participate.

23 **Councilmember Zegerman** asked to clarify that they were talking about the
24 temporary Social District.

25 **Councilmember Gantt** said he would be in favor of a permanent Social District
26 especially after the streetscape is finished.

27 **Councilmember Zegerman** said that's different.

28 **Councilmember Gantt** said he would lean towards wanting to do one before the
29 streetscape was done, but especially after.

30 **Councilmember Killingsworth** asked if the list of fees were just for town events.

31 **Ms. Raschke** said yes. She said that the \$300.00 was mid-range.

32 **Mayor Gilbert** said that based on the concerns to pay fees and then also pay for
33 security, he asked how the fees could be adjusted.

34 **Ms. Raschke** said Juneteenth used sponsorship money, but for other events it's more
35 of a questions.

36 **Mayor Pro Tempore Gray** said that if they are going to have to pay for security,
37 anyway, why not drop the price and treat a food truck and a beer truck the same.

38 **Councilmember Mahaffey** asked if it was a community event they could charge for
39 what they want.

40 **Councilmember Killingsworth** said that she was in favor of allowing alcohol.

41 **Mayor Gilbert** said that maybe the organization doesn't have the foundation and
42 support and funding.

1 **Councilmember Zegerman** said that he was still not in support of the alcohol. He said
2 that if the organizer wanted to serve alcohol and it becomes a primary event then they can
3 opt out of Town event and make it a community event.

4 **Councilmember Mahaffey** said that working on a temporary Social District may make
5 it easier.

6 **Councilmember Zegerman** said he was ok with a temporary Social District.

7 **Councilmember Gantt** said he was still against it.

8 **Mayor Gilbert** said community events are still family friendly.

9 **Councilmember Gantt** said that Peak Fest was more family friendly than Pig Fest and
10 part of it is the alcohol.

11 **Councilmember Mahaffey** said the point is there could be more flexibility to define
12 family friendliness.

13 **Councilmember Gantt** said they have the flexibility.

14 **Mayor Pro Tempore Gray** said that he was leaning towards the distinction between
15 community events and town events. He said he wasn't convinced alcohol at Town events was
16 the right choice yet. He asked what the difference between something that's on Town
17 property and the town event itself is.

18 **Councilmember Gantt** said it's the liability of someone consuming alcohol and
19 getting in a car and killing somebody. He said the event can be on Town property but it's the
20 Pig Fest who are responsible, and for the Town Event the Town is responsible.

21 **Councilmember Mahaffey** said that if you go through the list of towns that have a
22 third-party, they all have a clever way of trying to find a way for the vendor to be responsible.
23 He said that we will still be advertising. He said but we are the ones serving the alcohol, but if
24 it is a Community Event we are just hosting and hosting and providing space. He asked if it's a
25 Town event that's serving alcohol, who gets sued.

26 **Councilmember Gantt** said the town and the vendor would likely both be sued.

27 **Ms. Hohe** said that in either event the Town is likely to be sued but with the
28 Community event there are things in place to shift that liability.

29 **Mayor Gilbert** asked to move forward. He said the consensus seemed to be for no
30 alcohol at Town events.

1 **[SLIDE 11]**


ALCOHOL AT TOWN EVENTS

Re-Evaluate Vendor Fees for Alcohol Vendors

- "Providing research and or detailed reasoning behind fees. This would be helpful to share when in conversations with potential all vendors."

Off-Duty Officer Fees

- "If an event is a town sponsored event, the off-duty officer fees should be paid for by the Town because the Town will already assume responsibility for anything that happens in the permitted area. This should not come from sponsorship money. Having off duty officers is a safety requirement for the Town of Apex but is not mandatory by any legal statute in NC."
- "If, the town is to continue making it a requirement, they should have funds allocated to ensure safety is a priority. *The fees charged for all vendors (food, alcohol, vendor) can help pay for it as well when applicable.*"
- "Notation on special event policy that ensures refunds for all vendors when applicable (if an event is canceled by the town, etc.)"



2
3 **[SLIDE 12]**

SECTIONS OF NOTE

Sponsorship

Do you want to have sponsorship opportunities for Town Events?

- Grant Opportunities
Below are the Town's current vetting criteria. The Town will refuse a Sponsorship that:
 - is in conflict with Town's policies, regulations or rules;
 - includes alcohol, tobacco, firearms and/or gaming companies or distributors. These are not permitted absent special circumstances and approval by the Town Manager;
 - could disparage, impair, or adversely impact the mission, reputation, image, integrity, or best interests of the Town;
 - appears to create an **Endorsement** by the Town of a particular company, product, political candidate or position regarding public policies;
 - is considered to contain obscene, indecent or profane material; or
 - ridicules, exploits, or demeans persons on the basis of their race, color, religion, sex, sexual orientation, actual or perceived gender identity, age, national origin, disability, veteran status, or genetic information.

4
5 **[SLIDE 13]**

SECTIONS OF NOTE

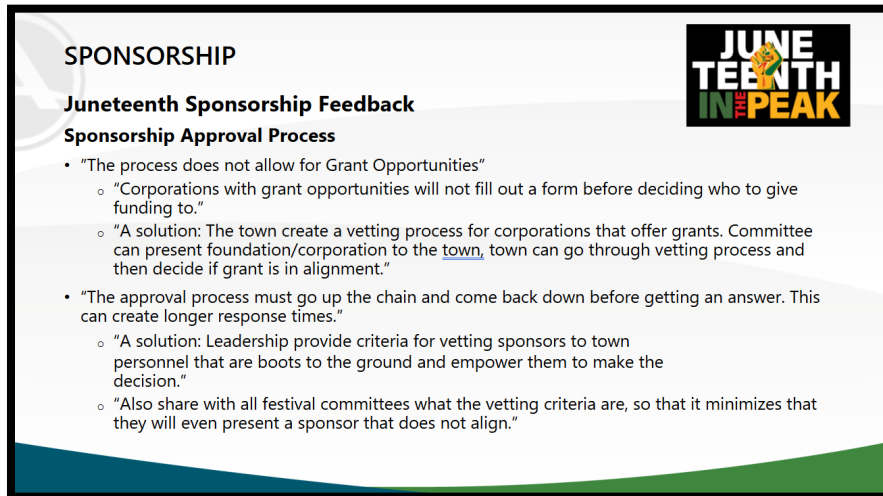
Sponsorship

- Grant Opportunities Continued
When applying for grant opportunities, the Town considers the number of requests, the time commitment, and the need for checks and balances to maintain that a sponsor, donor or grant opportunity does not open up the Town for conflicts or liability.
- Approval Process
Each Town Cultural Event is unique in nature and logistics. A uniform incentive package that may not encompass of each of our Cultural Advisory Groups missions and visions. We could create standard incentive packages for each Town Cultural Event, however, events tend to evolve and it may be necessary to revisit the package each year in the event planning process.
- Online Payment Option
The Town has created an online payment option for sponsors, donors and vendors.
- Extra Funds
The Town will move any leftover Sponsorship monies forward, per event, for use the following year.

6

1 **Ms. Raschke** said the next section was sponsorships and she and Town Manager
2 Vosburg continued with the presentation.

3
4 **[SLIDE 14]**



5
6 **Councilmember Zegerman** asked about the Turkey Run and if it was a Town Event.

7 **Ms. Raschke** said that this was a Town event, and she said it was an "in kind" donation.

8 **Councilmember Mahaffey** said that there was money given to the Town.

9 **Ms. Raschke** said this was her first year doing Turkey Trot.

10 **Director Setzer** said that there are sponsorship opportunities. He said with verbiage
11 and vetting that is gone through, that's the concern and this could affect several different
12 areas.

13 **Councilmember Mahaffey** asked if there was a demand for sponsorships.

14 **Director Setzer** said there were from local businesses.

15 **Councilmember Mahaffey** said that the work on the staff and the events are getting
16 larger. He said he hears that the community wants to be involved.

17 **Councilmember Zegerman** asked if there was a way to separate the town events
18 linked to sports team sponsorships.

19 **Town Manager Vosburg** said that for Juneteenth the committee worked to get the
20 sponsorships and not Ms. Raschke.

21 **Ms. Raschke** said that she would take the inquiry and would pass it up and then
22 process the money.

23 **Councilmember Mahaffey** said it's the vetting if it is endorsed by the Town that is
24 some concern.

25 **Councilmember Gantt** said that is what bothered him the most.

26 **Town Manager Vosburg** said that if a company slipped through then we would be
27 held accountable.

28 **Mayor Gilbert** asked what the expectations were from the sponsor.

29 **Town Manager Vosburg** said that this goes back to donations versus sponsorships.
30 He said that the way they have tried to define sponsorship is that it's this for that. He gave an

1 example of if they sponsor, we are putting you on the back of a t-shirt or putting you on signs
2 for promotion.

3 **Mayor Pro Tempore Gray** asked what other municipalities are doing.

4 **Ms. Raschke** said that she worked with Cary, they have a fully vetted process, and she
5 worked with NC State and at the State level. She said that she worked really with Cary and
6 they try to separate and have certain people that work at certain events. She said Cary gives
7 the sponsors information, but they can't control how they handle their social media and what
8 really happens.

9 **Director Setzer** said he knows that other towns operate with some forms of
10 sponsorships.

11 **Councilmember Zegerman** said that it is just taking on more work by accepting
12 sponsorships.

13 **Mayor Gilbert** asked if a third-party had been identified to help out with special
14 events.

15 **Ms. Raschke** said that Officer Conley from the Police Department was here to talk
16 about that from a police perspective. She said that she had talked to Public Works and Parks
17 and Rec and that they were against it and didn't feel comfortable that to the third-party. She
18 said that she would let Conley speak to the third-party police.

19 **Officer Conley** spoke about third-party perspective for PD and the challenges it
20 creates.

21 **Ms. Raschke** said that they have the volunteer coordination but there are certain
22 things they can't do. She said that she would talk about this later.

23 **Mayor Gilbert** asked if Ms. Raschke had the amount of time that would be scheduled
24 to work on this.

25 **Ms. Raschke** said that they did track the number of volunteer hours monthly. She said
26 that she did not have that information with her.

27 **Mayor Gilbert** clarified that he was asking about the sponsorships and the estimated
28 time spent administratively.

29 **Ms. Raschke** said that the grant piece is very time-consuming. She said there is an
30 approval process, there is an agreement and that goes to Craig and then it goes to
31 Administration. She said that then the money has to be collected, which is the harder part.
32 She said they should be on a strict deadline so that they will have the money on hand to
33 spend while the event is still relevant.

34 **Director Setzer** said that the process for the application process was quick. He spoke
35 on the application process.

36 **Town Manager Vosburg** said that it was not necessarily the time, it is the
37 accountability of the sponsor.

38 **Mayor Gilbert** said he was fine with this.

39 **Mayor Pro Tempore Gray** asked if they were just looking for direction. He said he
40 would like to explore sponsorship and would like to get more clarity. He said some of the
41 finer details of the partnerships and basic details like what level of participation and who to
42 align with would come at a later date.

Councilmember Mahaffey said that he was good with it as well. He said that it's traditional that community members, business, and individuals are able to participate in. He said that he trusted their judgement and if they miss something they will catch it on the back.

Councilmember Gantt said that he was a no. He said that he didn't like the idea of endorsing one local business over another.

Councilmember Zegerman said that this was being done to some degree. He said that he thought it was an opportunity to improve events with some additional funding and help get local events exposure.

Ms. Raschke asked if it was a yes to sponsorships and if the Council was ok with the checks and balances process that is in place.

Councilmembers said yes.

[SLIDE 15]

SPONSORSHIP

Sponsorship Approval Process

- "Uniform sponsorship package incentives that align with communications capabilities for all events. It provides a consistent experience for donors who are involved in other town events. The prices could vary depending on the event but having the incentives the same would be beneficial."

Sponsorship Process

- "Online option for Donors to pay on the spot. It is key to make the sponsor payment option as easy is possible for those interested. (We think this has been solved via Square but ensuring the capabilities will allow for online functions as well is important)"
- "Notation in the special event policy that states "leftover sponsorship money" from the previous year will float over to the next year. (It should not go into General Funding when specific festivals have worked to find and create partnerships) (We know that this has been resolved but want ensure it is written in the policy for other committees)"



Ms. Raschke continued with the presentation.

[SLIDE 16]

SECTIONS OF NOTE

CULTURAL ADVISORY GROUPS

Town

Cultural Advisory Groups are used as consultants for different Town cultural events such as MLK, Juneteenth, Indigenous Peoples Day, Latino Arts Festival and Holi. Each group would consist of PRCR staff and at least three and no more than 6 community members that serve 3-year terms. Their duties include:

- To assist in the development and production of defined Town of Apex Cultural Events such as the Martin Luther King Jr Commemoration Weekend, Holi Festival, Juneteenth, Latino Arts Festival, and Indigenous Peoples Day.
- To promote cooperative partnerships between the Cultural Events and the Town's merchants, vendors and residents.
- To serve as consultants for Town staff on cultural elements for the event such vendors, food options and performer suggestions.



Ms. Raschke asked the Council how they felt about opening up the Cultural Advisory Group to other community members that were interested in getting involved.

1 **Councilmember Gantt** asked what the status of the advisory group was.

2 **Ms. Raschke** said that they work with individuals with each event and that the idea is
3 they would open it up to the community to help with the planning.

4 **Councilmember Killingsworth** said that her preference would be to have the
5 majority of the members have vested interest in these events.

6 **Ms. Raschke** said that they would keep everyone that has been working on the event
7 but allow others to come in.

8 **Councilmember Zegerman** said that this was more of an enforcement function. He
9 said he wasn't sure what was trying to be achieved other than having people working
10 together.

11 **Ms. Raschke** said that making sure that people in the community who want to have a
12 voice and a part get the opportunity to.

13 **Councilmember Zegerman** said that this is inventing another procedure for people
14 to work together when it's already in our control to invite people to conversations about
15 events.

16 **Councilmember Killingsworth** said that it's giving the authority to say how many
17 people will participate with each group in events.

18 **Councilmember Zegerman** said that he thinks that Ms. Raschke already has that
19 authority.

20 **Mayor Gilbert** asked how much time it would take to create this process.

21 **Ms. Raschke** said that this is something that has just come up.

22 **Town Manager Vosburg** said that they have gotten conflicting feedback from the
23 groups that we have talked about. He said that they would move forward if they had a
24 consensus.

25 **Councilmember Killingsworth** said she was not in support.

26 **Mayor Pro Tempore Gray** said that he thought there was some value to having these
27 advisory groups.

28 **Councilmember Mahaffey** said that if there are interests, then there could be more
29 than one event.

30 **Councilmember Gantt** asked about these groups.

31 **Councilmember Mahaffey** said all of them. He said maybe six.

32 **Town Manager Vosburg** said that there would be some people that may ask why they
33 weren't allowed to be on the committee.

34 **Mayor Pro Tempore Gray** said that there would be a natural bit of attrition.

35 **Councilmember Mahaffey** said that for sustainability of these committees for the
36 long term need to cycle through new people.

37 **Councilmember Zegerman** asked how this would be managing the three-year term.

38 **Councilmember Gantt** suggested that Ms. Raschke could manage them and appoint
39 them, and not the Council.

40 **Ms. Raschke** asked if this was okay to be informal.

41 **Director Setzer** said to be prepared to be approached because people want to be
42 involved with events.

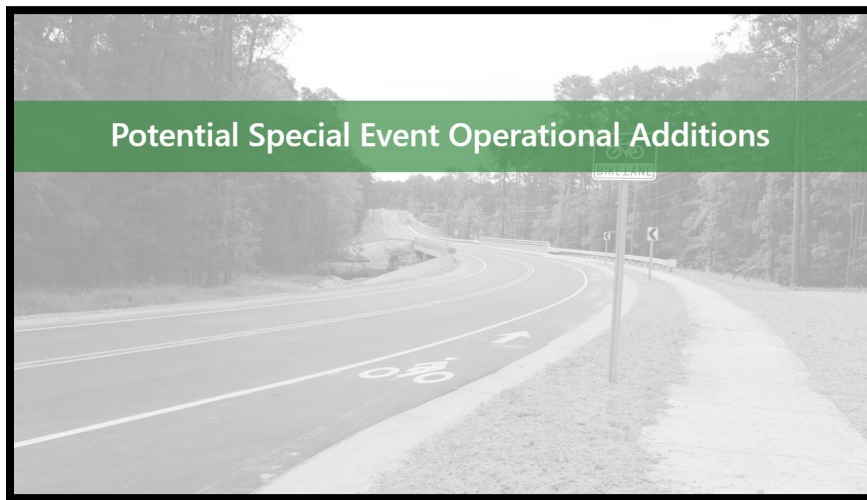
Mayor Gilbert said that he would like to be involved in some way because he has a connection with people.

Councilmember Zegerman clarified that it should be clear that as long as this is a Town event, there is no exclusivity. He said that this was too formal. He said that Ms. Raschke already had the authority to choose her partners.

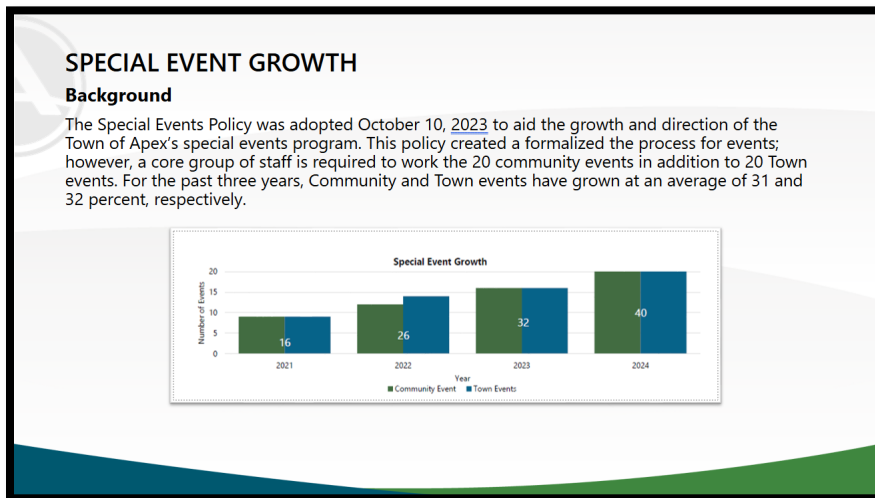
Mayor Gilbert said that there needed to be effective communication. He said that some communication had gone out but wasn't sure how far out into the community. He said working with the Communications team would be important.

Ms. Raschke resumed her presentation.

[SLIDE 17]



[SLIDE 18]



1 [SLIDE 19]

SPECIAL EVENT GROWTH

Background

Event staffing was previously assigned on a volunteer basis. The schedule and increased number of events, has resulted in required assignment to work events. The Town has modified special event pay and there has been feedback from staff regarding burnout and a lack of work life balance with total events that staff must work increased by 122 percent since 2021.

In addition to working during event hours, Town staff must work the hours before and after each event for set up and clean up. Previous attempts to contract out services for these events resulted in substandard service, and either required teams to supervise the work performed or supplement the services.

2
3 [SLIDE 20]

SPECIAL EVENT GROWTH

Background

The Town added a Volunteer Coordinator position in 2023 to encourage additional volunteer support which may alleviate some pressure on staff. However, volunteers cannot replace the need for Police, Fire, Parks Operations, or Public Works staffing.

4
5 [SLIDE 21]

ELECTRIC PEDESTALS

Town Hall Parking Lot Power

Events held on Town Campus do not require public road closures, but they impact the ability to operate the Community Center and Senior Center at full programming levels because the power boxes are located in the in the arc and Community Center parking lots. The addition of power boxes to the Town Hall side of campus would allow special events to shift location within the Town Campus without impacting the Community Center and Senior Center's programs or operations. This addition would cost approximately \$40,000 for materials and installation.

6

1 **Councilmember Killingsworth** said that she thought that they had already said yes to
2 these. She said that they were trying to figure out where to put this all-around campus so that
3 if they decided to shut down the entire campus to have events, they would be available.

4 **Director Setzer** said that was the original conversation that was recalled, but this
5 would be addition to that.

6 **Ms. Raschke** said this was for the Town Hall.

7 **Assistant Town Manager Stone** said that it was two years ago, and this side was not
8 discussed then

9 **Councilmember Gantt** asked if the electric pedestals on Saunders Street parking lot
10 would be paid for as well.

11 **Ms. Raschke** said that was a different conversation and that this was just for Town Hall.

12 **Councilmember Zegerman** said that Saunders Street has them and they don't want
13 them to be removed.

14 **Councilmember Gantt** said people may want to have events even more than Town
15 Hall in the future behind that area.

16 **Ms. Raschke** continued with the presentation.

17
18 **[SLIDE 22]**

DEDICATED SPECIAL EVENTS TEAM

Parks Operation Crew

Parks and Recreation staff is required to attend all events so adding a four-person Special Events Team under park operations would alleviate pressure on existing staff. A Special Events Team would consist of four members: Park Operations Supervisor, Parks Operations Team Leader, and two Park Operations Workers. These positions would supplement Pleasant Park staffing needs when not working on event needs. Schedules for this team would be structured to include weekends to cover events. Three of these four positions are already identified in FY 26-27 of the staffing plan. The first year operating and personnel costs for adding this team would be \$500,000 and the recurring annual personnel costs moving forward would be approximately \$370,000.



19
20 **Councilmember Zegerman** asked the difference between a supervisor and a team
21 lead.

22 **Director Setzer** said that a supervisor position would be the supervisor over all the
23 crews plus the parks. He said that this would be an additional group at Pleasant Park, so he
24 would be over at least two crews.

25 **Councilmember Zegerman** asked if this new crew would be part of next year's
26 budget.

27 **Director Setzer** said that they would like to have it sooner, but it would be in the 25-
28 26' budget.

29 **Councilmember Gantt** was concerned about the heat map and asked if she could
30 spread out the events.

1 **Ms. Raschke** said she was the liaison between staff, the event organizer, Council and
2 the Administration. She said that they would come to her for a town event or community
3 event and then she would write it up and send it forward for approval. She said that she works
4 with different departments, and they strategize and work on logistics of the events and then
5 recommendations are made for approvals.

6 **Councilmember Gantt** asked if they have flexibility of the Town events.

7 **Ms. Raschke** said that most of them are standard. She said that if they are new then
8 she processes and sends it for approval.

9 **Mayor Gilbert** asked Mr. Vosburg if there were any personnel issues with adding the
10 new crew that was mentioned.

11 **Town Manager Vosburg** said that would go through the Personnel Committee and
12 then through the budget process.

13 **Mayor Pro Tempore Gray** said that he wanted to consider whether or not the current
14 model of how staffing these special events is operating under the assumption as if these
15 things are not really happening. He said to make a more expansionist view so that they can
16 make a real budget analysis as to what can be absorbed.

17 **Councilmember Mahaffey** said that there is a high-level demand for special events
18 that is growing. He said that as the demand is growing, they are having an issue with saying
19 no. He said there were probably another 20 other requests.

20 **Ms. Raschke** said that an algorithm so if they do keep adding events that they know
21 every cycle so that they can stay ahead on resources and staffing.

22 **Councilmember Mahaffey** said that the solution is that the events run for a certain
23 amount of town, and spin them off into a community event that the town supports, other than
24 certain festivals like Fourth of July the Town would always do.

25 **Mayor Pro Tempore Gray** said that even if these events are limited there is still a
26 substantial amount of staff time, effort, money and resources. He said that figuring out the
27 max staffing and then decide what events can be added.

28 **Councilmember Zegerman** said that the other concern is the space the events are
29 taking. He said that there may need to be a limit for capacity not just based on staff and
30 dollars but also how many days of the year can resources be committed to these events. He
31 said he wasn't sure how to be selective.

32 **Mayor Pro Tempore Gray** said that with every event there is still significant resources
33 needed.

34 **Councilmember Gantt** said that there could be a score of the effort level is required
35 and a desirability criteria.

36 **Councilmember Zegerman** said that desirability criteria can be tricky.

37 **Ms. Raschke** went through some of the events and said that lots of them are large.
38 She said that working for these events and still having to work to prepare for future events.

39 **Councilmember Killingsworth** asked if there should be a cap on the events and a
40 cap per month because this is an operation issue.

41 **Town Manager Vosburg** asked if they wanted to retract any events. He said we could
42 decide we're holding the line on the events we have now. He said that they are at capacity for

events. He said that he thought it should be an analysis on what the Town does as core events and then have Community assisted events.

Councilmember Gantt asked what the difference in effort or money if it is a community event or Town event and also an event on the Town campus versus an event in downtown.

Ms. Raschke said yes there are differences. She said it depends on the numbers. She said trash is a big deal, and things like Peak Fest and Italiana Fest has a lot of trash. She said it is much easier if it is on campus, it's a lot easier to close campus. She said that it was because of police closing roads. She said the bigger the event the more food and more resources.

Director Setzer said that they always have issues with trash.

Mayor Gilbert asked if they had tried working with a third party.

Ms. Raschke said they had not, but they do have great support from Public Works.

Town Manager Vosburg said that needs to be looked at as we approach budget is a contraction option, especially to help with staff exhaustion.

Councilmember Mahaffey said that if they are worried about quality of service at the events, we can free up our Town staff to work at the events. He said that contracting the normal routine things, and have the town staff work on the special events in those cases.

Councilmember Mahaffey said that getting outside help could be part of solving the scaling issue.

Mayor Gilbert said this was a good conversation. He asked if there was one more slide.

Ms. Raschke continued with the presentation.

[SLIDE 23]

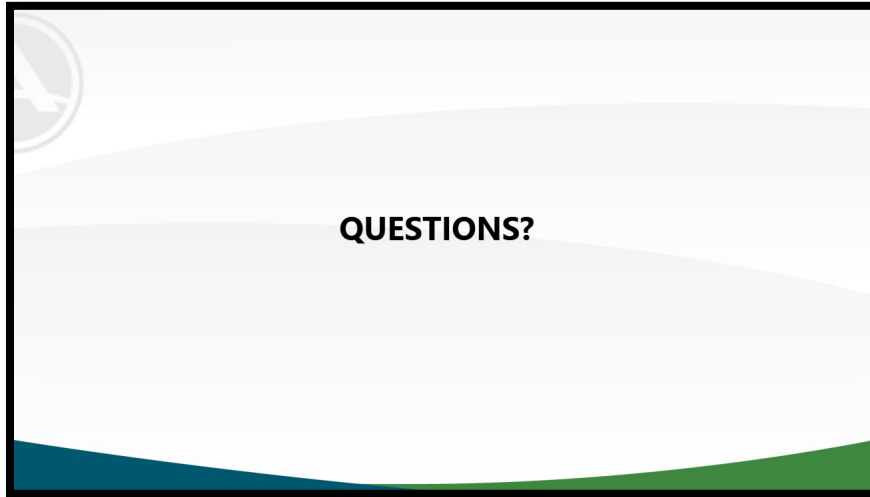
DEDICATED SPECIAL EVENTS TEAM

Special Events Intern

A partnership with the NC State Parks, Recreation & Tourism Department would provide internship opportunities in the spring and summer to support the administrative staff working special events and allow interns to learn about the Town and PRCR Department. Tasks would vary based on event but may include assisting with event planning and day-of event management, attending event planning and logistics meetings, answering event-related emails, analyzing event and volunteer surveys, communicating with volunteers, assisting with volunteer environmental work days, and maintaining a volunteer database. The interns would be paid at the Town's standard undergraduate intern rate of \$20/hour.



[SLIDE 24]



Ms. Raschke asked if the intern and pedestals were ok.
Council members said yes.

Mayor Gilbert called for a 10-minute break at **5:19** p.m.

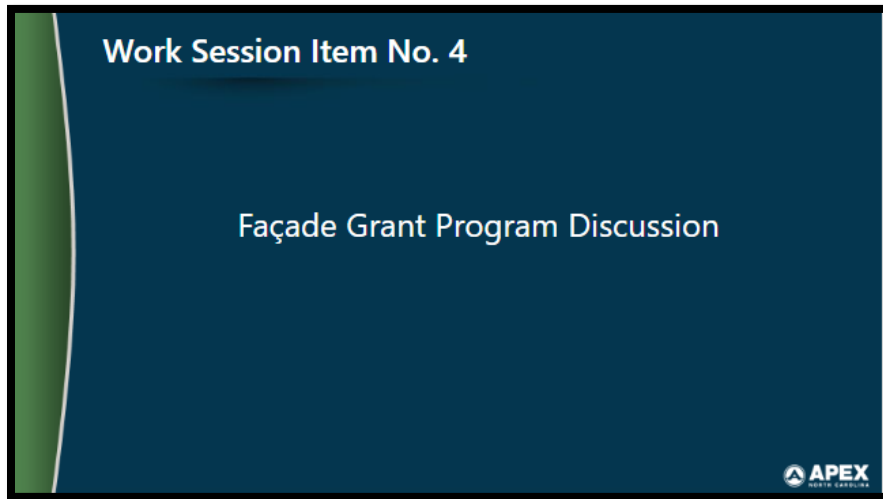
Mayor Gilbert reconvened the meeting **5:30** p.m.

Mayor Gilbert announced that the discussion of the Zoning Condition Recommendations for Rural Areas would be moved to a Work Session during the Regular Town Council Meeting on September 24th. He stated that the meeting and discussion would be open to the public.

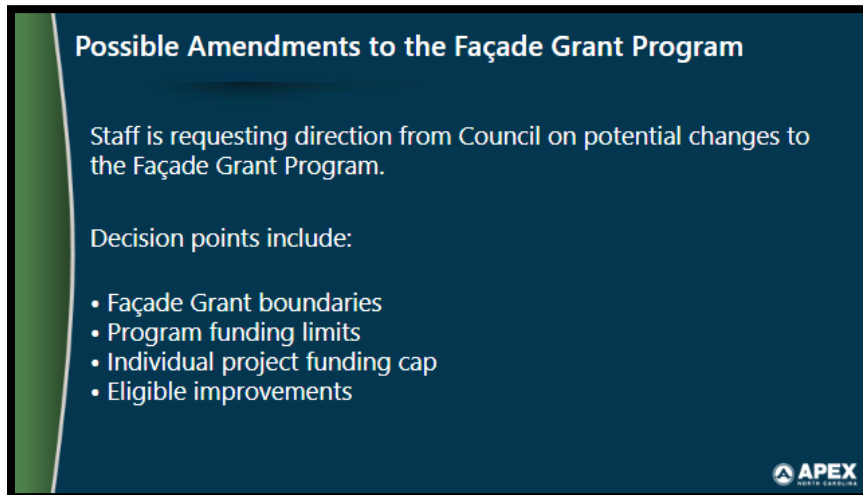
[FAÇADE GRANT PROGRAM DISCUSSION]

Dianne Khin, Director of the Planning Department gave the following presentation. She said this item was on the August 13th agenda. She said that she was asking for direction on potential changes to the Façade Grant Program. She said the decision points include the Facade Grant boundaries, the program funding limits, the individual project funding cap and eligible improvements.

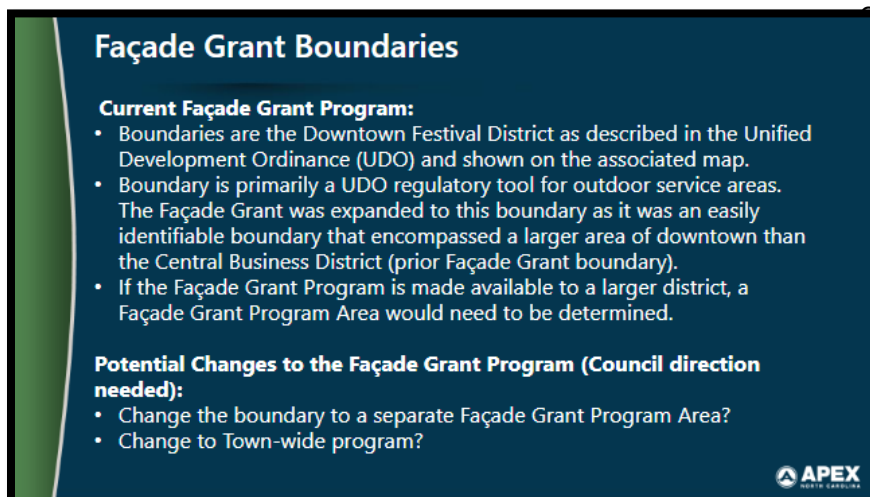
1 [SLIDE 1]



2
3 [SLIDE 2]



4
5 [SLIDE 3]



15

1 [SLIDE 4]



2
3 [SLIDE 5]

Program Funding Limits

Current Façade Grant Program:

- Staff approval
- First-come, first-served
- \$20,000 total budget

**Potential Changes to the Façade Grant Program
(Council direction needed):**

- Possible approval by Planning Board or Town Council?
- Keep approval process first-come, first-served?
- Authorize higher total program budget?

APEX
TOWN COUNCIL

4
5 **Councilmember Gantt** asked to clarify what was the purpose of this grant and if it had
6 been around for a while.

7 **Ms. Khin** said that when she came in 1999 that it was already an existing grant
8 program. She said at the time downtown was boarded up and lots of improvements needed
9 to be made. She said that overtime as development and businesses moved in and folks
10 improved it became more for visual improvements.

11 **Councilmember Gantt** asked if they were required to make improvements.

12 **Ms. Khin** said if there are changes of use. She continued with the presentation.

1 [SLIDE 6]

Individual Project Funding Cap - formula changes

Current Façade Grant Program:

The Façade Grant provides up to 50% of the cost of the exterior rehabilitation based on the following:

- a. **Tier 1** - up to a maximum of \$2,000.00 per façade for paint and awnings, or 50% of the cost, whichever is less.
- b. **Tier 2** - up to a maximum of \$5,000.00 per façade for structural improvements including window replacement, brick repair and repointing, door replacement, ADA accessible entrance improvements, and similar structural repairs or replacement, or 50% of the cost, whichever is less.
- c. Applicants can submit for one Tier 1 grant and one Tier 2 grant within the same fiscal year; if both are granted, no one property can receive more than \$7,000 in one year.
- d. No more than \$10,000 can be issued to any one property within any 36 month period.
- e. Total grants issued per fiscal year shall not exceed the amount budgeted for that given year.

Potential Changes to the Façade Grant Program (Council direction needed):

- Change the formula to be a percentage based on investment with a higher overall cap per project?
- Should investment considered in the cap represent just the exterior improvements or total cost invested in business?

APEX
NORTH CAROLINA

2
3 [SLIDE 7]

Eligible Improvements

Current Façade Grant Program:

Eligible exterior improvements include:

- Removal of false fronts (such as aluminum panels)
- Repair or replacement of windows, doors, and cornices
- Repair or replacement of façade materials
- Repair or replacement of character defining architectural features
- Repair, replacement, or new ADA accessible entrance (e.g. ramp)
- New awnings
- Decorative exterior lighting
- Exterior painting
- Design and construction costs

Potential Changes to the Façade Grant Program (Council direction needed):

Change the program to allow additional improvements in the public space on private property, including but not limited to:

- Creation of patios or other outdoor service areas
- Outdoor furniture (tables, chairs, benches)
- Planters (recommend not to include vegetation as it is not permanent)
- Streetscape elements (pavers/bricks/bus stops) on private property
- Other Downtown Plan elements like twinkle lights, ground murals, etc.

APEX
NORTH CAROLINA

4
5 **Director Khin** said that Town Attorney Hohe was asked to some research about
6 Façade easements.

7 **Town Attorney Hohe** said that she wanted to give different mechanisms that the
8 Council would have to help facilitate this program and potentially expand the program if that
9 is the Council's desire. She said that some of the things that had been considered was a
10 downtown revitalization project or projects Urban revitalization project, façade easements
11 and other is an option of a loan. She went through each of these.

12 **Councilmember Gantt** asked if it was taxed higher for more services.

13 **Town Attorney Hohe** said that it could be, but not necessarily.

14 **Councilmember Gantt** said that's what he had heard commonly done in North
15 Carolina.

16 **Councilmember Zegerman** asked if they tax in the Overlay District.

17 **Councilmember Gantt** said yes, and asked if it was different.

1 **Town Attorney Hohe** said yes. She said that this is more focused on public
2 infrastructure, not urban revitalization.

3 **Mayor Pro Tempore Gray** asked if they could do an easement as well as policy if
4 there was someone that wanted a larger project to offset the percentage. He asked the
5 amount of the façade.

6 **Town Attorney Hohe** said that there would be two separate programs. She said one
7 for the more traditional façade grants and the second one would be a higher level for
8 easements.

9 **Mayor Pro Tempore Gray** said it may make sense as a sort of tier program for varying
10 sizes.

11 **Town Attorney Hohe** said that the Council would have to determine what
12 improvements they would want to see based on the third tier.

13 **Councilmember Gantt** asked from the legal standing of the façade grant is this better
14 than what is currently being done.

15 **Councilmember Zegerman** asked why the \$20,000 is not being spent. He asked if
16 there was any feedback from business or property owners why they are not taking advantage
17 of the grant.

18 **Director Khin** said that they work with the people that are interested or the ones that
19 submit a small-town character application which is required. She said that lots of time it is the
20 business owner not the building owner that is interested. She said that the building owners
21 would be much more interested in the façade easement with a higher dollar amount.

22 **Mayor Pro Tempore Gray** said that this would be more consistent and that also there
23 could be negotiations on the façade. He said there would be more flexibility.

24 **Councilmember Zegerman** said that this is an investment in the Downtown area and
25 making it more attractive for people to come. He asked how to determine if the project is a
26 good investment for Apex. He asked if there was a guideline of the amount for the project.

27 **Councilmember Killingsworth** said businesses would be asking for different things,
28 and they would need to talk about what the tier 3 looked like. She said this would be
29 complicated and would need some work.

30 **Councilmember Gantt** said he was looking at the legal standing. He said that going
31 to the higher dollar amount seems less risky. He said changing it in a way that would be
32 better for everybody could be better.

33 **Town Attorney Hohe** said that Council has the authority to make infrastructure
34 improvements. She said that the Downtown plan Street Scape could extend between Hunter
35 Street and Williams Street. She said as far as easements there should be defined terms as to
36 what the Town is willing to participate in to make sure that Downtown continues to thrive and
37 expand. She said with the higher dollar amount needs to be a longer easement so that you
38 get more of the public benefit. She said there would need to be some criteria and a cap for
39 what the dollar amount would be.

40 **Councilmember Zegerman** asked what happens after five years to the easement.

41 **Town Attorney Hohe** said it would be terminated based on its terms.

1 **Councilmember Mahaffey** said that Town Attorney Hohe had found an example
2 outside of North Carolina and asked if she was certain that we had the authority inside of
3 North Carolina to require such an easement.

4 **Town Attorney Hohe** said that there are various avenues to take to require such an
5 easement in North Carolina.

6 **Councilmember Mahaffey** asked if there would be an appraisal when acquiring the
7 easement.

8 **Town Attorney Hohe** said that an appraisal can be requested at the value of the
9 property in the current condition. She said that it may be difficult to get an appraiser that
10 would give a dollar figure for the easement.

11 **Mayor Pro Tempore Gray** said that the Town could negotiate how much they feel is
12 appropriate on a particular easement.

13 **Town Attorney Hohe** said that it will be fair across the board.

14 **Councilmember Gantt** said the easement would be voluntary. He said that the
15 easement could be the value of the project or a portion of it.

16 **Councilmember Gantt** asked if the easements could be used for gathering space for
17 people.

18 **Councilmember Mahaffey** asked if something like patios would be allowed and in
19 the public benefit.

20 **Director Khin** said yes but they would have to keep it up to certain standards.

21 **Councilmember Killingsworth** said she liked this idea but would want to talk more
22 about numbers, and only have it come to Council for tier 3.

23 **Councilmember Zegerman** asked if this would go to the Planning Board first or to
24 Council.

25 **Town Attorney Hohe** said that it would be good to have a Public Hearing first, but it is
26 not required.

27 **Councilmember Gantt** said that staff would be determining if the projects meet the
28 criteria.

29 **Councilmember Mahaffey** said that it would be based on the project and if it is worth
30 the money for the public benefit.

31 **Councilmember Zegerman** asked if it could be put on New Business for now.

32 **Director Khin** said that is what she would recommend.

33 **Councilmember Killingsworth** said that there would be a cap by the tiers.

34 **Councilmember Gantt** asked if they were changing the entire program to easements.

35 **Councilmember Killingsworth** said that everything else would stay the same.

36 **Councilmember Gantt** said that tier 3 is the biggest one and would have the
37 easement.

38
39 **Councilmember Mahaffey** left the meeting at **5:57** p.m.

40 **Director Khin** said that she talked with Liz Loftin who administers the program and
41 she assist applicants a lot through the process. She said applicants would be required to hire
42 an attorney for an easement, and it may be worth that for a large project.

1 **Town Attorney Hohe** said that there is an opportunity to partner with the business
2 that is renovating and pay them to do some street scape improvements while they are doing
3 the improvements.

4 **Councilmember Killingsworth** asked about the total budget for this.

5 **Town Manager Vosburg** said that if the Council wanted to start the program now
6 versus next budget year, so that would change based on when they wanted to start.

7 **Councilmember Killingsworth** said it seems like staff needs more time to work the
8 details out. She said next year's budget may be best.

9 **Councilmember Zegerman** asked to see if there were any benchmarks to get
10 funding.

11 **Mayor Gilbert** asked if there were opportunities to bring it back.

12 **Town Manager Vosburg** said that it would have to be looked at to see what would be
13 involved.

14 **Mayor Pro Tempore Gray** said that he would be open to an amendment for funding if
15 they had the answers in time.

16 **Town Manager Vosburg** said that he would bring it back to Council after he had
17 looked into it more with staff.

18 **Councilmember Gantt** asked if this could be summarized.

19 **Councilmember Killingsworth** said that tier 3 would be for easements, on a first-
20 come-first-served basis, and the amount has not yet been decided, and it would include
21 some of the additional proposed uses.

22 **Councilmember Zegerman** asked what type of planters would be used. He said that
23 the planters that can be picked up or get broken, so it may not be permanent.

24 **Director Khin** said that they are considered street furniture, and they are heavy.

25 **Town Attorney Hohe** said they wouldn't be included in an easement unless they were
26 actually permanent.

27 **Councilmember Killingsworth** asked about the total budget.

28 **Councilmember Gantt** asked if they would be keeping tier one and tier two at
29 \$20,000 and if the extra will be for tier three.

30 **Councilmember Zegerman** said that using 50% in tier one and tier two and then
31 having a cap.

32 **Councilmember Killingsworth** said that it would depend on the project.

33 **Councilmember Zegerman** asked if there may be a certain budget amendment
34 considering that this avoids certain future costs.

35 **Councilmember Killingsworth** said that they may not want a dedicated amount
36 because of negotiating for these projects.

37 **Town Attorney Hohe** said that she would recommend some parameters and
38 standards for consistency and fairness.

39 **Councilmember Gantt** said that someone may not want to participate but if it's
40 temporary and less money, that it may be more desirable.

41 **Town Attorney Hohe** said that there would be a way to distinguish permanent
42 improvements versus a temporary easement.

DRAFT | SEPTEMBER 17, 2024 TOWN COUNCIL WORK SESSION MINUTES

Councilmember Gantt asked if Seaboard Street would fall into this category.

Town Manager Vosburg said that they could be flexible on these projects. He said that a budget hasn't been set or the cap and they would come back with those to Council.

Councilmember Gantt asked if there had been projects rejected because of amounts.

Town Manager Vosburg said that he didn't think so. He said that he could ask Economic Development to see what they have experienced.

Director Khin said that on historic buildings it is typically \$1 million dollars that the owners are investing. If it is not a historic building, then it is not as many rules, it may be less money.

Ms. Bunce said that also the sidewalks have to be installed. She said that there is a lot that goes into improving and restoring buildings.

Town Attorney Hohe said that this is where most of these façade grant projects are.

Town Manager Vosburg said that in the concept of 50% of a \$1 million project this would have a substantial impact of possibly \$200,000.00.

Councilmember Gantt asked if this was for each project.

Town Manager Vosburg said yes.

Councilmember Zegerman asked how many projects were projected. He said that the idea is to expand the Downtown area and expanding the corridor. He said that there was still a significant amount of work that could be done for \$200,000.00.

Mayor Gilbert asked if there were any other questions.

Director Khin asked if there were any concerns about the current boundary for the expansion.

Council Members collectively said they were good with it.

Mayor Gilbert thanked the staff for all their hard work.

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **6:12** 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 _____, 2024.

DRAFT MINUTES

TOWN OF APEX REGULAR TOWN COUNCIL MEETING TUESDAY, SEPTEMBER 24, 2024 6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, September 24th, 2024 at 6:00 p.m. in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

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

Part 1: <https://www.youtube.com/watch?v=kV6gcdH2byQ>

Part 2 (Work Session): <https://www.youtube.com/watch?v=m6cLDOKdVxk&t=11s>

[ATTENDANCE]

Elected Body

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

Town Staff

Town Manager Randy Vosburg
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

[COMMECEMENT]

Mayor Gilbert thanked everyone in attendance and welcomed those who joined by live stream. He said it was great to see so many people in the Council Chambers.

Mayor Gilbert called the meeting to order at 6:00 pm.

1 **Mayor Gilbert** read a diversity statement. He invited Benit Shastri to deliver the
2 invocation on behalf of the Radha Krishna Temple of North Carolina.

3 **Mayor Gilbert** then led those in attendance in the reciting of the Pledge of
4 Allegiance. He then explained that interpreters were present to assist with language access
5 services.

6
7 **[CONSENT AGENDA]**
8

9 **Councilmember Zegerman** asked that an amendment to Consent Item 3 be made, to
10 adjust the Revenues and Expenditures on the proposed Budget Ordinance Amendment No.
11 2 to read \$592,500 instead of \$542,500.

12
13 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
14 **Killingsworth**, to approve the Consent Agenda, with the proposed amendment by
15 **Councilmember Zegerman**.

16
17 **VOTE: UNANIMOUS (5-0)**
18

19 **CN1 Appointments - Transit Advisory Committee - Ex-Officio Replacement**

20 Council voted to appoint Lauren Staudenmaier, Planner II, to the Ex-Officio seat previously
21 held by Amanda Bunce on the Apex Transit Advisory Committee (TAC) effective September 1,
22 2024.

23 **CN2 Contract - Developmental Associates, LLC - Appointed Officials Evaluation**
24 **Facilitation (REF: CONT-2024-274)**

25 Council voted to approve a Standard Services Contract between Developmental Associates,
26 LLC and the Town of Apex, for the facilitation of the Town Manager's performance evaluation
27 to include short term feedback and one-year evaluation goals and objectives, effective
28 September 24, 2024 through November 30, 2024.

29 **CN3 Contract Multi-Year - Rebuilding Together of the Triangle - Apex Cares**
30 **Rehabilitation Program Administration - October 1, 2024 through September 30, 2027,**
31 **and Budget Ordinance Amendment No. 2 (REF: CONT-2024-275 and ORD-2024-075)**

32 Council voted to approve a Multi-Year Contract with Rebuilding Together of the Triangle, to
33 administer the Apex Cares Rehabilitation Program, effective October 1, 2024 through
34 September 30, 2027, and to authorize the Town Manager, or their designee, to execute on
35 behalf of the Town, and approve the corresponding Budget Ordinance Amendment No. 2.

36 **CN4 Council Meeting Minutes - August 27, 2024**

37 Council voted to approve, as submitted or amended, Meeting Minutes from the following
38 meetings:

39 August 27, 2024 - Regular Town Council Meeting

40 **CN5 Revisions to Standard Specifications and Standard Details (REF: OTHER-2024-**
41 **099 and OTHER-2024-100)**

1 Council voted to approve revisions to the Town Standard Specifications and Standard
2 Details.

3
4 **[PRESENTATIONS]**

5
6 **PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards - 4th Quarter**

7
8 **Councilmember Mahaffey** said that Apex partners with the Apex Public School
9 Foundation. He said that they would like to talk about the program and honor educators for
10 their hard work in educating our children. He then invited the Barbara Conroy, Co-Founder
11 and President of Apex Public School Foundation to talk more about the Apex Public School
12 Foundation and the Honoree and to accept the award and take a picture.

13
14 **Ms. Conroy** thanked Councilmember Mahaffey for creating the program. She said The
15 Apex Public School Foundation supports the 19 Wake County public schools with an Apex
16 mailing address. She said that's 3 High Schools, 5 Middle Schools and 11 Elementary Schools
17 currently in the Town of Apex. She said that the primary program, the teacher grant program,
18 funds teacher proposals that promote student engagement through Innovative, creative, and
19 collaborative programs. She said that the 2024-25 grant window just opened and they are
20 currently accepting applications. She said that applications will be accepted through October
21 15th, and they will be awarded funds in early 2025. She said that each Tuesday the foundation
22 celebrates exceptional Educators, administrators, and staff members through the weekly
23 shout out program. The weekly honorees are then eligible for this quarterly award. She said
24 that it is her pleasure to introduce this quarter's Peak Star Award recipient Miss Lucretia
25 Weber of Scotts Ridge Elementary School. She said that Miss Weber serves the Sailor
26 Community as a music teacher and regularly goes above and beyond her job description to
27 engage her students in meaningful musical experiences. She said that these include a student
28 course that meets before the school day begins, so again, before she's even expected to be
29 teaching Miss Weber is working with students on her course. She said that Ms. Weber also
30 does grade level performance concerts for first, third and fifth grade students at Scotts Rich
31 Elementary School, leading the school's Steam Night Event, which is no small task, and DJing
32 other school events. She said that Scott Ridge's Principal Derek Evans shared "Mrs. Weber is
33 an incredible music teacher who gets students excited about all that music has to offer, her
34 love for our students and school is always a parent and everyone in the school loves her right
35 back." She thanked her for all she does and congratulated her for being recognized as a Peak
36 Star. She asked Ms. Weber to come up and said she's joined tonight by assistant principal
37 Angela Griffin.

38 **Ms. Griffin** said that she would like to add that Ms. Weber is such a huge asset to the
39 community, and she gives every day with a servant's heart. She said that she also teaches
40 students the ukelele along with the recorder. She said that they loved her so much and were
41 so proud that she was getting this recognition tonight.
42

PR2 Proclamation - Domestic Violence Awareness Month - October 2024 (REF: PRO-2024-027)

Mayor Gilbert invited the Council to read the Domestic Violence Awareness Month Proclamation.

Mayor Gilbert said that the Hunter Street water tower would be illuminated purple on Friday October 4th, 2024 following the Glow of Grace event in honor of victims and survivors of domestic violence. He then invited Florida DeVaul-Dudley and Ed Dudley, Co-Founders of Shining Light in Darkness, Rada Mills, Board President, Dr. Felicia Tittle, Board Vice President and Dr. Ebony Dill, Strategic Advisor, as well as Danica Coleman, Victim Advocate at Apex Police Department to receive the Proclamation and take a picture.

Mrs. DeVaul-Dudley said that this was a surprise for the hard work that they do with Shining Light in Darkness. She said she was upset with her husband because she had already had a long day. She was elated for the honor. She said that Light in Darkness has been in existence for 10 years, she said it was 95% volunteer led and funded by her and her husband. She said those they serve are seen, supported, and empowered. She said that it was good to see that her labor and work is not in vain. She thanked everyone.

PR3 Proclamation - Hindu Heritage Awareness Month - October 2024 (REF: PRO-2024-028)

Mayor Gilbert invited the Council in reading the Hindu Heritage Month Proclamation.

Mayor Gilbert invited Hindu Swayamsevak Sangh, Ashutosh, Arati and Vaibhav to receive the proclamation and take a picture.

Mr. Sangh said that they were thankful to the Apex Town Council for the proclamation for Hindu Heritage. He said that they are celebrating the Festival of Lights and other events in October. He thanked everyone for the opportunity.

PR4 Proclamation - Public Power Week 2024 - October 6 through 12, 2024 (REF: PRO-2024-029)

Mayor Gilbert invited the Council in the reading of the Public Power Week Proclamation

Mayor Gilbert invited Eric Neumann, Director of Apex Electric, Emily Woody, Caitlyn Skotnicki, Philip Barnes, Ben Lannon, Mark Risby, Ken Weatherman and Jon Rose to receive the proclamation and take a picture. He also invited Assistant Town Manager, Marty Stone.

1
2 **Mr. Neumann** said he wanted to thank his entire staff. He said that Apex has extremely
3 good reliability. He said that they had been recognized throughout the entire State and
4 County as being one of the top performers. He said that they outperform the other 70
5 municipalities, and thanked the Council.

6
7 **[REGULAR MEETING AGENDA]**
8

9 A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore**
10 **Gray** to approve the Regular Agenda.

11
12 **VOTE: UNANIMOUS (5-0)**
13

14
15 **[PUBLIC FORUM] (NOTE: to view Public Forum and Public Hearing Sign in Sheets, see**
16 **OTHER-2024-101)**
17

18 **Mayor Gilbert** opened up Public Forum and invited the first speaker up.
19

20 First speaker was **Beth Bordeaux** of 1044 Branch Line Lane:
21

22 "My family and I have lived here for nearly 30 years I've spent my career in Human
23 Services as a Social Worker and a nonprofit leader. I served on the Steering Committee for
24 the development of the Town of Apex's Affordable Housing plan which was adopted in
25 February of '21. There was agreement that the market alone cannot adequately address the
26 affordable housing issues that Apex residents face and that the town has a central role and
27 responsibility to address the housing market through both regulation and public investment.
28 Apex manufactured housing communities and the residents who live there are particularly
29 vulnerable. By design, mobile home parks, a misconception in naming, disadvantages
30 homeowners and there's very little policy in place to protect them. Most residents own their
31 homes, however because of the high cost to move their home, homeowners are at the mercy
32 of landlords who own the land, set the rent rates, set the rules for the community and
33 ultimately have the power to sell the property and displace residents. This is not just about
34 finding a new affordable place to live because manufactured homeowners who are displaced
35 often have to forfeit the home that they purchased even if they continue to have payments.
36 One of the recommendations from the affordable housing plan is to include special
37 requirements for discretionary development in areas particularly sensitive to redevelopment,
38 such as mobile home parks, to minimize displacement. Informed by our research, I and others
39 here today believe that there are viable Sustainable Solutions within the town's authority to
40 prevent displacement of residents from our manufactured home communities. Therefore, we
41 are specifically asking that the Town Council, one commit to non-displacement of the
42 residents of Apex's three manufactured home communities and two, keep manufactured

1 housing as the future intended land use for these areas, unless it is affordable housing that is
2 financially and practically accessible to the current residents. I'm joined here today by
3 residents who live in these communities, by faith leaders representing their congregations
4 and by other advocates, and we're asking you as our elected leaders to lead with innovation,
5 to lead with our values, and to commit your support for affordable housing preservation
6 through regulation and public investment and you can begin with your commitment. Thank
7 you."

8
9 **Mayor Gilbert** said thank you and invited the next speaker.

10
11 Next speaker was **Lina Junco** of Apex Mobile Estates:
12

13 "I live on Markham Street, and I've been there for the last 16 years. I've lived in Apex
14 for 20 years. I raised my children here, they went to school here, and I would like to continue
15 living here in Apex. So, I would ask the Council to support us so that we do not have to move
16 our homes, and I'm here to speak in the name of the community, it's a Latino community, and
17 so, most of us have lived there for many years and we are very happy living here in Apex, so I
18 would ask for your support. Thank you."

19
20 **Mayor Gilbert** said thank you and invited the next speaker.

21
22 Next speaker was **Lizeth Cortez** of Apex Mobile Estates:
23

24 "Hello, good evening, my name is Liset, I'm 34 years old and I live in a trailer home
25 community here and for the last nine years since we got here, this has been our home I have
26 two children, they are four years old and 13 years old, and so I ask for your support, that you
27 not remove our homes. These are the homes that we have, the places that we know and love,
28 and so I'm speaking on behalf of my community here today and I would really like your
29 support. Thank you."

30
31 **Mayor Gilbert** said thank you and invited the next speaker.

32
33 Next speaker was **Reverend Jose Luis Villasenor** of Greenbrier Subdivision:
34

35 "I live at the Greenbrier Subdivision on Brickston Drive in Apex. I'm the senior pastor
36 of Iglesia Fiesta Cristiana, a United Methodist Mission congregation that serves individuals
37 and families in Apex and surrounding areas with a focus on serving historically marginalized
38 communities and tonight I want to present a letter signed by 14 faith leaders, many of whom
39 are here tonight, representing over 24,000 congregates, many of who are here tonight as
40 well. Faith leaders have signed on this letter out of concern for Apex residents who live in
41 manufactured home communities, concerned that they are facing the potential of
42 displacement. We also want to speak on defending diversity and inclusion in our community,

1 as the majority of these residents have a Hispanic Latino heritage. We feel as faith leaders that
2 we have an obligation to find solutions to prevent the displacement of these families due to
3 socioeconomic factors that are out of their control. As a town, we have an Affordable Housing
4 Plan, as we've already heard. I was part of the team that worked on that plan, and this plan
5 calls for Apex to identify and eliminate potential barriers to attracting our diverse population
6 and to adopt a racial equity lens to evaluate all housing policies and investments. Protecting
7 residents in mobile home parks is a real opportunity to do this so that Apex can live into the
8 values of a community that welcomes people from all walks of life. So tonight, Mayor, Council,
9 I ask you to join 24,000 voices to prevent displacements of residents of mobile home parks,
10 to protect affordable housing in Apex, and to live into the values of diversity and inclusion. I'd
11 like to end with a quote from Dr. Martin Luther King Jr.: "There's nothing new about poverty.
12 What is new, however, is that we have the resources to get rid of it." We can do this. As faith
13 leaders, as people of faith, as people of goodwill, let's stand together with our neighbors to
14 build a more loving and diverse community. Thank you."

15
16 **Mayor Gilbert** thanked Mr. Villasenor and invited the next speaker:

17
18 Next to speak was **Reverend Dr. Tirzah Turner** of South Point Drive:

19
20 "I'm a resident of Apex and I'm the Community Pastor at Cross Point Church in Cary
21 who many of our congregants live and work in Apex. Cross Point signed the pastoral letter
22 that you received a moment ago, but we also heard from our individual congregants that they
23 wanted their voices to be heard directly, and they knew of others who wanted to be a part of
24 this as well. So, what's being presented to you is with another 1,000 individual signatures
25 from the Apex area, 17 of which are from Cross Point directly. And they are many other
26 concerned citizens, many that are, as you've heard, here today. I encouraged my congregants
27 to sign this letter because our faith calls for and compels us to look outside of ourselves and
28 to care for one another, particularly those who are most vulnerable among us. As a mother, as
29 a resident, and as a pastor representing my congregation, we recognize that when something
30 affects one of us, it affects all of us and many of these individuals and families in these mobile
31 home parks are long-term residents, as you've heard. They are our neighbors, they are our co-
32 workers, they are our co-residents, they are fellow students in our children's classrooms, and
33 their future hopes mirror our own. Their fear of displacement should be our own fears. The
34 decisions we make regarding this community will speak loudly about the type of community
35 we are and the type of community that we want to be. So, I ask you on behalf of myself and
36 my family and on my congregation to work to find an alternative to displacement of our
37 cherished neighbors. These residents matter, as you know. They are a part of the fabric of our
38 community, and they have helped to make Apex the great place that it is. Their homes should
39 be protected so that they might continue to be a part of Apex's future. Thank you so much for
40 your time."

41
42 **Mayor Gilbert** thanked Ms. Turner and invited the next speaker.

1
2 Next speaker was **Carolyn Wilson**, Director of Pastoral Services at St. Michael the
3 Archangel Catholic Church of Cary:
4

5 "We currently have 5,350 families or households within our Parish. St. Michael Church
6 signed onto the pastoral letter because our Parish cares about and stands with the residents
7 in our community who are being affected by the potential sale of the land on which they are
8 living. We have seen residents of manufactured housing communities be displaced across
9 Wake County, like the Wellington Mobile Home Park residents in Wake Forest and soon
10 residents from Chatham Estates in Cary. We call on you to use your local government
11 authority to stop the displacement trend in Wake County here in Apex. People of faith are
12 called to love our neighbor and stand with those who are vulnerable, and those who live in
13 manufactured housing are particularly vulnerable. The value of land has increased immensely
14 since 2020, putting naturally occurring affordable housing like these communities at risk of
15 unaffordable redevelopment. It is prohibitively expensive to move a manufactured home,
16 which can cost up to \$14,000 and can also cause damage to the home. Many of the residents
17 of Apex's manufactured houses communities have low incomes and do not have the
18 resources to move their homes. On behalf of Father Scott McHugh, pastor at St. Michael, and I
19 quote, "One of the seven themes of Catholic social teaching is a preferential option for the
20 poor and vulnerable. A basic moral test is how our most vulnerable members are faring in a
21 society marred by deepening divisions between rich and poor. Our tradition recalls the story
22 of the last judgment in Matthew 25 when we are reminded, 'Lord, when did we see you
23 hungry and feed you, or thirsty and give you drink? When did we see you a stranger and
24 welcome you, or naked and clothe you? When did we see you ill or in prison and visit you?'
25 And the King will say to them in reply, 'Amen, I say to you, whatever you did for one of these
26 least brothers of mine, you did for me.' We are instructed to always put the needs of the poor
27 and the vulnerable first." Thank you."
28

29 **Mayor Gilbert** said thank you and invited the next speaker.
30

31 Next speaker was **Father Bill John** of Fuquay Varina:
32

33 "I am the pastor of St. Bernard Catholic Parish there in Fuquay Varina and I'm honored
34 to sign on this letter because since the foundation of our Parish, there has been great work
35 done by the bishop, priest, and faithful members to provide the Eucharist, sacraments, faith
36 formation, and our rich ministry, especially to the Hispanics. I am glad to see that 45% of our
37 registered members, who are 2,000, are Hispanic or of Hispanic descent. Many of the
38 residents of Apex mobile home parks are Hispanics, you already heard that, and many of
39 them are Catholics as well and attend our local Catholic parishes and missions and some of
40 them, thanks to the Opportunity Scholarship Program offered by the State, are attending also
41 our Catholic schools. This also speaks of the sacrifices some of these families are making to
42 raise their children with the hope of a brighter future for them, our community, and our

country. Many are longtime residents who have raised families, built strong community, and serve key roles in our congregations. To give a few examples, 21 of our catechists are Hispanics. Some of the Hispanic families have become so close friends with the elderly parishioners that it is difficult for me to imagine that there is no family celebration in which they are not invited to have some tacos and some tamales. When someone needs immediate assistance to replace or fix something in their homes, they call the Church and we can recommend a Hispanic parishioner to help them. Another beautiful thing is to see a good number of Hispanic youth going to serve our country in the armed forces and the police. It is devastating for priests, pastors, and leaders of the congregations to see community members being forced to move when children must break friendships, support structures, and transfer schools because of economic issues. It is heartbreaking and I question if that is able even to be justified. It is painful to picture losing a good number of parishioners, especially when you know they are doing so much good work here and are needed here. Together, we must ensure that they can bring food to the table and be able to join us every Sunday at the prefiguration of the Heavenly banquet and worship. If they are displaced, their families and our community will be disrupted, causing potential financial, emotional, and spiritual harm. Apex rental costs are too high to support these families. Residents will have virtually no choices within the Apex community if they are forced to move. Please support these residents by protecting the land they live on and they learn how to love."

Mayor Gilbert said thank you and called the next speaker.

Next to speak was **Margie Ward** of 3116 Pleasant Plain Road:

"I've lived on Pleasant Plains Road for almost 30 years. Many of my neighbors have lived there longer. Our neighborhood has always been a quiet rural place with some of us owning horses or other livestock. Until Apex built Pleasant Plains Park, no one even knew our neighborhood was there. The park has brought noise, traffic, and crime to our dead-end street neighborhood. It has made getting to and from our homes difficult. It has put our livestock and pets in danger with the additional traffic, and these concerns we communicated to the town before the park was even built. We knew a separate entrance was needed for the park, but we were ignored, and all our concerns have become reality. I never used to lock my car in my driveway, but I do now. Sometimes I would forget to lock our doors, but I double-check them these days. I've added security cameras to my property as well and there are too many unwelcome visitors in our neighborhood now, and there have been multiple property damage incidents and trespassers. We've had to adjust our lives to the park, but we do not want to have to adjust to commercial property designations to any lots on the street or multi-unit zoning changes. This would only add to the issues we currently have because of the park. We want our neighborhood to remain a rural residential area as it always has been. It is one of the last few green spaces developers have not clear-cut and put in multiple unit or zero lot housing along the old US-1 Corridor. The green spaces were what made Apex such a charming little town. Our neighborhood is an example of what Apex could have been if not

1 for all the mismanagement and greed. The Town Council should want to protect us like a
2 museum piece instead of changing us. I have petitions signed by 90% of our neighbors to
3 oppose any such zoning changes. We are going to become the squeaky wheel on this issue.
4 We love our homes and our neighborhood, and we are not going to let you destroy it for
5 money. And let's face it, that is what this is all about, money. Our neighborhood is not within
6 the City Limits of the Town of Apex, and we like it that way, but it also means we have no
7 voting power, but we are going to continue to make our opinions heard and you may get all
8 the other green spaces around us, but we're going to continue to fight to keep our little
9 piece, to keep some of the charm that made Apex wonderful. And you should let us keep it.
10 Thank you."

11
12 **Mayor Gilbert** said thank you and invited the next speaker.

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

15
16 "Good evening. Apex August development report came out, 78,000 people live in
17 Apex and projections are in less than six years, 100,000 people and growth rate 4.9% okay,
18 June of 2022 through June of 2023. It's a big number, so let's face it this is not a town
19 anymore it's a City and you're sitting in a hot seat because you're governing and steering a
20 City. It's very big responsibility. Return on investment should be front and center to maximize
21 every single tax dollar and create a desirable place for us to call home whether you received
22 our vote or not, the community deserves fiscal responsibility and safety that is the paramount
23 pillar of government. So, let's do a traffic study. We need a traffic study for the Peak
24 Development. I'm asking you tonight this Peak Development is in a rural Wake County, it's on
25 Old US1. They're planning 73 homes to dump out right into Old US1. This is a simple map I
26 did from Google and it shows the street view because I think when you look on a map you
27 can't really tell the dimensions and the feel of the environment and what you can see here is
28 there's a couple secondary roads and I talked about that last time all the crashes on the
29 secondary roads but I want you to see this area and how narrow the road is, and for those of
30 you that don't know US1 it's a 22-foot wide narrow no shoulder old age hilly road, shady road,
31 sunny road and it's very dangerous to drive on it. So, we already have the dangers from
32 adding, I think we have 3,200 homes that you're constructing right now, and they're not
33 affordable by the way, just so everybody knows that they're in the you know 700 plus range.
34 You're constructing all those homes and allowing that development that's just going to
35 increase the traffic flow, and I don't know if there you know whether there's a policy or State
36 law I've heard this before it doesn't matter. People are stressed out driving, people are hurt in
37 crashes. This is something we can do for safety. It's not much to ask for the New Hill
38 Friendship Community to really just get the whole picture and prioritize road safety and make
39 it safe and enjoyable for everyone. Thank you very much."

40
41 **Mayor Gilbert** said thank you and invited the next speaker.
42

1 Next speaker was **Elizabeth Stitt** of 3113 Friendship Road:

2
3 "Mayor, Town Council good evening. On September 10th, there was a Public Hearing
4 for Apex in front of the Wake County Agricultural Board in regard to three properties, which
5 mine was one of the three. I had asked for the hearing to be delayed the Friday before, for
6 two reasons. I had submitted questions to the town about the force main that I needed
7 answers to in order to prepare for the hearing. I had not received the answers, so for 20 days,
8 no answers, but yet the Town would not agree to delay the hearing. So, I had to go into the
9 hearing without answers to any of my questions. I also asked for a delay because Ricky Stone,
10 one of the other property owners, was sick with COVID. He knows I'm sharing this, so it's not
11 anything confidential, but Ricky Stone is a retired Wake County Sheriff. He put his life on the
12 line for us daily, year after year after year after year after year, but yet the town would not
13 allow a delay in the hearing for him to be able to come and speak about his concerns about
14 the force main on his agricultural property. So, we did the best thing possible. He wrote a
15 statement, and I read it for him. This was not okay, we deserved better treatment from the
16 Town. Now I understand that the statute says, "Hey, the Town can request a Public Hearing
17 and you hold it within 30 days," and everybody's stuck to the rules. So, we are going to
18 advocate after the election to get the statute updated. If a property owner is sick, there
19 should be a provision to allow that hearing to be delayed. If the Town has withheld
20 information from property owners where we can't properly advocate for our concerns, the
21 hearing should be delayed because the whole purpose of having the hearing is for our
22 concerns to be addressed. So, I don't know if you have seen the letter, but the town received
23 a letter on September 13th where the Wake County Agricultural Board found that the town
24 had not met the requirements, had not established the need for the Big Branch force main to
25 go through our properties. So, the letter, if you haven't seen it, please take the time to read it
26 because it is very important. What I don't understand is this has been on the Town's radar now
27 for two plus years. What's the rush? Can we not get it right? Can we not be treated fairly in the
28 process? Do we really have to be treated this way? You hear about everybody tonight talking
29 about inclusion and displacement. Well, what you're doing in your decisions on the force
30 main is causing displacement for some of us. Thank you."

31
32 **Mayor Gilbert** thanked the speaker. He thanked all of those that came out to speak.
33 He said he also thanked Julie Von Haefen, Representative from the North Carolina General
34 Assembly for attending. He also wanted to thank the Apex Youth Council for attending. He
35 said they closed the Public Forum.

36
37 **Mayor Gilbert** called for a 10-minute recess at **7:01** p.m.

38
39 **Mayor Gilbert** reconvened the meeting at **7:10** p.m.
40
41
42

[PUBLIC HEARINGS]

***CLERK'S NOTE:** The public hearing resolutions associated with each of the below items were approved on September 10 and scheduled for September 24, 2024. Proper public notice was not provided for the corresponding Annexation in sufficient time in accordance with North Carolina General Statutes § 160A-58.2. The Town does not have authority to rezone property not within their jurisdiction, therefore, these items are scheduled for consideration on October 08, 2024. Only the items denoted below in a red asterisk are being delayed to October 08, 2024.

PH1* Annexation No. 788 - Oliver Property - Humie Olive Road - 15.9428 acres

Joshua Killian, Planner I, Planning Department

AND

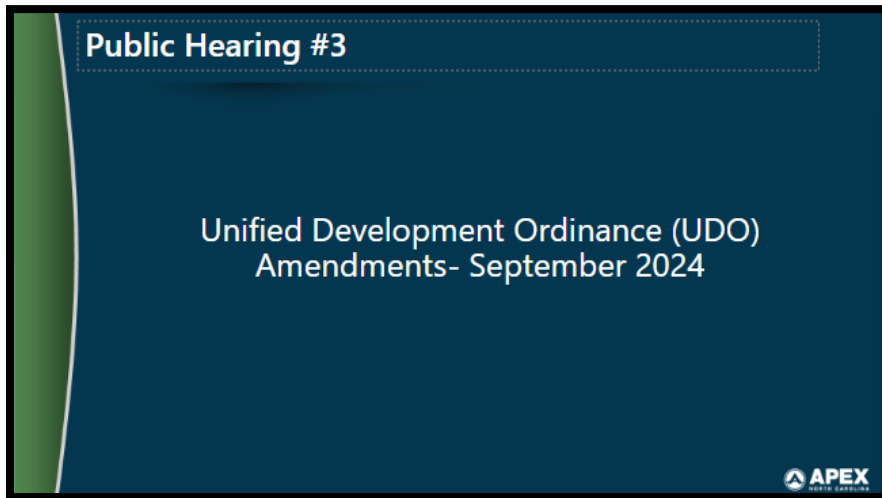
PH2* Rezoning Case No. 24CZ12 - Oliver Property

Joshua Killian, Planner I, Planning Department

PH3 Unified Development Ordinance (UDO) Amendments-September 2024 (REF: ORD-2024-076)

Amanda Bunce, Current Planning Manager, Planning Department gave the following presentation to amend various sections of the ordinance.

[SLIDE 1]



1 [SLIDE 2]

Amendment #1

Requested by Planning Staff

1. Amendments to various sections of the UDO in order to remove all references to "condominium" given it is not a specific use and that State law does not require municipal review of condominium plats. Affected sections include the following: 3.3.1.F, 3.3.1.G, 4.2.2, 4.3.1.B, 4.4.1.A, 5.1.1, 5.1.5, 5.2.2.F, 6.3.1.G, 6.3.1.H, 7.1.6, 7.2.5.D, 7.5.9.C.2, 8.2.4.A, 8.2.6.B.4, 8.6.3, and 12.2


3.3.1 Residential Districts

...

F) *High Density Multi-Family Residential District*
The purpose and intent of the HDMF High Density Multi-Family Residential District is to provide lands for high-density multi-family residential uses, (townhouses, condominiums, apartments, duplexes, triplexes, and quadplexes) at densities up to 14 units an acre.

G) *MH Manufactured Housing Residential District*
The purpose and intent of the MH Manufactured Housing Residential District is to provide lands for manufactured housing along with other multi-family (townhouse, condominium, duplex, and multi-family dwellings) and single-family housing at densities of six (6) units an acre.

...




2
3 [SLIDE 3]

Amendment #1

Requested by Planning Staff

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts													Standards				
		Residential						Business			Planned Development		Other						
		R A	R L	R D	M D	H D	M H	M O	O B	B B	P C	P L	T F	M E		T N	P U	C D	S B
Residential Uses																			
Condominium	4-3-3-B						P		P					P	P	P		P	4-4-3-A; 6-3



4
5 [SLIDE 4]

Amendment #1

Requested by Planning Staff

4.3.1 Residential Uses

...

B) *Condominium Reserved*
A residential development of two or more units in one or more buildings designed and constructed for unit ownership as permitted by the North Carolina Unit-Ownership Act.

...


4.4.1 Residential Uses

...

A) *Condominium Reserved*

1) All condominium developments with one or more dumpsters or a trash compactor must provide a recycling area and a cardboard dumpster; both shall be screened with similar materials to the dumpster or compactor enclosure;

2) The overall enclosure design must comply with the standards found in the Town of Apex Standard Specifications and Standard Details.



1 [SLIDE 5]

5.1.1 Residential Districts

Use	Average Lot Size	Minimum Lot Width (feet)	Minimum Setbacks (feet)				Max. Height (feet)	Max. Bulk-Open Area (%)	Max. Density (Units per Acre)	Additional Regulations
			Front	Side	Rear	Corner Side				
HDMF										
Condominiums, Multi-family or Apartments	---	---	50**	50**	50**	50**	40	85	14	Sec. 5.2.2.F
MORF										
Condominiums, Duplex, Multi-family, or Apartments	---	---	25** (max.)	5**	10**	15**	30	70	12	Sec. 5.2.2.F

* See Sec. 6.1 Watershed Protection Overlay Districts.
 ** These setbacks are for the perimeter of entire project only.
 *** Projects submitted prior to April 5, 2009 shall be governed by the Minimum Front Setbacks in place at the time of submittal.

5.1.5 Small Town Character Overlay District Intensity and Dimensional Standards Table

Use	Average Lot Size	Minimum Lot Width (feet)	Minimum Setbacks (feet)				Max. Height (feet)	Max. Bulk-Open Area (%)	Max. Density (Units per Acre)	Additional Regulations
			Front	Side	Rear	Corner Side				
Multi-family/Condominiums	---	60	20*	10*	15*	10*	35	60	14	---

* See Sec. 6.1 Watershed Protection Overlay Districts.
 † Building height may be increased to 3 stories and 30 feet if the following conditions are met:
 a. The existing structure is not contributing to the historic district.
 b. The existing or proposed building is located on Salem Street.
 c. The existing or proposed building is located on the corner of 2 public streets or a public street and a public alley.
 d. The 3rd story shall be set back at least 18 feet from the property line along the front facade.
 e. Open air rooftop dining shall be exempt from the height calculation.
 ‡ These setbacks are for the perimeter of the entire project only, not setbacks between units or buildings.

APEX
NORTH CAROLINA

2
3 [SLIDE 6]

Amendment #1
Requested by Planning Staff

5.2.2 General Measurement Requirements

...
 F) *Internal Building Setbacks*
 Except in Sustainable Development Conditional Zoning District (SD-CZ), internal building setbacks for ~~condominium~~, multi-family and apartment, congregate living facilities and nursing and convalescent facilities shall comply with the following spacing standards:
 ...

6.3.1 Small Town Character Overlay District

...
 G) *Residential Building Standards*
 ...
 2) *Accessory Buildings*
 Accessory buildings such as garages shall be placed in the rear or side yard. Whenever possible, side loading garages shall be located in the rear of the property. For ~~condominium~~, multi-family or apartment uses, garages and driveways which dominate the front of the lot area are not permitted.
 ...
 H) *Residential Architectural Character*
 The following standards shall apply to any ~~condominium~~, multi-family or apartment use. It is strongly recommended that single-family and townhouse dwellings follow the architectural guidelines in the *Town of Apex Design and Development Manual*.

APEX
NORTH CAROLINA

4
5 [SLIDE 7]

Amendment #1
Requested by Planning Staff

7.1.6 Condominium and **Requirements for** Townhouse Developments

A) *Requirements for Condominium Developments*

1) Before a declaration establishing a condominium development may be recorded in the office of the Wake County Register of Deeds, as prescribed in the North Carolina Unit Ownership Act, the Site Plan or Master Subdivision Plan shall be approved as provided in this Ordinance. Such declaration and Site Plan or Master Subdivision Plan shall conform to applicable subdivision requirements as set forth in this Article and to the zoning requirements of this Ordinance.

2) In addition, the following requirements shall be complied with:

a) The declaration shall be a complete legal document prepared strictly in accordance with the North Carolina Unit Ownership Act.

b) The plans of the buildings to be attached to the above declaration and recorded shall be prepared in accordance with the North Carolina Unit Ownership Act.

c) If any streets or utility easements are to be dedicated for public use and maintenance, a separate plat shall be submitted and recorded in accordance with requirements of this Ordinance.

d) The declaration shall contain a statement that common expenses include ad valorem taxes, public assessments, or governmental liens levied on common areas, if any.

B) *Requirements for Townhouse Developments*

APEX
NORTH CAROLINA

1 [SLIDE 8]

Amendment #1
Requested by Planning Staff

7.2.5 Single-Family Residential Grading

...
D) Exemptions

1) The following shall be exempt from the provisions of Sec. 7.2.5 *Single-Family Residential Grading*:

...
e) Attached and detached townhomes, multi-family/apartments, condominiums, and non-residential developments.

7.5.9 Schedule of Installation

...
C) ...

2) Residential development

a) All road improvements required per the Advance Apex: The 2045 Transportation Plan, all proposed roadways to be constructed within existing or proposed public right-of-way as part of the approved development plan and all additional offsite road improvements required to mitigate development traffic impacts to existing facilities must be completed prior to the first plat approval for single family residential and townhomes and prior to the first CO for multi-family, ~~and/or~~ apartments ~~and/or~~ condominiums. For phased multi-family, ~~and/or~~ apartment ~~and/or~~ condominium developments, all the improvements applicable to a phase must be completed before the first CO is issued for the phase.

APEX
NORTH CAROLINA

2
3 [SLIDE 9]

Amendment #1
Requested by Planning Staff

8.2.4 Building Landscaping Requirements

A) General Landscaping Standards

All non-residential, multi-family/apartment, condominium and townhome developments, and all single-family residential subdivisions shall install landscaping pursuant to the requirements of this Section. This landscaping shall be in addition to any other landscaping required by Article 8: General Development Standards, unless otherwise specified.

...
8.2.6.B Buffering, Landscape Buffers Between Land Uses

...
4) Land Use Classes

...
c) Class 3:

Condominium
Duplex
Manufactured home-detached, lots less than 6,000 square feet
Multi-family or apartment
Single-family detached, lots less than 6,000 square feet
Townhouse
Townhouse, detached
Triplex or Quadplex

APEX
NORTH CAROLINA

4
5 [SLIDE 10]

Amendment #1
Requested by Planning Staff

8.6.3 Illumination Standards

...
Table 8.6.1: Lighting Standards for General Parking with Pedestrian Areas (initial foot-candles)

Use	Horizontal Illuminance	
	Avg	Uniformity Ratio
- Multi-family residential or condominium (stacked flat)	4.0	8/1
- Retail	4.0	4/1
- Office	2.0	4/1
- Industrial		
- Educational		
- Cultural, civic, and recreational		
- Church or place of worship		
- Townhomes and other attached residential		

...
12.2 Terms Defined

...
Grading

The movement of earth by mechanical means to alter the gross topographic features of a development site, including elevation and slope, in preparation for construction of single-family, multi-family/apartment, ~~condominium~~, and attached and detached townhome residential development and non-residential development.

...
APEX
NORTH CAROLINA

1 **Ms. Bunce** asked if there were any questions.

2 **Mayor Gilbert** asked if there were any questions. He opened the Public Hearing and
3 closed Public Hearing with nobody signed up to speak.
4

5 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
6 **Zegerman** to approve the Unified Development Ordinance (UDO) Amendments of
7 September 2024 related to Condominiums.
8

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

10
11 **[UPDATES BY TOWN MANAGER]**
12

13 **Mr. Stone** gave an update on the Utility billing. He said that they were working very
14 diligently to get it on its normal billing cycle schedule. He said that cycle two, August bill
15 would be on its normal billing cycle. He said that the draft for the cycle 2 August draft will
16 occur on the 26th of September. He said that the website has been updated to include this
17 information. He said that the Cycle 1 September bill is three months and includes
18 approximately 100 days. He said that they have worked hard along with Finance to make this
19 clear. He said that there will be a 4 page insert to explain the bill. This 4-page insert will also
20 be emailed to the customers that they have email on file for. He said it will also be a handout
21 for walk in customers so that they can explain this. He said it will also go in the October
22 newsletter that goes out and, on their website, as well. The October bill will be back on its
23 normal 30-day billing cycle. He said that Finance renovation of the old Inspections area is
24 getting started and Lomax is the contractor. He said that they are mobilizing tomorrow
25 afternoon and demo will start in a few weeks and they will let everyone know when it starts.
26 He said the plan is that it will be finished the renovation and occupancy will be late
27 Winter/early Spring. He said the Hunter Street logo project for the Hunter Street Water Tank is
28 complete and looks great. He said that plans are to start Mason Street this week. He said they
29 would be taking the parking to put a containment system in place. He said this would open
30 up mid-October and remain open during voting, and then close again after the election. He
31 said the tank should be completed in late December. He said that the tank on Tingen Street
32 will not be done until there is a new tank. He said this is due to capacity issues and they don't
33 want to take this tank offline. He said on the Saunders Lot they were unable to open bids
34 because there were only 2 bidders. He said they plan on re-opening on October 8th and if
35 they receive a bid, they will be able to meet the requirements. He said the job is scheduled to
36 begin in January.
37

38 **Mayor Gilbert** asked if there were any questions.
39
40
41
42

[CLOSED SESSION]

A **motion** was made by **Councilmember Zegerman** and seconded by **Mayor Pro Tempore Gray** to enter into Closed Session Pursuant to: NCGS § 143-318.11(a)(5).

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **7:19** p.m.

**CS1 Steve Adams, Utilities Acquisition and Real Estate Specialist
NCGS §143-318.11(a)(5):**

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease."

Council returned to open session at **8:11** p.m.

RECESS AND RECONVENE

Mayor Gilbert called for a 10-minute recess at **8:11** p.m.

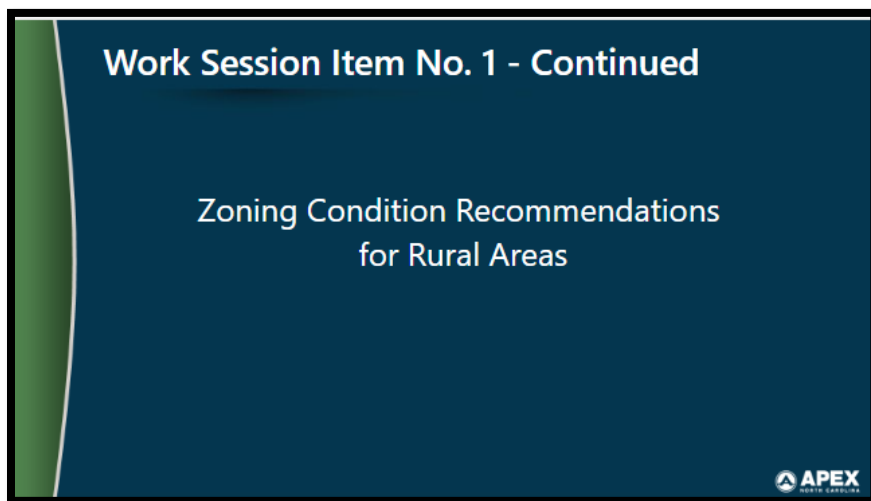
Mayor Gilbert reconvened at **8:19** p.m.

[WORK SESSION CONTINUED]

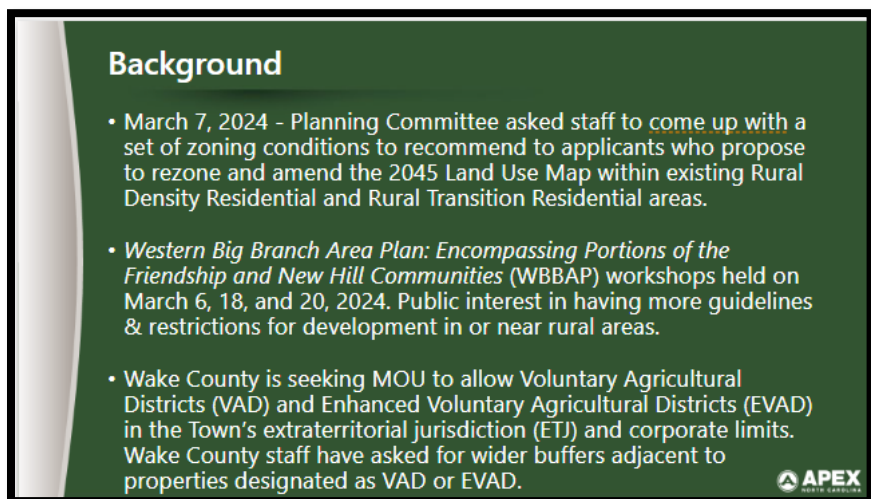
WS1 Zoning Condition Recommendations for Rural Areas *(deferred from September 17, 2024 Town Council Work Session)*

Dianne Khin, Director, Planning Department, and **Amanda Bunce**, Current Planning Manager, Planning Department gave the following presentation on Zoning Condition Recommendations for Rural Areas.

1 [SLIDE 1]



2
3 [SLIDE 2]



4
5 **Councilmember Gantt** asked what the difference between rural density and rural
6 transition.

7 **Director Khin** said that the rural density residential allows rezoning to the residential
8 agriculture district, which is one unit per five acres, and the rural transition residential area
9 allows rezoning to rural residential, which is one unite per acre.

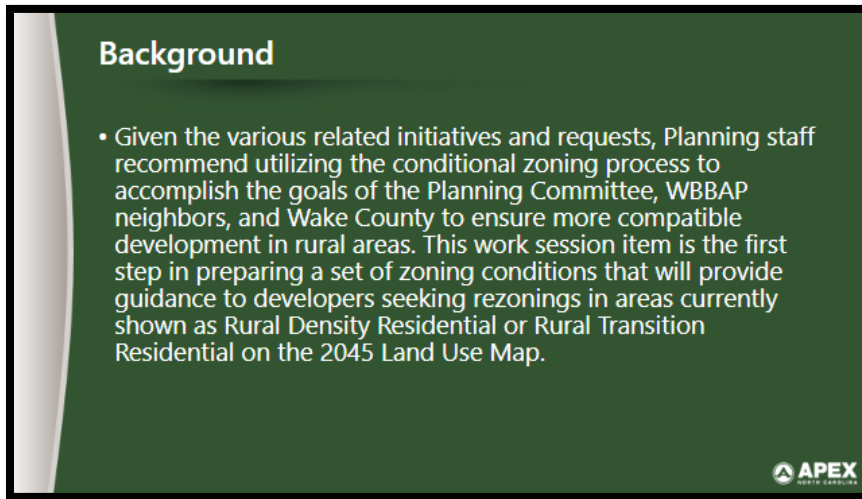
10 **Councilmember Gantt** asked if there had been any rural residential rezoning requests
11 lately.

12 **Director Khin** said no, she said they would be going from rural density to rural
13 transition or rural transition to low density.

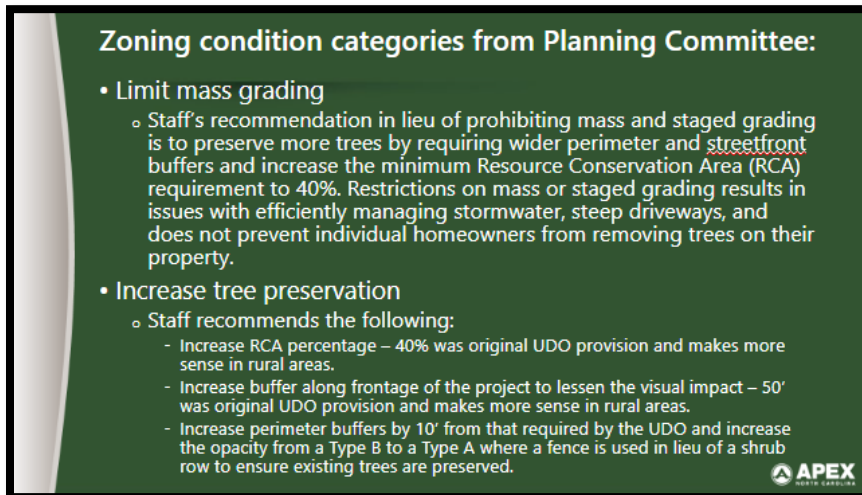
14 **Councilmember Gantt** asked if Wake County staff differentiate in terms of the request
15 of the VAD vs EVAD.

16 **Director Khin** said no. She said that they consider it the same for the same as the
17 buffer request that they made to Apex.
18

1 [SLIDE 3]



2
3 [SLIDE 4]



4
5 **Councilmember Gantt** asked if when the RCA switched from 40% if this was prior to
6 Stormwater.

7 **Director Khin** said yes. She said that when the Stormwater program came in you
8 could plant the stormwater ponds and so it counted as the RCA and then the State said that
9 there had to be grass around the stormwater ponds, so then it was mostly no longer counted.

10 **Councilmember Gantt** asked if geographic RCA in the UDO based on certain roads,
11 is west to 540 considered the boundary.

12 **Director Khin** said no that it's the rural density and rural transition land use
13 classifications. She said it's not a road, it's the current classifications.

14 **Councilmember Gantt** said that there were some properties in that category. He said
15 they are much closer to town than others.

16 **Ms. Bunce** said most rural transition properties are in the western edge in Apex
17 jurisdiction, however there are some that are closer to town because the neighbors ask for
18 low density such as Capital and Buckingham.

Councilmember Mahaffey suggested that if property was in this geographic area, you are a certain density.

Director Khin said that this wasn't the UDO that it is zoning conditions.

Councilmember Zegerman asked if this is just from rezoning how much land would be zoned this way. He asked would this apply to these properties.

Director Khin said yes, because this is land use not zoning.

Ms. Bunce said that if they request to come into our jurisdiction, which is if they need water and sewage services, then that's when they would do it.

Councilmember Mahaffey said that the effective change here is because most of the land for residential is in the park currently is 30 and the 5% mass grading increase.

Director Khin said that sounds right.

Councilmember Gantt said that it would be a zoning issue so there would be a mass grade.

Director Khin said that it would be a flat 40%.

Councilmember Zegerman asked how staff would interact with developers with these recommendations. He asked if they would be denied.

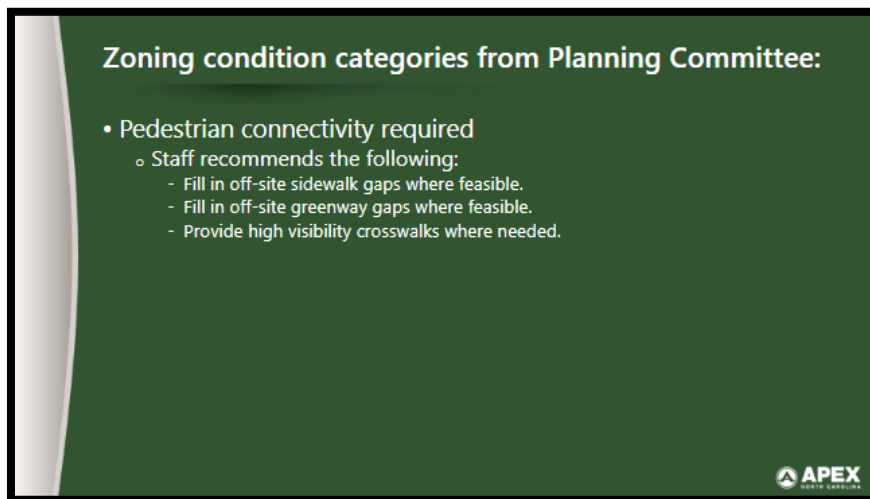
Director Khin said they would be denied if they didn't feel like they did not do what they could do. She said that they would make recommendations.

Councilmember Mahaffey said sometimes it makes more sense to have the conservation mesh with the other areas like RCAs or Game Lands around it.

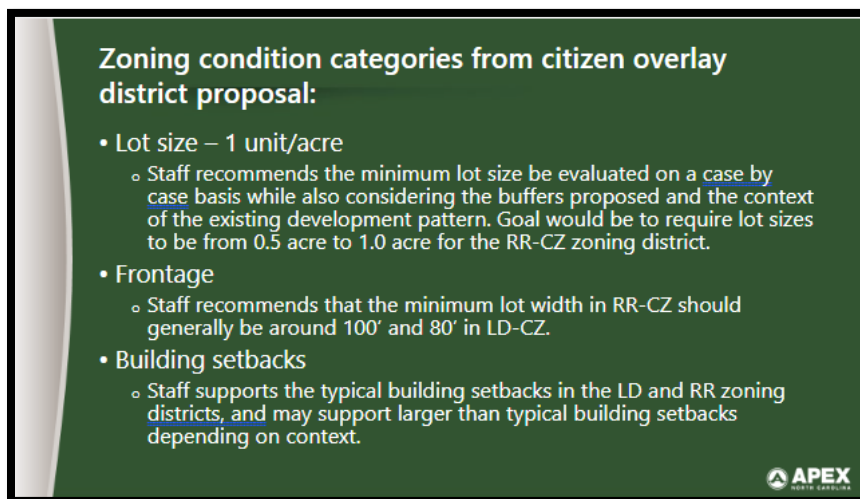
Councilmember Gantt asked if they could make a denial recommendation even if it's not against a part of the UDO.

Director Khin said they spend months making recommendations, and they can make denial recommendations based on their professional opinions. She said most of the time staff and developers come to an agreement before it reaches Council.

[SLIDE 5]



1 **[SLIDE 6]**



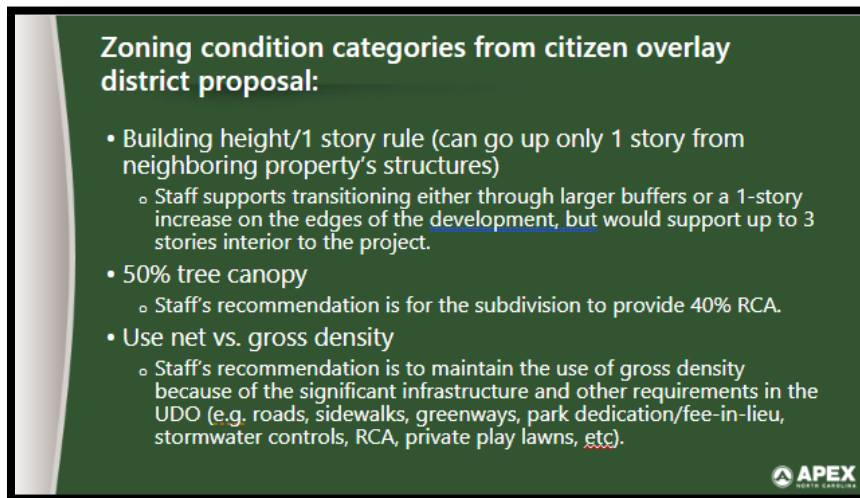
2
3 **Councilmember Gantt** asked how places like close to Jordan Lake were but still in
4 Wake County being looked at.

5 **Director Khin** said that they looked at properties and thought about how it would
6 work in this context, but that this is why there must be flexibility. She said that they can have
7 goals and targets, but every project is different.

8 **Councilmember Gantt** asked if this was Town wide.

9 **Director Khin** said yes, land-use is Town wide.

10 **[SLIDE 7]**



11
12 **Councilmember Gantt** asked if there was a level of detail to know it's a rezoning and
13 not a PUD.

14 **Director Khin** said that it would be the zoning condition that the first layer of homes
15 can only be how many stories and what the height.

16 **Director Khin** said that it had been asked for a 50% tree canopy, but 40% tree canopy
17 is still recommended in the UDO, but it would be up to the Council to decide.

18 **Councilmember Zegerman** asked if this was subject to the UDO.

Director Khin said no, this is a zoning condition.

Councilmember Mahaffey said that the gross density had been discussed in the past. He said that the current values for the density designation is set on the assumption of gross density and if you change that density then you recalculate the value, and nothing really changes.

Director Khin said yes.

[SLIDE 8]

Zoning condition categories from citizen overlay district proposal:

- **Require fencing**
 - Staff's recommendation is for fences to be required when projects are adjacent to a bona fide farm, VAD or EVAD, or when the shrub layer would not likely survive when planted within a Type A buffer with high percentage of tree canopy.
- **Greater buffers**
 - Staff recommends the following:
 - Increase buffer along frontage of the project to lessen the visual impact – 50' was original UDO provision and makes more sense in rural areas versus suburban areas.
 - Increase perimeter buffers by 10' from that required by the UDO and increase the opacity from a Type B to a Type A where a fence is used in lieu of a shrub row to ensure existing trees are preserved.



[SLIDE 9]

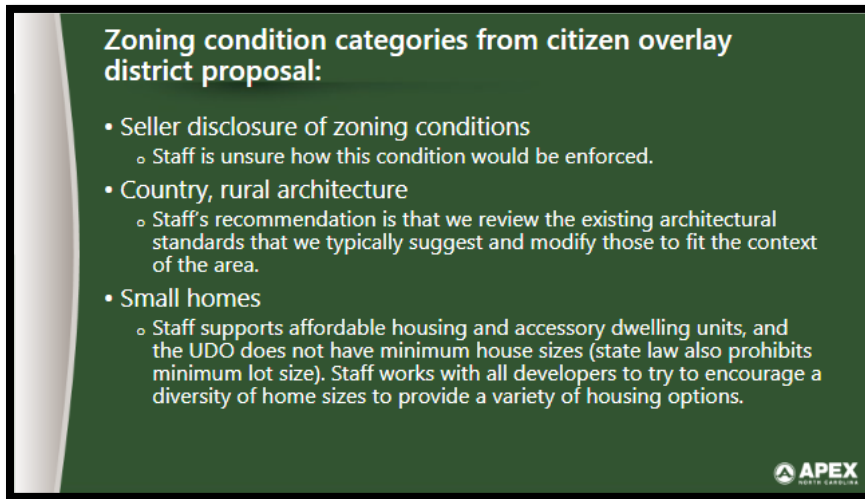
Zoning condition categories from citizen overlay district proposal:

- **Stormwater protections for farm ponds**
 - Additional condition included in Environmental Zoning Conditions.
- **Clear cutting and mass grading prohibited**
 - Staff's recommendation in lieu of prohibiting mass and staged grading is to preserve more trees by requiring wider perimeter and streetfront buffers and increase the minimum RCA requirement to 40%. Restrictions on mass or staged grading results in issues with managing stormwater efficiently, steep driveways, and does not prevent individual homeowners from removing trees on their property. See Attachment #3 for discussion from September 2023 Planning Committee meeting.
 - Staff does not consider mass grading to be the same as clear cutting since staff recommends that 40% of the subdivision be preserved as RCA.

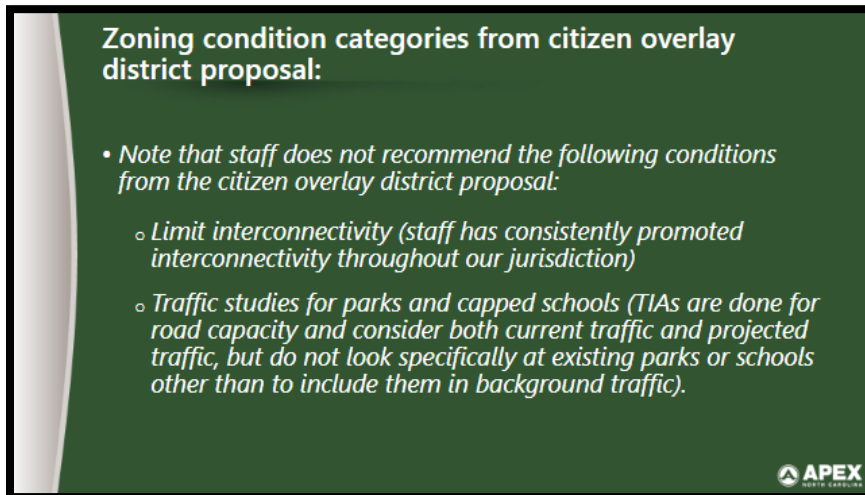


Councilmember Killingsworth said that it is noticed that in the subdivision areas where they didn't have the mass grading that they have more stormwater issues and flooding areas. She said that when you have a house built on a hill and you don't have any stormwater guides to control it there is flooding.

1 [SLIDE 10]



2
3 [SLIDE 11]



4
5 **Councilmember Mahaffey** asked if there was a request for a traffic study to be done
6 for the school or asked to ensure that the school and parks are included.

7 **Director Khin** said that it is in the background traffic.

8 **Councilmember Zegerman** said that the challenge is when a school is coming, and
9 they are excluded from the traffic study because of the improvements.

10 **Councilmember Gantt** said that things can change.

11 **Councilmember Killingsworth** said there are professional standards.

12 **Councilmember Mahaffey** said that there are objective determination.

13 **Director Khin** said that there are a bunch of assumptions and projections based on
14 data that the engineers that have been collected, and they are more of an art than a science.

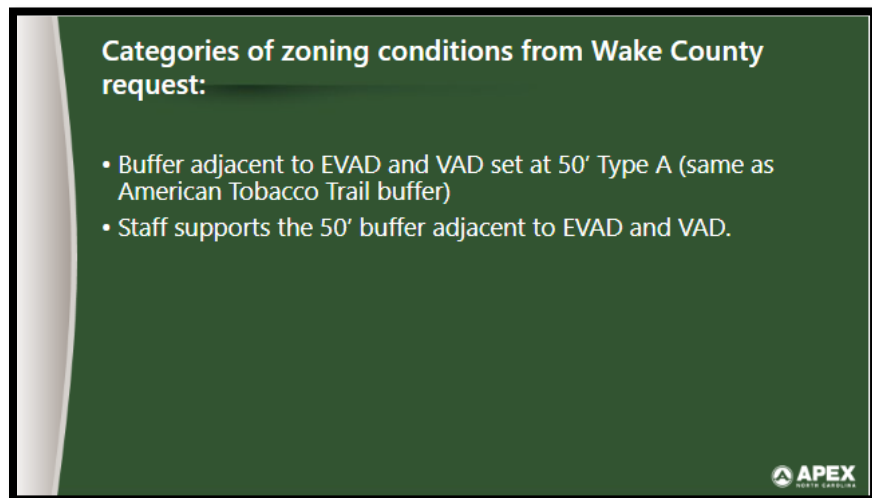
15 **Councilmember Mahaffey** said that there are negotiations, but he is not sure who
16 should be mandating the negotiations.

17 **Director Khin** asked how far away to look at this.

18 **Councilmember Mahaffey** said the farther you go the more the traffic.

1 **Ms. Stitt** said that this is a conversation with NC Department of Transportation. She
2 said that if you are going to put development in an area where schools are located then you
3 need the pipeline that school that's not going to have the capacity in 5 or 10 years. She said
4 they are tackling it from both sides and ending up with more traffic from development in an
5 area where schools are capped with no relief for 5 or 10 years.

6 **[SLIDE 12]**



7
8 **Councilmember Gantt** asked what the difference of EVAD and VAD.

9 **Director Khin** said that one is more permanent.

10 **Councilmember Mahaffey** said VAD's are not as big of a commitment to him for Type
11 A, and EVADs are 10-year commitments. He said there is some work that needs to be done
12 with them.

13 **Director Khin** said that agricultural easements had issues with easements and roads.
14 She said that with the environmental easement and agricultural easements would work the
15 same way. She said if it was in the wrong area, it would cause issues.

16 **Councilmember Zegerman** said that this may take more discussion.

17 **Director Khin** said the Memorandum of Understanding may be where this could be
18 worked out to ensure they aren't placed where roads are planned. She said that it may be an
19 Administrative and Legal issue.


20 **Councilmember Gantt** said that they should work with Wake County staff and Legal
21 as well.

22 **Director Khin** said that the zoning conditions from Wake County could be discussed
23 later and add it later.

1 **[SLIDE 13]**

Categories of zoning conditions from earlier rural area rezonings:

- Game lands buffer – 450' is the NC Wildlife Commission's recommended buffer.
 - Staff's recommendation is to provide 450' or as much as is reasonably possible since requiring the full buffer width could render some properties undevelopable.
- Affordable Housing proffer.
- Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
- Historic structures shall be put into historic preservation easement with Capital Area Preservation or similar non-profit.
- Cemeteries shall be preserved in place. Prior to Master Subdivision Plan approval, a survey of any cemetery shall be completed to establish its exact dimensions and the location of grave sites.




- 2
- 3 **Councilmember Zegerman** asked if it was in the UDO.
- 4 **Director Khin** said that it's not in the UDO that it was a zoning condition on others.
- 5 **Ms. Bunce** said that it was a recommendation from the Wildlife Commission.

6 **[SLIDE 14]**

Categories of zoning conditions from earlier rural area rezonings:

- Limit permitted uses to the following for RR-CZ and LD-CZ rezonings:
 - Single-family
 - Accessory apartment
 - Farm residence (RR-CZ only)
 - Utility, minor
 - Greenway
 - Horse boarding and riding stable (RR-CZ only)
 - Park, passive
 - Park, active
 - Recreation facility, private
 - Cemetery (RR-CZ only)
- See Appendix G: Review of Allowable Agricultural Business and Agritourism Uses for possible agritourism land uses allowed within RR-CZ, and PUD-CZ (see Attachment #4).




- 7
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- 18

1 **[SLIDE 15]**

Categories of zoning conditions from earlier rural area rezonings:


- Development shall provide a maximum gross density of 1.0 units per acre.
- The minimum lot size shall be 0.5 acre.
- The maximum built-upon area per lot shall be 50%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:
 - Front – 40 ft;
 - Side – 15 ft. min;
 - Corner side – 15 ft;
 - Rear – 25 ft.



2
3 **[SLIDE 16]**

Architectural Zoning Conditions:


- Staff recommends both standard and enhanced architectural zoning conditions addressing siding materials, color palette, roof pitch, eave projection, garage door details & location, corner side decorative elements, covered porch/stoop, porch depth, and trimmed windows on visible sides.



4
5 **[SLIDE 17]**

Environmental Zoning Conditions:

- For stormwater management, post-development peak runoff shall not exceed pre-development peak runoff conditions for the 1 year, 10 year, and 25 year 24-hour storm events.
- Implement a stormwater management plan that results in nitrogen and phosphorous loading rates of 4.4 lbs/ac/yr and 0.78 lbs/ac/yr, respectively, or provides "runoff volume matching" as defined in 15A NCAC 02H .1002.
- As part of the sediment & erosion control plan, include the use of NC DWR Approved PAMS/Flocculants in accordance with Sec. 6.86 of the NC Erosion & Sediment Control Planning and Design Manual. (NC DWR Approved PAMS/Flocculants: <https://www.deq.nc.gov/water-resources/north-carolina-dwr-list-approved-pamsflocculants>.)



6

Director Khin said that the second bullet is to implement a stormwater management rule and it may be related to the Jordan Lake rules that have been suspended.

Town **Manager Vosburg** confirmed that's what it was.

Director Khin said that the zoning conditions to have the mimic the Jordan Lake rules.

Councilmember Gantt asked if this was done by reporting or do the current control do this by design.

Councilmember Gantt asked if the link between the year storm and the nutrients is not one to one.

Mr. Patterson said no.

Director Khin said that the last item was written to address the neighbors concern about stormwater protections for farm pond and she asked Mr. Patterson to speak on this.

Mr. Patterson said it was recommended for control devices.

Director Khin said that it was to keep the turbidity out of the farm pond, so it doesn't turn into a brown mess.

[SLIDE 18]

Environmental Zoning Conditions:

- Developer shall install pollinator-friendly and native flora within SCM planting areas.
- At least 75% of the plant species used in the landscape design shall be native species.
- Perimeter buffers, SCMs, and other HOA maintained areas shall be planted with clover or warm season grasses for drought resistance.
- In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.
- A minimum of xx pet waste station shall be installed in HOA common area.



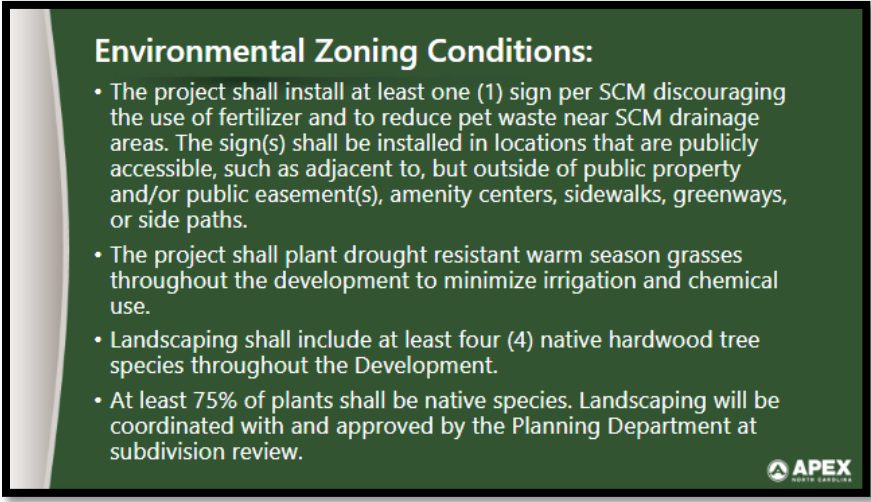
[SLIDE 19]

Environmental Zoning Conditions:

- All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electric vehicles.
- A split-rail wooden fence shall be provided along the project boundary to provide a physical barrier between the USACE property and the cleared and maintained Town of Apex utility easements which run parallel to the project boundary.
- All dwelling units shall be pre-configured with conduit for a solar energy system. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
- A solar PV system shall be installed on at least ## homes within the development. A solar PV system shall be installed on a minimum of one (1) model home. All solar installation required by this condition shall be completed or under construction prior to 75-90% of the building permits being issued for the development. The lot on which this home is located shall be identified on the Master Subdivision Plat, which may be amended from time to time.



1 **[SLIDE 20]**

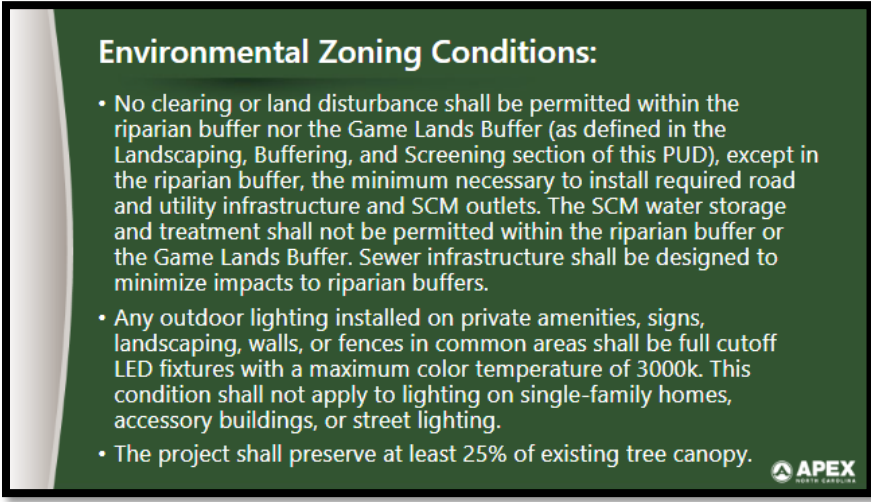


Environmental Zoning Conditions:

- The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- The project shall plant drought resistant warm season grasses throughout the development to minimize irrigation and chemical use.
- Landscaping shall include at least four (4) native hardwood tree species throughout the Development.
- At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at subdivision review.

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2
3 **[SLIDE 21]**



Environmental Zoning Conditions:

- No clearing or land disturbance shall be permitted within the riparian buffer nor the Game Lands Buffer (as defined in the Landscaping, Buffering, and Screening section of this PUD), except in the riparian buffer, the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer or the Game Lands Buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.
- Any outdoor lighting installed on private amenities, signs, landscaping, walls, or fences in common areas shall be full cutoff LED fixtures with a maximum color temperature of 3000k. This condition shall not apply to lighting on single-family homes, accessory buildings, or street lighting.
- The project shall preserve at least 25% of existing tree canopy.

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NORTH CAROLINA

4 **Director Khin** said that they may want to keep a tree canopy.

5 **Councilmember Mahaffey** said that the goal would be to preserve or restore 100%
6 of the canopy possibly by offsite improvements or donations.

7 **Councilmember Zegerman** said that he would like the 25 closer to 40.

8 **Councilmember Mahaffey** said that there had been discussions about having
9 inventory of offsite locations and planting thing every year.

10 **Councilmember Zegerman** asked if it was an addition about restoration, 25% - 40%
11 onsite and restoration offsite.

12 **Councilmember Mahaffey** said yes. He said finding creative ways to replace tree
13 canopy was important.

14 **Director Khin** asked to clarify that the existing trick canopy on site should be
15 preserved between 25% and 40% and it could be overall offsite restoration or onsite
16 preservation for 100%.
17

1 **Councilmember Mahaffey** said yes, restored by developer or restored by someone
2 else. He said they work with tree planting charities.

3 **Director Khin** said that they could offer this, but it could not be added to the list. She
4 said that they may be able to say that the offsite preservation or onsite restoration needs to
5 100%.

6 **Ms. Bunce** said the properties in the area are agricultural and have been cleared for
7 farmland. She said that this would be considered at the time of development.

8 **Councilmember Gantt** said that this could incentive people to clear cut their land.
9 He asked if it was year for them that they have to wait.

10 **Ms. Bunce** said that by State law there is a 3 - 5 years and for single family there is not
11 a time restriction.

12 **Director Khin** said that there is the use code for Forestry and that they can clearcut
13 their land.

14 **Councilmember Gantt** asked if this was only for undeveloped land.

15 **Councilmember Mahaffey** said that property owners have certain rights, so they can't
16 control tree removal on single family properties.

17 **Councilmember Gantt** said that they could cut the trees if they decided to.

18 **Ms. Bunce** said that you could clear everything except what is for the RCA for your
19 subdivision, because you would have to replant that.

20 **Councilmember Mahaffey** asked what happens if it is a single-family property owner
21 that has a large property, and they are under contract with a buyer who wants to rezone.

22 **Councilmember Gantt** asked if this is 40% instead of 25% and they are required to do
23 RCA for 30% then they will cut more so that they don't have to follow this process. He said
24 that they will try to find ways around this rule.

25 **Councilmember Mahaffey** asked if they didn't require a tree canopy restoration.

26 **Councilmember Gantt** said it was not a requirement it is a zoning condition.

27 **Councilmember Mahaffey** said yes it a zoning condition.

28 **Councilmember Gantt** said that a condition is different than the UDO.

29 **Councilmember Mahaffey** asked if they tree conditions as they were a few years ago.
30 He said you can't go back.

31 **Director Khin** said that the developer doesn't want the trees cut down. She said that
32 the rezoning must be approved, and they wouldn't want Council to be upset that they were
33 cutting down all of the trees.

34 **Councilmember Gantt** asked how the RCA react with the canopy.

35 **Director Khin** said that other things could be RCA and RCA may be 40% total but at
36 least 25% would be trees. She said 15% could be other things, like a cemetery or a historic
37 home, or other things. She said this is just to make sure that there are some trees. She
38 thanked the Council and said they would work on this some more and come back.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at **9:09** 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 _____.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA
Meeting Date: October 8, 2024

Item Details

Presenter(s): Mary Beth Manville, Director

Department(s): Human Resources

Requested Motion

Motion to approve up to 3 hours of "Voting Leave" pay for Town employees to use to vote in the 2024 general election during the Early Voting period or on Election Day.

Approval Recommended?

Yes

Item Details

The Town would like to provide all benefit-eligible employees with up to 3 hours of Voting Leave pay that can be used for voting in the 2024 general election during either early voting (October 17, 2024 - November 2, 2024) or on election day (November 5, 2024). Voting Leave is to be used to vote during an employee's normal working hours or to arrive late/leave early to vote and must be requested in advance of the day that the employee plans to vote. Supervisors and employees will coordinate the leave so that it can be taken during a time that does not impact minimal staffing requirements or departmental operations.

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Chris Johnson, P.E., Director

Department(s): Transportation and Infrastructure Development

Requested Motion

Motion to approve an Encroachment Agreement between the Town of Apex and property owners, Gina Frances Arias and Gian Alberto Arias, Trustees of the Arias Living Trust, located at 723 Meadowside Court Lot 93, to install a fence that will encroach 46 linear feet (LF) onto the 30' wide Public Town of Apex Sanitary Sewer Easement, and authorize the Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

The proposed Encroachment Agreement is between the Town of Apex and property owners Gina Frances Arias and Gian Alberto Arias, Trustees of the Arias Living Trust, (Grantees) for the property described as a residential lot known as Wake County PIN No. 0722-68-8912, Book of Maps 2018, Page 00062, Lot 93, 723 Meadowside Court, Apex, NC 27523. Grantee wishes to install a fence that will encroach 46 linear feet (LF) onto the 30' wide Public Town of Apex Sanitary Sewer Easement.

Attachments

- CN9-A1: Encroachment Agreement - 723 Meadowside Court, Lot 93
- CN9-A2: Exhibit A - Encroachment Agreement - 723 Meadowside Court, Lot 93



After Recording Mail To: Development Services
 Town of Apex
 PO Box 250
 Apex, NC 27502

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT, being made this ____ day of _____, 2024, by and between **Gina Frances Arias and Gian Alberto Arias, Trustees of the Arias Living Trust**, hereinafter referred to as "Grantees," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantees are the owners of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN #0722-68-8912** and more particularly described as **Lot 93** of the subdivision known as **The Preserve at White Oak Creek Ph. 2B**, which is shown on that certain plat recorded in **Book of Maps 2018, Page 62**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **723 Meadowside Court, Apex, NC 27523**. The residential lot described in this paragraph is hereinafter referred to as the "**Residential Lot**."

WHEREAS, the Town is the owner of a 30' wide PUBLIC TOWN OF APEX SANITARY SEWER EASEMENT as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Sanitary Sewer Easement**."

WHEREAS, Grantees wish to install certain improvements, more particularly described as a **fence that will encroach 46 linear feet (LF) onto the Public Sanitary Sewer Easement** which serves the Residential Lot, hereinafter referred to as the "**Encroachment**," all as shown on the attached **Exhibit A**. Grantees desire to make certain agreements and covenants regarding the Encroachment.

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the above-described Encroachment upon the **Public Sanitary Sewer Easement**.

NOW, THEREFORE, in consideration of these promises and other consideration, the receipt and sufficiency of which is hereby acknowledged, Grantees and the Town hereby covenant and agree:

1. Subject to the terms herein, the Town agrees to allow Grantees, and Grantees' successors and assigns at Grantees' sole risk and expense, to encroach into the **Public Sanitary Sewer Easement** of the Town as shown in the attached **Exhibit A**, which is incorporated by reference as though fully set forth herein.

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in **Exhibit A** and described in this Encroachment Agreement. Grantees are responsible for any and all expenditures of labor or materials required for the installation, erection, repair, removal, or maintenance of the above-referenced Encroachment.

3. Grantees are to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantees agree to and do hereby hold the Town, its officers, elected officials, and employees harmless from any and all liability arising out of such negligence, omission, defect or other cause of action; that it will defend the Town, its officers, council members and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the Town, its officers, elected officials, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action, claim, cost, or expense arising out of the installation, maintenance, removal, or location of said Encroachment.

5. Sections 3 and 4 shall survive the termination of this Encroachment Agreement for any reason.

6. All notices required herein shall be deemed given by depositing such in the United States mail, first class, and addressed to:

To Town: Town Manager
Town of Apex
PO Box 250
Apex, NC 27502

To Grantees: Gina Frances and Gian Alberto Arias, Trustees
723 Meadowside Court
Apex, NC 27523

7. In the event there is a dispute between the parties concerning the interpretation of the terms of this Encroachment Agreement or their respective rights and obligations hereunder, such dispute or controversy shall be adjudged pursuant to the laws of the State of North Carolina.

8. Grantees agree to abide by all applicable laws, regulations, statutes and ordinances.

9. This Encroachment Agreement shall not divest the Town of any rights or interest in said **Public Sanitary Sewer Easement** and the Town may terminate this Encroachment Agreement by giving Grantees ninety (90) days written notice of termination. Prior to the termination date, Grantees shall remove, at their own expense, all or part of the Encroachment as specified by the Town.

10. If the Town deems, within its sole discretion, that there is not time to give Grantees notice as provided in Paragraph 9 and that removal of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Sanitary Sewer Easement**, then no notice shall be required and the Town may remove the Encroachment from the **Public Sanitary Sewer Easement** without cost, risk or liability to the Town.

11. Grantees agree to pay and reimburse the Town the entire expense and cost of removal of the Encroachment in the event that the Town removes the Encroachment as provided in the Paragraph 10 or if Grantees fail to remove the Encroachment within the time limit after receiving notice under Paragraph 9.

12. Grantees, if not self-performing the installations that are the subject of this Agreement, agree to purchase or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, valid general liability insurance in the minimum amount of \$500,000 and provide a certificate of such insurance naming the Town of Apex as additional insured by endorsement to the policy. Where the Grantees are self-performing the installations, Grantees shall show proof of homeowner's insurance with personal liability coverage in a minimum amount of at least \$300,000. Grantees 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.

13. Notwithstanding Section 14 below, Grantees shall be released from their obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to real property known as **Lot 93 The Preserve at White Oak Creek Phase 2B (723 Meadowside Court, Apex, NC 27523)**, or by assumption of said obligations by an incorporated property or condominium owners association for **The Preserve at White Oak Creek Phase 2B**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantees' obligations possesses adequate financial resources and ownership interest, and Grantees' delegate and proposed assignee assumes and agrees to fulfill, in writing, all of Grantees' duties set forth in this Encroachment Agreement.

14. The right to encroach is appurtenant to and runs with the land hereinabove referred to and shall forever be subject to the conditions above agreed on between the parties. This Encroachment Agreement is binding upon the heirs, assigns, transferees, and successors in interest of the Grantees and shall, upon execution, be recorded in the Office of the Register of Deeds of Wake County, North Carolina.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In testimony whereof, said Grantees and said Town have here unto set their hands and seals, the day and year first above written.

GRANTEES

By: Gina Arias
Gina Frances Arias, Trustee of the Arias Living Trust

By: Gian Arias
Gian Alberto Arias, Trustee of the Arias Living Trust

STATE OF NORTH CAROLINA

COUNTY OF WAKE [county in which acknowledgement taken]

I, do hereby certify that the following person appeared before me this day, and acknowledged to me that he/she voluntarily signed the foregoing document: Gina Frances Arias, as Trustee of the Arias Living Trust dated December 28, 2023 dated 12/28/2023.

Witness my hand and official stamp or seal, this 7TH day of SEPTEMBER, 2024.

Geraldine Ransom
[Signature of Notary Public]

My Commission Expires: 09/13/2028



STATE OF NORTH CAROLINA

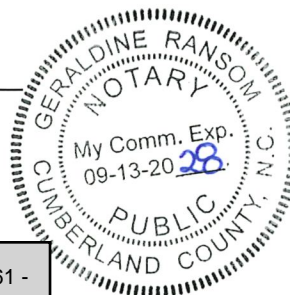
COUNTY OF WAKE [county in which acknowledgement taken]

I, do hereby certify that the following person appeared before me this day, and acknowledged to me that he/she voluntarily signed the foregoing document: Gian Alberto Arias, as Trustee of the Arias Living Trust dated December 28, 2023 dated 12/28/2023.

Witness my hand and official stamp or seal, this 7TH day of SEPTEMBER, 2024.

Geraldine Ransom
[Signature of Notary Public]

My Commission Expires: 09/13/2028



TOWN OF APEX

Randal E. Vosburg, AICP, CPM
Town Manager

(Corporate Seal)

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____ *[county in which acknowledgement taken]*

I, _____, a Notary Public of _____ County, North Carolina, certify that Allen Coleman personally came before me this day and acknowledged that he is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Town Manager, sealed with its corporate seal and attested by him as its Town Clerk.

Witness my hand and official stamp or seal, this _____ day of _____, 2024.

[Signature of Notary Public]

(Seal)

My Commission Expires: _____

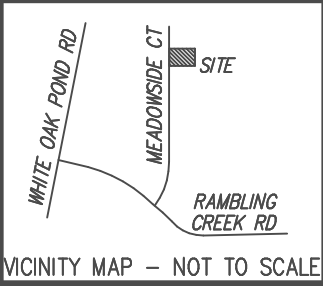
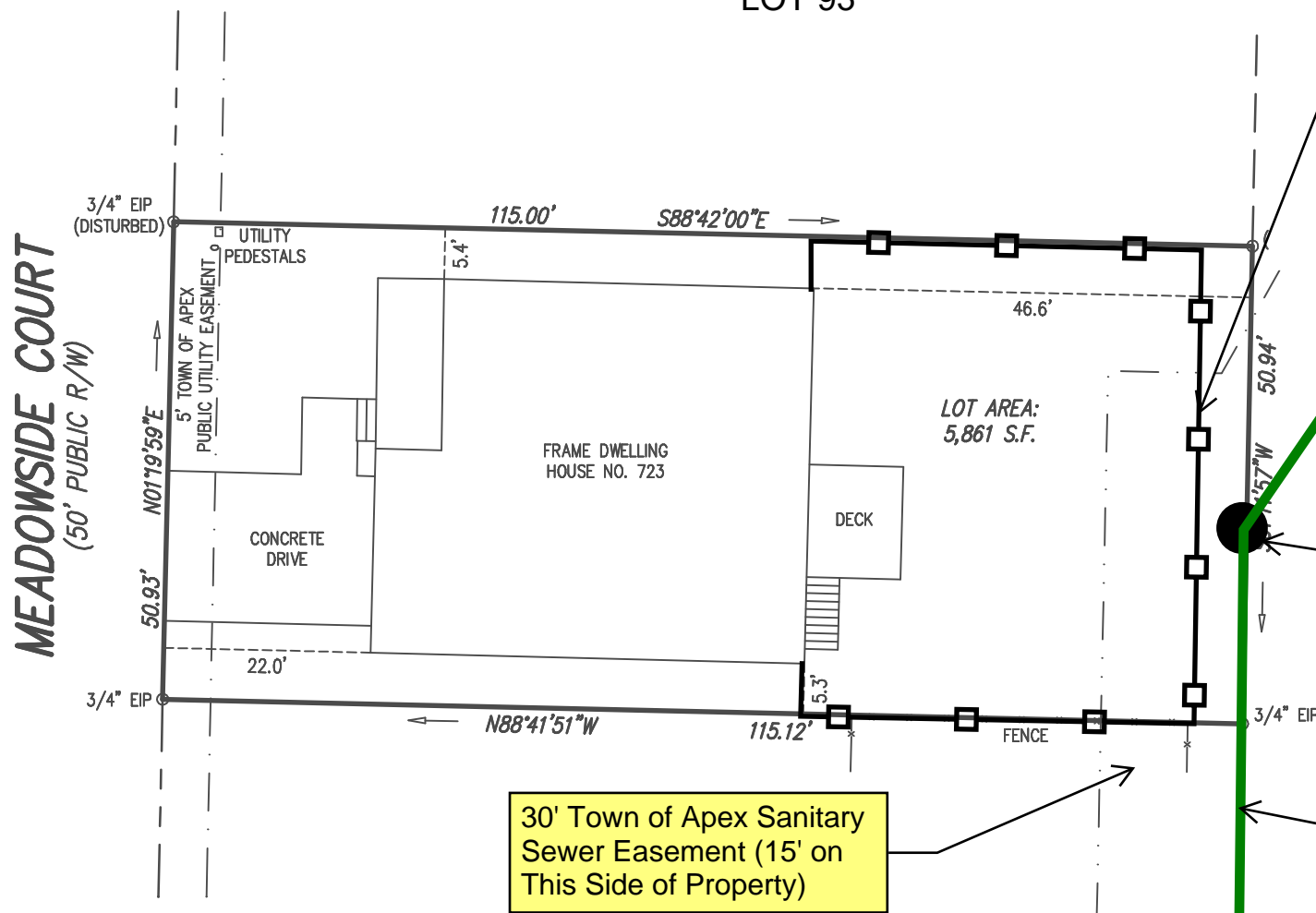


EXHIBIT A

723 MEADOWSIDE COURT
LOT 93



Fence will encroach 46 LF onto 30' Sewer Easement and will be no closer than 5' FT from the existing sewer line.

Sanitary Sewer Manhole

30' Town of Apex Sanitary Sewer Easement (15' on This Side of Property)

Sanitary Sewer Line

PROPERTY OF
GIAN ARIAS
AND
GINA ARIAS
APEX WAKE COUNTY NORTH CAROLINA

- Page 163 -
SCALE: 1"=20' 24350

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 REVEIUED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

LEGEND	
EIP	- EXISTING IRON PIPE
EIS	- EXISTING IRON STAKE
IPS	- IRON PIPE SET
R/W	- RIGHT-OF-WAY
BM	- BOOK OF MAPS
DB	- DEED BOOK
PG	- PAGE
S/D	- SUBDIVISION
---	- LINES SURVEYED
---	- LINES NOT SURVEYED

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 8, 2024

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

Requested Motion

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of September 24, 2024.

Approval Recommended?

The Planning Department recommends approval.

Item Details

Attachments

- CN10-A1: Statement of Town Council - Unified Development Ordinance (UDO) Amendments - September 2024



STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160D-605(a) ADDRESSING ACTION ON THE UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS OF SEPTEMBER 24, 2024

Pursuant to G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting), of a public hearing on UDO Amendments before the Town Council on the 24th day of September 2024.

The Apex Town Council held a public hearing on the 24th day of September 2024. Amanda Bunce, Current Planning Manager, presented the Planning Board's vote to recommend approval by a vote of 7-0 at the public hearing.

All persons who desired to present information relevant to the UDO were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council on the 24th day of September 2024 by a vote of 5-0 approved the Ordinance for UDO Amendments.

The Apex Town Council finds from information and testimony provided at the public hearing that the approval of the various UDO Amendments of September 24, 2024 are consistent with the Advance Apex: The 2045 Plan and reasonable and in the public interest for the following reason(s):

1. The amendments remove all references to "condominium" from the UDO since it is a form of ownership and not a specific land use. Additionally, State law does not require municipal review of condominium plats.

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

Date



"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Cybersecurity Awareness Month 2024

from the Office of the Mayor

WHEREAS, October is Cybersecurity Awareness Month, a global campaign to boost knowledge of cybersecurity and highlight the importance of staying safe online; and,

WHEREAS, The Town of Apex Information Technologies (IT) Department works tirelessly to safeguard town and resident data, ensuring our employees can deliver top-notch services, from keeping the lights on to managing emergency responses; and,

WHEREAS, Keeping cyberspace secure is a team effort, with everyone playing a crucial role in protecting against online threats that could jeopardize finances, medical records, identities, and other sensitive documents; and,

WHEREAS, This year, our town has shown remarkable resilience and emergency response prowess, proving that it's not a matter of if, but when challenges in cybersecurity arise; and,

WHEREAS, The Town of Apex continues to stand firm in its belief that maintaining cybersecurity is critically important, and is proud of our IT Team for all that they do to keep us safe.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the Month of October, 2024, "Cybersecurity Awareness Month" in the Town of Apex, and urge all residents to remain alert in their online activities and use proper precautions for the safety of themselves and their information; and

BE IT FURTHER PROCLAIMED, that the Apex Town Council and I stand together with our Information Technology professionals across our organization to bring awareness around the importance of cyber security and applaud the Apex IT team for their vigilance, perseverance, and exceptional team spirit.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 8th day of October 2024

Jacques Gilbert, Mayor



"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Fire Prevention Week 2024

from the Office of the Mayor

WHEREAS, Fire is a serious public safety concern both locally and nationally, and residential homes are the locations where people are at greatest risk from fire; and,

WHEREAS, Home fires are extremely common, with nearly 360,000 home fires reported each year in the United States, and the Apex Fire Department has responded to 15 structure fires in the past 2 years, including 9 houses and 2 apartments; and,

WHEREAS, Working smoke alarms cut the risk of dying in reported home fires by nearly half, and smoke alarms should be installed in every sleeping room in a home, outside each sleeping area, and on every floor in order to protect the home and its occupants; and,

WHEREAS, Residents in Apex should test their smoke alarms once a month, and prepare and practice a fire escape plan in order to be well-equipped and more likely to survive in the case of a fire; and,

WHEREAS, The Town of Apex Fire Department and first responders are dedicated to reducing and mitigating the occurrence and impacts of home fires through prevention and protection education, and by responding swiftly in emergency situations.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the week of October 8th – October 14th, 2024, "Fire Prevention Week" in the Town of Apex, and echo the 2024 theme of "Smoke Alarms: Make Them Work for You", by encouraging residents to test their smoke alarms and prepare in the event of a fire to keep themselves and their families safe.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 8th day of October 2024

Jacques Gilbert, Mayor



"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Indigenous Peoples' Day 2024

from the Office of the Mayor

WHEREAS, Each year on Indigenous Peoples' Day, the Town of Apex honors the first inhabitants of this land – Native communities and Tribal Nations – by acknowledging their enduring presence, rich cultural heritage, traditions, and significant contributions to our community, state, and nation; and,

WHEREAS, The Town of Apex acknowledges its connections to the lands originally inhabited by the Indigenous Peoples of this region; and,

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations at the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and,

WHEREAS, Indigenous Peoples' Day aims to foster appreciation, reconciliation, understanding and ongoing partnerships among all individuals and the Indigenous people of this land, and serves as a reminder of the need for reconciliation, justice, and healing in response to the historical injustices they have endured; and,

WHEREAS, In honoring Indigenous Peoples, the Town of Apex is proud to present the Indigenous Peoples' Day Celebration on Monday, October 14, 2024, at Apex Nature Park from 6:00 PM to 7:30 PM. This year's event will feature music, storytelling, dance, traditional food, crafts, and more, in a celebration of the rich cultures and traditions of Indigenous communities.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim October 14th, 2024, "Indigenous Peoples' Day" in the Town of Apex, and urge residents to learn more about the history of our country and land, and acknowledge the people that originally called what we now know as Apex home.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 8th day of October 2024

Jacques Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 08, 2024

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Conduct a Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 15.9428 acres, known as Oliver Property - Humie Olive Road, Annexation No. 788, into the Town Corporate limits.

Approval Recommended?

Yes

Item Details

The annexation has been certified and a public hearing has been posted as required.

SPECIAL NOTE: The public hearing resolutions associated with this item was approved on September 10 and scheduled for September 24, 2024. Proper public notice was not provided in sufficient time in accordance with North Carolina General Statutes § 160A-58.2, therefore, these items are scheduled for consideration at the next regular meeting scheduled for September 24, 2024 at 6:00 p.m..

Attachments

- PH1-A1: Annexation Ordinance - Annexation No. 788 - Oliver Property - Humie Olive Road
- PH1-A2: Revised Public Hearing Notice - Annexation No. 788
- PH1-A3: Legal Description - Annexation No. 788
- PH1-A4: Aerial Map - Annexation No. 788
- PH1-A5: Plat Map - Annexation No. 788
- PH1-A6: Annexation Petition - Annexation No. 788





TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

After recording, please return to: Town Clerk, Town of Apex, P.O. Box 250, Apex, NC 27502

ORDINANCE NO. 2024-
ANNEXATION PETITION NO. 788
OLIVER PROPERTY - HUMIE OLIVE ROAD - 15.9428 ACRES

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE TOWN OF APEX, NORTH CAROLINA
P.O. Box 250, Apex, North Carolina 27502

WHEREAS, the Apex Town Council has been petitioned under G.S.§160A-31, as amended, to annex the area described herein; and

WHEREAS, the Apex Town Council has by Resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Apex Town Hall at 6:00 p.m. on October 08, 2024, after due notice by posting to the Town of Apex website, <http://www.apexnc.org/news/public-notice-legal-ads>; and

WHEREAS, the Apex Town Council does hereby find as a fact that said petition meets the requirements of G.S.§160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S.§160A-31, as amended, the territory described in the attached property description and also shown as "Annexation Area" on the below identified survey plat is hereby annexed and made part of the Town of Apex, North Carolina, as of the date of adoption of this Ordinance on October 08, 2024. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex JVI Building and Development Inc.". Pin Nos. 0711-90-3580, 0721-00-0505, and 0721-0-3444. Plat map print date August 08, 2024 and Land Surveyor dated August 12, 2024 and recorded in Book of Maps book number 2024 and page numbers [REDACTED], Wake County Registry.

Section 2. Upon and after the adoption of this ordinance, the territory described herein and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Apex, North Carolina, and shall be entitled to the same privileges and benefits as other parts of the Town of Apex. Said territory shall be subject to municipal taxes according to G.S.§160A-58.10, as amended.

Section 3. The Clerk of the Town of Apex, North Carolina shall cause to be recorded in the Office of the Register of Deeds of Wake County and in the Office of the Secretary of State at Raleigh, North Carolina and in the Office of the Wake County Board of Elections an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this Ordinance.

Adopted this the 08th day of October, 2024.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Legal Description

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 87° 04' 31" East, 190.14 feet; thence North 00° 53' 39" East, 100.01 feet; thence South 84° 23' 47" East, 725.74 feet; thence South 02° 49' 32" East, 327.51 feet; thence South 87° 10' 28" West, 119.74 feet; thence South 02° 49' 32" East, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 86° 13' 49" West, 61.06 feet; thence South 85° 53' 22" West, 147.45 feet; thence South 85° 46' 28" West, 104.35 feet; thence South 85° 15' 06" West, 77.57 feet; thence South 83° 08' 38" West, 60.19 feet; thence South 81° 24' 46" West, 53.40 feet; thence South 81° 10' 21" West, 136.24 feet; thence South 81° 04' 57" West, 19.75 feet; thence South 80° 48' 43" West, 98.53 feet; thence South 81° 08' 26" West, 96.92 feet; thence North 08° 53' 07" West, 117.99 feet;

thence North 06° 01' 54" West, 153.32 feet; thence North 01° 49' 03" East, 131.14 feet; thence North 07° 27' 48" West, 74.87 feet; thence North 11° 15' 27" West, 180.72 feet; thence North 74° 43' 52" East, 125.65 feet; thence North 15° 16' 08" West, 95.80 feet to

the BEGINNING, containing 15.9428 total acres more or less.

The above-described area is recorded in:

D.B. 19675, Pg. 748 and a portion of D.B. 19654, Pg. 2201

B.M. 2015, Pg. 979 ~ Lot 1 & 2, B.M. 1998, Pg. 1044, & B.M. 2000, Pg. 1767

PIN 0721-00-3444, PIN 0721-00-0505, & a portion of PIN 0711-90-3580

This description was prepared for the sole purpose of annexation of a municipal boundary

and for no other use.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2024-_____, adopted at a meeting of the Town Council, on the 08th day of October, 2024, the original of which will be on file in the Office of the Town Clerk of Apex, North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 08th day of August, 2024.

(SEAL)

Allen L. Coleman, CMC, NCCCC
Town Clerk



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Media Contact:

Allen Coleman, Town Clerk to the Apex Town Council

FOR IMMEDIATE RELEASE

REVISED PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (September 13, 2024) – The Town Council of Apex, North Carolina has scheduled a Public Hearing to be held at **6:00 p.m.** at Apex Town Hall, 73 Hunter Street, on the **8th day of October, 2024**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

Annexation Petition No. 788

Oliver Property – Humie Olive Road – 15.9428 acres



CLERK'S NOTE: The public hearing resolutions associated with the above item was approved on September 10, 2024 and scheduled for September 24, 2024. Proper public notice was not provided in sufficient time in accordance with North Carolina General Statutes § 160A-58.2, therefore, this item has been scheduled for consideration at the next regular scheduled meeting on October 08, 2024.



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Residents may submit written comments to the Town Council with attention marked to the Town Clerk Allen Coleman; P.O. Box 250; Apex, NC 27502 or by email at public public.hearing@apexnc.org. Please use subject line "Annexation Petition No. 788" and include your first and last name, your address, and your phone number in your written statements. Written comments will be accepted until 3:00 PM on Tuesday, October 08, 2024.

Members of the public can access and view the meeting on the Town's YouTube Channel <https://www.youtube.com/c/TownofApexGov> or attend in-person.

Anyone needing special accommodations to attend this meeting and/or if this information is needed in an alternative format, please contact the Town Clerk's Office. The Town Clerk is located at 73 Hunter Street in Apex Town Hall on the 2nd Floor, (email) allen.coleman@apexnc.org or (phone) 919-249-1260. We request at least 48 hours' notice prior to the meeting to make the appropriate arrangements.

Questions should be directed to the Town Clerk's Office.

###

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

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 87° 04' 31" East, 190.14 feet; thence North 00° 53' 39" East, 100.01 feet; thence South 84° 23' 47" East, 725.74 feet; thence South 02° 49' 32" East, 327.51 feet; thence South 87° 10' 28" West, 119.74 feet; thence South 02° 49' 32" East, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 86° 13' 49" West, 61.06 feet; thence South 85° 53' 22" West, 147.45 feet; thence South 85° 46' 28" West, 104.35 feet; thence South 85° 15' 06" West, 77.57 feet; thence South 83° 08' 38" West, 60.19 feet; thence South 81° 24' 46" West, 53.40 feet; thence South 81° 10' 21" West, 136.24 feet; thence South 81° 04' 57" West, 19.75 feet; thence South 80° 48' 43" West, 98.53 feet; thence South 81° 08' 26" West, 96.92 feet; thence North 08° 53' 07" West, 117.99 feet; thence North 06° 01' 54" West, 153.32 feet; thence North 01° 49' 03" East, 131.14 feet; thence North 07° 27' 48" West, 74.87 feet; thence North 11° 15' 27" West, 180.72 feet; thence North 74° 43' 52" East, 125.65 feet; thence North 15° 16' 08" West, 95.80 feet to the BEGINNING, containing 15.9428 total acres more or less.

The above-described area is recorded in:

D.B. 19675, Pg. 748 and a portion of D.B. 19654, Pg. 2201

B.M. 2015, Pg. 979 ~ Lot 1 & 2, B.M. 1998, Pg. 1044, & B.M. 2000, Pg. 1767

PIN 0721-00-3444, PIN 0721-00-0505, & a portion of PIN 0711-90-3580

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

Annexation #788

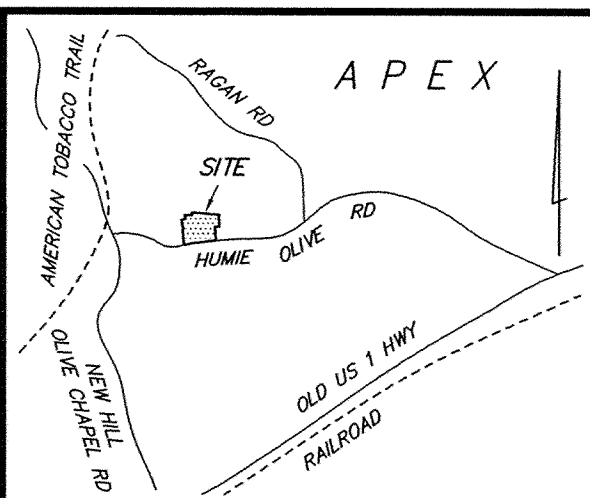
Public Hearing Sign Posted By

Signature *[Signature]*

Date 8/20/2024



August 2024
May 2024 Aerial Photography
Prepared by: Town of Apex Planning Department



VICINITY MAP (NOT TO SCALE)

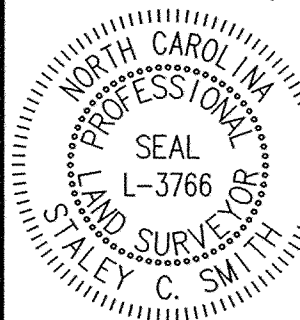
I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:

D.B. 19675, PG. 748
D.B. 19654, PG. 2201
B.M. 2015, PG. 979
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THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56 .1600)

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

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 12TH DAY OF AUGUST, A.D., 2024.



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

JANICE W. OLIVER, TRUSTEE
OF THE OLIVER FAMILY TRUST
u/t/d MARCH 18, 2019 AS AMENDED

D.B. 19654, PG. 2201
B.M. 1998, PG. 1044

(LESS AND EXCEPT 0.710 AC.)
B.M. 2000, PG. 1767

NOT A PHYSICAL SURVEY OF RESIDUAL AREA

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

RECORDED IN BOOK OF MAPS 2024, PAGE

ANNEXATION #
I, ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK, Apex, North Carolina
certify this is a true and exact map of annexation adopted
the day of , 2024,
by the Town Council. I set my hand and seal of
the Town of Apex, , 2024.

ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK

SUMMIT HILL FARM LLC
D.B. 12507, PG. 1599
B.M. 1984, PG. 1809

SURVEYOR NOTES:

1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
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6. SITE ZONE: R-40W (SOURCE: WAKE COUNTY GIS)
7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.
8. SITE ADDRESSES: 8620 HUMIE OLIVE RD APEX, NC 27502 AND 8612 HUMIE OLIVE RD APEX, NC 27502 AND 8608 HUMIE OLIVE RD APEX, NC 27502

15.9428 ACRES TOTAL ANNEXED

CHRISTOPHER D. GENTILE
D.B. 6832, PG. 622
B.M. 1984, PG. 1882

LINDA FAYE JUDD
GRACIE ANN JUDD
D.B. 18613, PG. 1326

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PIN 0721-00-3444

D.B. 19675, PG. 748
PIN 0721-00-0505

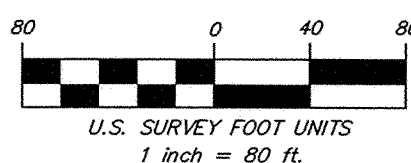
PORTION OF
D.B. 19654, PG. 2201
PORTION OF
PIN 0711-90-3580

ANNEXATION # 676
B.M. 2020, PG. 1867

RETREAT AT FRIENDSHIP
B.M. 2023, PG. 1966

ANNEXATION # 702
B.M. 2021, PG. 386

BRIDLEWOOD AT
FRIENDSHIP PLACE
B.M. 2024, PG. 1085



LISTED OWNERS
(NOT A TITLE VERIFICATION)

JOSEPH V. IANNONE, JR.
2509 SOUTHWINDS RUN
APEX, NC 27502

JANICE W. OLIVER, TRUSTEE
THE OLIVER FAMILY TRUST
8620 HUMIE OLIVE ROAD
APEX, NC 27502

PIN

0711-90-3580
0721-00-0505
0721-00-3444

ANNEXATION MAP for the TOWN OF APEX
JVI BUILDING & DEVELOPMENT, INC.
BUCKHORN TOWNSHIP, WAKE COUNTY, NORTH CAROLINA



Smith & Smith,
Surveyors, P.A.

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

FIRM LICENSE No. C-0155

DATE
AUGUST 8, 2024
SCALE 1" = 80'
DRAWN BY WBH
PROJ. NO.
2024-41

PETITION FOR VOLUNTARY ANNEXATION

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

Application #: _____
Fee Paid \$ _____

Submittal Date: _____
Check # _____

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

OWNER INFORMATION

Janice Oliver
Owner Name (Please Print)

0711-90-3580 (partial)
Property PIN or Deed Book & Page #

Phone

E-mail Address

Joseph V Iannone JR
Owner Name (Please Print)

0721-00-0505 & 0721-00-3444
Property PIN or Deed Book & Page #

919-387-8846
Phone

joey@jviconstruction.com
E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

SURVEYOR INFORMATION

Surveyor: Smith & Smith Surveyors

Phone: 919-362-7111 Fax: _____

E-mail Address: staley@smithand smithsurveyors.net

ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	15.94	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	3	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	2	Water service (new construction)	<input type="checkbox"/>
Proposed # of housing units:	45	Sewer service (new construction)	<input type="checkbox"/>
Zoning District*:	R-40W	Receive Town Services	<input checked="" type="checkbox"/>

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: _____

Submittal Date: _____

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Tanice Oliver

Please Print

Tanice Oliver

Signature

Please Print

Signature

Please Print

Signature

Please Print

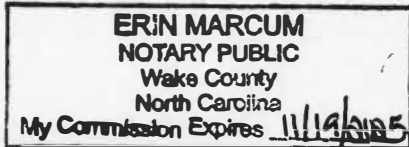
Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Erin Marcum, a Notary Public for the above State and County,
this the 12th day of August, 2024.

[Signature]
Notary Public

SEAL



My Commission Expires: November 19, 2025

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

Attest:

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #: _____

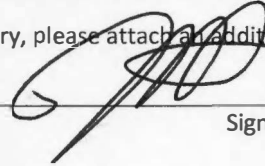
Submittal Date: _____

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Joe V. Iannone

Please Print



Signature

Please Print

Signature

Please Print

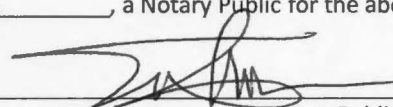
Signature

Please Print

Signature

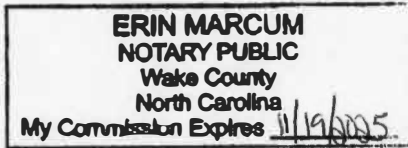
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COUNTY OF WAKE

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Notary Public

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Corporate Name _____

SEAL

By: _____

President (Signature)

Attest: _____

Secretary (Signature)

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COUNTY OF WAKE

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this the _____ day of _____, 20____.

Notary Public

SEAL

My Commission Expires: _____

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

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 87° 04' 31" East, 190.14 feet; thence North 00° 53' 39" East, 100.01 feet; thence South 84° 23' 47" East, 725.74 feet; thence South 02° 49' 32" East, 327.51 feet; thence South 87° 10' 28" West, 119.74 feet; thence South 02° 49' 32" East, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 86° 13' 49" West, 61.06 feet; thence South 85° 53' 22" West, 147.45 feet; thence South 85° 46' 28" West, 104.35 feet; thence South 85° 15' 06" West, 77.57 feet; thence South 83° 08' 38" West, 60.19 feet; thence South 81° 24' 46" West, 53.40 feet; thence South 81° 10' 21" West, 136.24 feet; thence South 81° 04' 57" West, 19.75 feet; thence South 80° 48' 43" West, 98.53 feet; thence South 81° 08' 26" West, 96.92 feet; thence North 08° 53' 07" West, 117.99 feet; thence North 06° 01' 54" West, 153.32 feet; thence North 01° 49' 03" East, 131.14 feet; thence North 07° 27' 48" West, 74.87 feet; thence North 11° 15' 27" West, 180.72 feet; thence North 74° 43' 52" East, 125.65 feet; thence North 15° 16' 08" West, 95.80 feet to the BEGINNING, containing 15.9428 total acres more or less.

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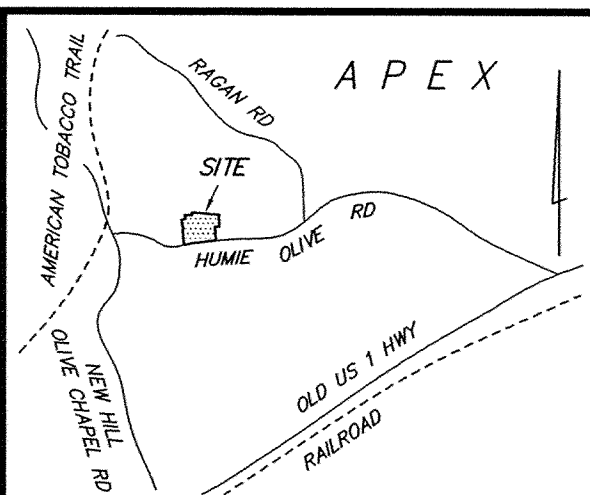
B.M. 2015, Pg. 979 ~ Lot 1 & 2, B.M. 1998, Pg. 1044, & B.M. 2000, Pg. 1767

PIN 0721-00-3444, PIN 0721-00-0505, & a portion of PIN 0711-90-3580

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

PRELIMINARY

NOT TO BE USED AS A SURVEY
OR TO TRANSFER ANY PROPERTY
DESCRIBED HEREIN



VICINITY MAP (NOT TO SCALE)

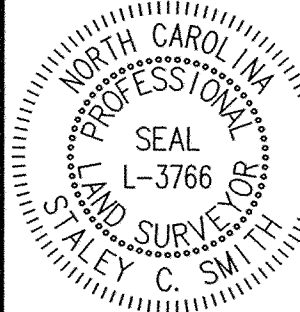
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Staley C. Smith
Professional Land Surveyor
L-3766
License Number

JANICE W. OLIVER, TRUSTEE
OF THE OLIVER FAMILY TRUST
u/t/d MARCH 18, 2019 AS AMENDED

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(LESS AND EXCEPT 0.710 AC.)
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ANNEXATION #

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SUMMIT HILL FARM LLC
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15.9428 ACRES TOTAL ANNEXED

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PIN 0721-00-3444

D.B. 19675, PG. 748
PIN 0721-00-0505

PORTION OF
D.B. 19654, PG. 2201
PORTION OF
PIN 0711-90-3580

LINDA FAYE JUDD
GRACIE ANN JUDD
D.B. 18613, PG. 1326

CHRISTOPHER
D. GENTILE
D.B. 6832, PG. 622
B.M. 1984, PG. 1882

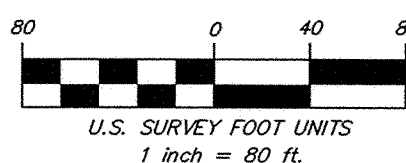
TOWN OF APEX
D.B. 16881, PG. 553
B.M. 1984, PG. 693

ANNEXATION # 676
B.M. 2020, PG. 1867

RETREAT AT FRIENDSHIP
B.M. 2023, PG. 1966

ANNEXATION # 702
B.M. 2021, PG. 386

BRIDLEWOOD AT
FRIENDSHIP PLACE
B.M. 2024, PG. 1085



LISTED OWNERS
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2509 SOUTHWINDS RUN
APEX, NC 27502

JANICE W. OLIVER, TRUSTEE
THE OLIVER FAMILY TRUST
8620 HUMIE OLIVE ROAD
APEX, NC 27502

PIN

0711-90-3580
0721-00-0505
0721-00-3444

ANNEXATION MAP for the TOWN OF APEX
JVI BUILDING & DEVELOPMENT, INC.
BUCKHORN TOWNSHIP, WAKE COUNTY, NORTH CAROLINA



Smith & Smith,
Surveyors, P.A.

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

FIRM LICENSE No. C-0155

DATE
AUGUST 8, 2024
SCALE 1" = 80'
DRAWN BY WBH
PROJ. NO.
2024-41

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: October 08, 2024

Item Details

Presenter(s): Joshua Killian, Planner I

Department(s): Planning

Requested Motion

Public hearing and possible motion concerning Rezoning Application No. 24CZ12 Oliver Property. The applicant, JVI Building & Development, Inc, seeks to rezone approximately 15.94 acres from Wake County Residential 40W (R-40W) to Low Density Residential-Conditional Zoning (LD-CZ). The proposed rezoning is located at 8608, 8612, and portion of 8620 Humie Olive Rd.

Approval Recommended?

The Planning Department recommends approval.

The Planning Board held a Public Hearing on September 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 0721003444, 0721000505, and 0711903580 (portion of).

Attachments

- PH2-A1: Staff Report - Rezoning Case No. 24CZ12 - Oliver Property
- PH2-A2: Planning Board Report to Town Council - Rezoning Case No. 24CZ12 - Oliver Property
- PH2-A3: Statement and Ordinance - Rezoning Case No. 24CZ12 - Oliver Property
- PH2-A4: Attachment A - Legal Description - Rezoning Case No. 24CZ12 - Oliver Property



STAFF REPORT

Rezoning #24CZ12 Oliver Property

October 8, 2024 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: 8608, 8612, and portion of 8620 Humie Olive Rd

Applicant: JVI Building & Development, Inc

PROJECT DESCRIPTION:

Acreage: ± 15.94 acres

PINs: 0721003444, 0721000505, and 0711903580 (portion of)

Current Zoning: Wake County Residential 40W (R-40W)

Proposed Zoning: Low Density Residential-Conditional Zoning (LD-CZ)

2045 Land Use Map: Low Density Residential

Town Limits: No (annexation is required with rezoning)

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Wake County Residential-40W (R-40W)	Agriculture
South:	Low Density Residential-Conditional Zoning (LD-CZ #20CZ13); Planned Unit Development-Conditional Zoning (PUD-CZ #21CZ16)	Humie Olive Rd; Single-family residential (Bridlewood at Friendship and Retreat at Friendship)
East:	Wake County Residential-40W (R-40W)	Single-family residential
West:	Wake County Residential-40W (R-40W)	Single-family residential

Existing Conditions:

The properties to be rezoned are situated along the north side of Humie Olive Rd between New Hill Olive Chapel Rd and Olive Farm Rd. The northern and eastern boundaries of the site are heavily wooded with a stream bisecting the northeast portion of the site. The site contains a single-family home as well as a horse barn and training ring within a cleared area that continues to the western boundary of the site where an angled tree line bisects the western parcel.

Neighborhood Meeting:

The applicant conducted two neighborhood meetings on May 29, 2024 and August 15, 2024. Both neighborhood meeting reports are attached.

WCPSS Coordination:

A Letter of Impact from Wake County Public School System (WCPSS) was received for this rezoning and is included in the staff report packet. WCPSS indicated that schools at the elementary, middle, and high school grade levels within the current assignment area for the proposed rezoning are anticipated to have insufficient capacity for future students. Transportation to schools outside of the current assignment area should be anticipated. School expansion or construction within the next five years may address concerns at the high school grade level.

STAFF REPORT

Rezoning #24CZ12 Oliver Property

October 8, 2024 Town Council Meeting



Housing Staff Recommendation:

Consistent with the Town's Affordable Housing Incentive Zoning Policy, the proposed Oliver Property (Humie Olive Road) project with 42 units was recommended to designate 5% (2) of the total units towards affordability.

The applicant stated that the prospective developer has an affordable housing project (Townes on Tingen) that is in the development cycle that includes 100% (19) affordable housing units within Apex. The applicant and developer believe this exhibits their commitment to the Town of Apex' affordable housing initiatives and declined to provide affordable housing units within the Oliver Property project.

2045 Land Use Map:

The 2045 Land Use Map classifies the subject properties as Low Density Residential. The proposed rezoning to Low Density Residential-Conditional Zoning (LD-CZ) is consistent with that land use classification.

PROPOSED ZONING CONDITIONS:

Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply

Permitted Uses and Limitations:

- | | |
|------------------------|------------------|
| 1. Single-family | 4. Greenway |
| 2. Accessory apartment | 5. Park, active |
| 3. Utility, minor | 6. Park, passive |

Conditions:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:

• Windows	• Decorative shake
• Bay window	• Decorative air vents on gable
• Recessed window	• Decorative gable
• Decorative window	• Decorative cornice
• Trim around the windows	• Column
• Wrap around porch or side porch	• Portico
• Two or more building materials	• Balcony
• Decorative brick/stone	• Dormer
• Decorative trim	
6. A varied color palette shall be utilized throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.



8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Front porches shall be a minimum of 6 feet deep.

Additional Zoning Conditions

10. The minimum average lot size shall be 7500 sf. and the maximum gross density will be 3 units per acre.
11. Signage or information brochures shall be provided by any homeowner's association areas regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
12. Developer shall install pollinator-friendly and native flora within SCM planting areas.
13. At least 75% of the plant species used in the landscape design shall be native species to the eastern U.S.
14. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
15. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.
16. A minimum of two pet waste stations shall be installed in HOA common area.
17. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
18. Any required outdoor lighting shall utilize full cutoff fixtures that have a maximum color temperature of 3000K. (to apply only to signage and other common owned elements.)
19. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
20. Stormwater design shall meet the 25-year storm for pre- and post- attenuation requirements.
21. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
22. No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.
23. In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.
24. Construction shall be restricted to Monday – Saturday, no later than 7pm, to allow for a reprieve from construction noise in the evenings and on Sundays.
25. Developer shall dedicate right-of-way and construct minimum improvements along the Humie Olive Road property frontage based on a Rural 2-lane Thoroughfare on 110-foot right-of-way according to the Apex Transportation plan with 5-foot sidewalk along the north side of Humie Olive Road. Additionally, the eastern access point shall provide full movement aligned with Field Poppy Drive with an eastbound left turn lane to be constructed by the developer, and the western access point if proposed or required shall be constructed as right-in/right-out only, subject to review and approval by Apex and NCDOT.

ENVIRONMENTAL ADVISORY BOARD

The Apex Environmental Advisory Board (EAB) held a meeting for this proposed rezoning on June 18, 2024. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

STAFF REPORT

Rezoning #24CZ12 Oliver Property

September 9, 2024 Planning Board Meeting



EAB Suggested Condition	Applicant's Response
Stormwater design shall meet the 25-year storm for pre- and post-attenuation requirements.	Added
Signage or information brochures shall be provided by any homeowner's association areas regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.	Added
Developer shall install pollinator-friendly and native flora within SCM planting areas.	Added
At least 2 pet waste stations shall be installed in the development	Added
All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.	Added
Any required outdoor lighting shall utilize full cutoff fixtures that have a maximum color temperature of 3000K. (to apply only to signage and other common owned elements.)	Added
The landscaping shall consist of a minimum of 75% native species to the eastern U.S.	Added
No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.	Added
In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.	Added
Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.	Added
In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.	Added
All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electric vehicles.	Added
The 30-foot buffer along Humie Olive Road shall be a Type A.	Not Added
A solar PV system of at least 3.5 kW shall be installed on at least 8 of the homes in the development.	Not Added

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #23CZ24 with the conditions as offered by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board recommend held a Public Hearing on September 9, 2024 and unanimously recommended approval of the rezoning with the conditions offered by the applicant.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map classifies the subject properties as Low Density Residential. The proposed rezoning to Low Density Residential-Conditional Zoning (LD-CZ) is consistent with that land use classification.

The proposed rezoning is reasonable and in the public interest as the proposed density and uses are consistent with adjacent developments while providing continued growth of available housing within Apex.

**CONDITIONAL ZONING STANDARDS:**

The Planning Board shall find the LD-CZ designation demonstrates compliance with the following standards.
2.3.3.F:

Legislative Considerations

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Rezoning #24CZ12

**Bridlewood at
Friendship Place**

**Retreat at
Friendship**

Armeria Dr

Yumeewarra Dr

Field Poppy Dr

Humie Olive Rd

Cross Country Ln

0 300 600
Feet

PETITION TO AMEND THE OFFICIAL ZONING MAP

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

Application #: #24CZ12

Submittal Date: _____

Fee Paid: _____

Project Information

Project Name: Oliver Property

Address(es): 8608 & 8612 Humie Olive Rd & 8620 Humie Olive Rd (portion of)

PIN(s): 0721-00-3444 & 0721-00-0505

0711-90-3580 (partial)

Acreage: 15.94

Current Zoning: R-40W

Proposed Zoning: Low Density Residential (LD-CZ)

Current 2045 LUM Classification(s): Low Density Residential

Is the proposed rezoning consistent with the 2045 LUM Classification(s)? Yes ☒ No

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use:

Acreage: _____

Area proposed as non-residential development:

Acreage: _____

Percent of mixed use area proposed as non-residential:

Percent: _____

Applicant Information

Name: JVI Building & Development, Inc

Address: 1600 Olive Chapel Rd, Suite 400

City: Apex

State: NC

Zip: 27502

Phone: 919-387-8846

E-mail: joey@jviconstruction.com

Owner Information

Name: Janice Oliver Trustee; Joseph Iannone Jr

Address: 8620 Humie Olive Rd; 2509 Southwinds Run

City: Apex

State: NC

Zip: 27502

Phone: _____

E-mail: _____

Agent Information

Name: Jones & Crossen Engineering, PLLC - Will Norton

Address: PO Box 1062

City: Apex

State: NC

Zip: 27502

Phone: 919-387-1174

E-mail: will@jonescrossen.com

Other contacts: _____

PETITION INFORMATION

Application #: #24CZ12 Submittal Date: _____

An application has been duly filed requesting that the property described in this application be rezoned from R-40W to LD-CZ. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

PROPOSED USES:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

1	Single Family	21	_____
2	Accessory Apartment	22	_____
3	Utility, minor	23	_____
4	Greenway	24	_____
5	Park, active	25	_____
6	Park, passive	26	_____
7	_____	27	_____
8	_____	28	_____
9	_____	29	_____
10	_____	30	_____
11	_____	31	_____
12	_____	32	_____
13	_____	33	_____
14	_____	34	_____
15	_____	35	_____
16	_____	36	_____
17	_____	37	_____
18	_____	38	_____
19	_____	39	_____
20	_____	40	_____

PETITION INFORMATION

Application #: #24CZ12 Submittal Date: _____

PROPOSED CONDITIONS:

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

See attached list

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.

This rezoning is consistent with the 2045 Land Use Map.

2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The rezoning will meet the LD zoning requirements set forth in the UDO. The density will be compatible as a transition to the low and medium density developments to the south and east and rural single family housing to the north and west.

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
6. A varied color palette shall be utilized throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Front porches shall be a minimum of 6 feet deep.

Additional Zoning Conditions

1. The minimum average lot size shall be 7500 sf. and the maximum gross density will be 3 units per acre.
2. Signage or information brochures shall be provided by any homeowner's association areas regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
3. Developer shall install pollinator-friendly and native flora within SCM planting areas.
4. At least 75% of the plant species used in the landscape design shall be native species to the eastern U.S.
5. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
6. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.
7. A minimum of two pet waste stations shall be installed in HOA common area.
8. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
9. Any required outdoor lighting shall utilize full cutoff fixtures that have a maximum color temperature of 3000K. (to apply only to signage and other common owned elements.)
10. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
11. Stormwater design shall meet the 25-year storm for pre- and post- attenuation requirements.
12. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
13. No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.
14. In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.
15. Construction shall be restricted to Monday – Saturday, no later than 7pm, to allow for a reprieve from construction noise in the evenings and on Sundays.
16. Developer shall dedicate right-of-way and construct minimum improvements along the Humie Olive Road property frontage based on a Rural 2-lane Thoroughfare on 110-foot right-of-way according to the Apex Transportation plan with 5-foot sidewalk along the north side of Humie Olive Road. Additionally, the eastern access point shall provide full movement aligned with Field Poppy Drive with an eastbound left turn lane to be constructed by the developer, and the western access point if proposed or required shall be constructed as right-in/right-out only, subject to review and approval by Apex and NCDOT.

PETITION INFORMATION

Application #: #24CZ12 Submittal Date: _____

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

All uses that fall within the supplemental standards will be consistent with the standards provided in the Town of Apex UDO.

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.

As we are proposing a residential use, there is compatibility with the surrounding lands, and with the low density we are proposing, traffic should be minimal. Trash will be collected for each individual lot as a Town of Apex service, so there is no concern of any common area dumpsters creating an odor 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.

The rezoning will adhere to all UDO standards and Town of Apex stormwater requirements

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

The low residential density proposed with the conditional zoning will minimize any overburdening of public 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.

The development of this parcel should not have a negative affect on the health, safety or welfare of Apex citizens.

PETITION INFORMATION

Application #:

#24CZ12

Submittal Date:

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

The surrounding land uses are a mix of R-40W, PUD-CZ and LD-CZ so this rezoning to Low Density Residential should not be detrimental to the 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.

Residential homes are generally not a nuisance or hazard because of the character of the neighborhood. The number of units is compatible with Land Use Map and the surrounding properties and the impact of these few units on the surrounding area will be minimal.

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 conditional zoning district will follow the standards of the Town of Apex UDO.

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0711-90-3580
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX. HUMIE OLIVE ROAD SR-1142
(60' PUBLIC RW)

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0711-90-3580
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX. HUMIE OLIVE ROAD SR-11-42
(60' PUBLIC RW)

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0711-90-3580
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX. HUMIE OLIVE ROAD SR-I-I 42
(60' PUBLIC RW)

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0711-90-3580
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX-HUMIE OLIVE ROAD SR-1142
(60' PUBLIC RW)

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0711-90-3580
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

NOW OR FORMERLY
JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX-HUMIE OLIVE ROAD SR-1142
(60' PUBLIC RW)

#24CZ12

15.941 AC. GROSS

NOW OR FORMERLY
JAMES & JANICE OLIVER
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PIN NO.: 0721-00-0505
ZONING: R-40W
USE: VACANT

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JAMES & JANICE OLIVER
PIN NO.: 0721-00-3444
ZONING: R-40W
USE: SINGLE FAMILY

NOW OR FORMERLY
MILDRED & LINDA JUDD
PIN NO.: 0721-00-5842
ZONING: R-40W
USE: VACANT

EX. HUMIE OLIVE ROAD SR-11-42
(60' PUBLIC RW)



Jones & Cossen
ENGINEERING, PLLC

Civil Engineering | Construction Management | Land Planning

221 N. SALEM ST.
SUITE 001
PO BOX 1062
APEX, NC 27502
Office: 919-387-1174
Registration: P-0151
www.jonescrossen.com

FOR
REVIEW
ONLY

OLIVER PROPERTY

TOWN OF APEX

WAKE COUNTY, NORTH CAROLINA

OLIVER PROPERTY

TOWN OF APEX

WAKE COUNTY, NORTH CAROLINA

SCALE	DRAWN
1"=50'	WCN

JULY 3, 2024

VISION	

221

PROJECT 2336

2336

#24CZ12

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

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 82° 25' 41" East, 190.14 feet; thence North 05° 32' 29" East, 100.01 feet; thence South 79° 44' 57" East, 506.56 feet; thence South 79° 44' 57" East, 219.18 feet; thence South 01° 49' 18" West, 327.51 feet; thence North 88° 10' 42" West, 119.74 feet; thence South 01° 49' 18" West, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence North 89° 07' 21" West, 35.00 feet; thence North 89° 07' 21" West, 26.06 feet; thence North 89° 27' 48" West, 147.45 feet; thence North 89° 34' 42" West, 104.35 feet; thence South 89° 53' 56" West, 77.57 feet; thence South 87° 47' 28" West, 8.34 feet; thence South 87° 47' 28" West, 51.85 feet; thence South 86° 03' 36" West, 53.40 feet; thence South 85° 47' 33" West, 125.36 feet; thence South 85° 49' 13" West, 30.94 feet; thence South 85° 45' 46" West, 195.14 feet; thence North 04° 14' 17" West, 117.54 feet; thence North 01° 23' 04" West, 153.32 feet; thence North 06° 27' 53" East, 131.14 feet; thence North 02° 48' 58" West, 74.87 feet; thence North 06° 36' 37" West, 180.72 feet; thence North 79° 22' 42" East, 125.65 feet; thence North 10° 37' 18" West, 95.80 feet to the BEGINNING, containing 15.9412 acres (694,399 square feet) more or less.

The above-described area is recorded in:

D.B. 16534, Pg. 509, D.B. 17400, Pg. 663, & a portion of D.B. 19620, Pg. 1209

B.M. 2015, Pg. 979 ~ Lot 1 & 2, B.M. 1998, Pg. 1044, & B.M. 2000, Pg. 1767

PIN 0721-00-3444, PIN 0721-00-0505, & a portion of PIN 0711-90-3580

The sole purpose of this description is to define the Planned Unit Development Boundary & annexation of a municipal boundary and for no other use.

PRELIMINARY

AGENT AUTHORIZATION FORMApplication #: #24CZ12

Submittal Date: _____

Janice Oliver, Trustee

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: 8620 Humie Olive RdThe agent for this project is: Jones & Crossen Engineering, PLLC

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

Agent Name: Will NortonAddress: PO Box 1062, Apex, NC 27502Telephone Number: (919) 387-1174E-Mail Address: will@jonescrossen.com

Signature(s) of Owner(s)*

Janice Oliver
Janice Oliver

Type or print name

8-12-24

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ12

Submittal Date: _____

The undersigned, Janice W. Oliver, Trustee of The Oliver Family Trust (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 8620 Humie Olive Rd and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 07/05/2024, and recorded in the Wake County Register of Deeds Office on 07/05/2024, in Book 019654 Page 02201-02202.
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 07/05/2024, 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 07/05/2024, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 12 day of August, 2024.

Janice Oliver
Janice Oliver

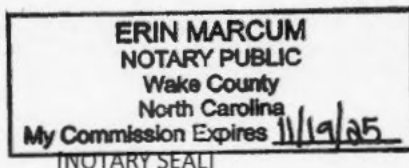
(seal)

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 Janice Oliver, 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.



[Signature]
Notary Public

State of North Carolina

My Commission Expires: November 19, 2025

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: #24CZ12

Submittal Date: _____

Insert legal description below.

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

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 10 37' 18" East, 768.87 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 85 49' 13" West, 30.94 feet; thence South 85 45' 43" West, 220.06 feet; thence South 85 22' 10" West, 215.12 feet; thence South 87' 11" West, 63.56 feet; thence South 89' 20" West, 47.90 feet; thence North 86' 13" West, 49.93 feet; thence North 81' 44" West, 49.79 feet; thence North 76' 06" West, 49.41 feet; thence North 70' 35" West, 50.55 feet; thence North 62' 33" West, 50.11 feet; thence North 57' 52" West, 49.83 feet; thence North 54' 25" West, 150.03 feet; thence North 57' 48" West, 38.42 feet; thence North 57' 48" West, 61.40 feet; thence North 60' 35" West, 80.13 feet; thence North 11' 33" East, 482.34 feet; thence North 82' 26" East, 162.95 feet; thence North 50' 51" East, 188.02 feet; thence South 79' 08" East, 249.72 feet; thence North 07' 51" West, 677.08 feet; thence North 82' 01" East, 236.70 feet; thence South 14' 44" East, 768.01 feet to the BEGINNING, containing 22.29 acres more or less.

The above-described area is recorded in:

D.B. 17434, Pg. 1862

B.M. 1998, Pg. 1044 & B.M. 2000, Pg. 1767

PIN 0711-90-3580

This description prepared for the sole purpose to rezone a property and for no other use.

PRELIMINARY

AGENT AUTHORIZATION FORMApplication #: #24CZ12

Submittal Date: _____

Joseph V Iannone Jr

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

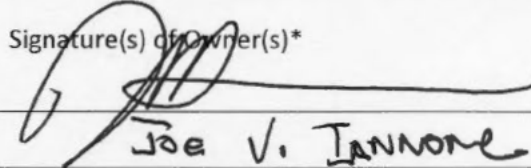
☐ Other: _____

The property address is: 8612 Humie Olive RdThe agent for this project is: Jones & Crossen Engineering, PLLC

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

Agent Name: Will NortonAddress: PO Box 1062, Apex, NC 27502Telephone Number: (919) 387-1174E-Mail Address: will@jonescrossen.com

Signature(s) of owner(s)*



Type or print name

8-12-24

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

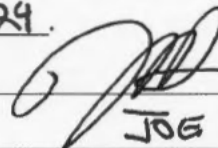
AFFIDAVIT OF OWNERSHIPApplication #: #24CZ12

Submittal Date: _____

The undersigned, JOE V. IANNONE (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 8612 Humie Olive Rd and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 07/16/2024, and recorded in the Wake County Register of Deeds Office on 07/31/2024, in Book 019675 Page 00748-00750.
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 04/01/2019, 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 04/01/2019, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 12 day of Aug, 2024.



(seal)

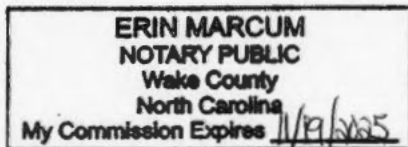
JOE V. IANNONE

Type or print name

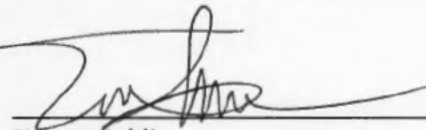
STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the County of WAKE, hereby certify that Joe Iannone, 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

My Commission Expires: November 19, 2025

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: #24CZ12

Submittal Date: _____

Insert legal description below.

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 82° 25' 41" East, 190.14 feet; thence North 05° 32' 29" East, 100.01 feet; thence South 79° 44' 57" East, 506.56 feet; thence South 01° 49' 18" West, 220.29 feet; thence North 84° 57' 36" West, 158.52 feet; thence South 69° 36' 10" West, 175.60 feet; thence South 00° 35' 31" East, 457.80 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 87° 47' 28" West, 51.85 feet; thence South 86° 03' 36" West, 53.40 feet; thence South 85° 47' 33" West, 125.36 feet; thence North 10° 37' 18" West, 768.93 feet to the BEGINNING, containing 7.215 acres more or less.

The above-described area is recorded in:

D.B. 17400, Pg. 663

B.M. 2015, Pg. 979 ~ Lot 1

PIN 0721-00-0505

This description prepared for the sole purpose to rezone a property and for no other use.

PRELIMINARY

AGENT AUTHORIZATION FORM

Application #: #24CZ12

Submission Date: _____

Joseph V Iannone Jr

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: 8608 Humie Olive Rd

The agent for this project is: Jones & Crossen Engineering, PLLC

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

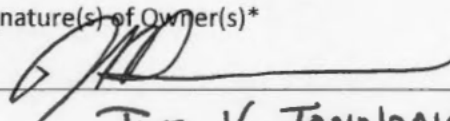
Agent Name: Will Norton

Address: PO Box 1062, Apex, NC 27502

Telephone Number: (919) 387-1174

E-Mail Address: will@jonescrossen.com

Signature(s) of Owner(s)*



JOE V. IANNONE

Type or print name

8-12-24

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

AFFIDAVIT OF OWNERSHIPApplication #: #24CZ12

Submittal Date: _____

The undersigned, Joseph V Iannone Jr (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 8608 Humie Olive Rd and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 07/16/2024, and recorded in the Wake County Register of Deeds Office on 07/31/2024, in Book 019675 Page 00748-00750.
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 07/16/2019, 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 07/16/2019, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 12 day of Aug, 2024

(seal)

JOE V. IANNONE

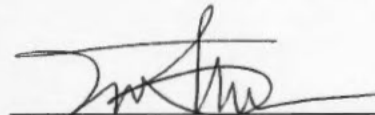
Type or print name

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the County of WAKE, hereby certify that Joe Iannone, 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.

ERIN MARCUM
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 11/19/2025
[NOTARY SEAL]



Notary Public

State of North Carolina

My Commission Expires: November 19, 2025

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: #24CZ12

Submittal Date: _____

Insert legal description below.

Smith & Smith Surveyors, P.A.

P.O. Box 457

Apex, N.C. 27502

(919) 362-7111

Firm License No. C-0155

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

BEGINNING at a point in the southern line of Tract B (B.M. 1984, Pg. 1809), the northeast corner Lot 1 (B.M. 2015, Pg. 979), the northwest corner Lot 2 (B.M. 2015, Pg. 979); thence South 79° 44' 57" East, 219.18 feet; thence South 01° 49' 18" West, 327.51 feet; thence North 88° 10' 42" West, 119.74 feet; thence South 01° 49' 18" West, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence North 89° 07' 21" West, 35.00 feet; thence North 89° 07' 21" West, 26.06 feet; thence North 89° 27' 48" West, 147.45 feet; thence North 89° 34' 42" West, 104.35 feet; thence South 89° 53' 56" West, 77.57 feet; thence South 87° 47' 28" West, 8.34 feet; thence North 00° 35' 31" West, 457.80 feet; thence North 69° 36' 10" East, 175.60 feet; thence South 84° 57' 36" East, 158.52 feet; thence North 01° 49' 18" East, 220.29 feet to the BEGINNING, containing 6.111 acres more or less.

The above-described area is recorded in:

D.B. 16534, Pg. 509

B.M. 2015, Pg. 979 ~ Lot 2

PIN 0721-00-3444

This description prepared for the sole purpose to rezone a property and for no other use.

PRELIMINARY

Wake County Residential Development Notification

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

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

Please send any questions about this form to:
studentassignment-gis-group@wcpss.net.

Developer Company Information	
Company Name	JVI Building & Development, Inc
Company Phone Number	919-387-8846
Developer Representative Name	Joey Iacone
Developer Representative Phone Number	919-387-8846
Developer Representative Email	joey@jviconstruction.com

New Residential Subdivision Information	
Date of Application for Subdivision	June 03 2024
City, Town or Wake County Jurisdiction	Town of Apex
Name of Subdivision	TBD
Address of Subdivision (if unknown enter nearest cross streets)	8608 & 8612 Humie Olive Rd and 8620 Humie Olive Rd (partial)
REID(s)	0244585, 0430000, 0241811
PIN(s)	0721-00-3444, 0721-00-0505, 0711-90-3580 (partial)

Projected Dates Information	
Subdivision Completion Date	2026
Subdivision Projected First Occupancy Date	2025

Lot by Lot Development <i>Information</i>																	
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Square Foot Range		Price Range		Anticipated Completion Units & Dates					
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family	41						41	2500	3500	500K	800K	2025	20	2026	21		
Townhomes																	
Condos																	
Apartments																	
Other																	

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.

May 14, 2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

8608 & 8612 Humie Olive Rd

0721-00-3444 & 0721-00-0505

8620 Humie Olive Rd

0711-90-3580 (partial)

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/> Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/> Special Use Permit	Board of Adjustment (QJPH*)
<input checked="" type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

Proposing to rezone two parcels and a portion of a third parcel along Humie Olive Rd. from R-40W to

Low Density Zoning (LD). This would allow for a single family development of up to 3 units per acre. A proposed subdivision layout is enclosed.

Estimated submittal date: June 03, 2024

MEETING INFORMATION:

Property Owner(s) name(s):

Janice Oliver and Mark & Kymberly Mitro

Applicant(s):

JVI Building & Development, Inc

Contact information (email/phone):

will@jonescossen.com; 919-387-1174

Meeting Address:

Zoom - see enclosed details

Date/Time of meeting**:

May 29, 2024 6:00 PM - 7:00 PM

Welcome: 6:00 PM

Project Presentation: 6:05 PM

Question & Answer: 6:15 - 7:00 PM

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.



Jones & Cnossen
ENGINEERING, PLLC

Civil Engineering | Construction Management | Land Planning

221 N. SALEM ST, SUITE 001
PO BOX 1062
APEX, NC 27502
Office: 919-387-1174
Fax: 919-387-3375
www.jonescnossen.com

Zoom Meeting Details – Oliver Property Rezoning & Subdivision

When: **May 29, 2024 06:00 PM Eastern Time** (US and Canada)

Register using the QR code:

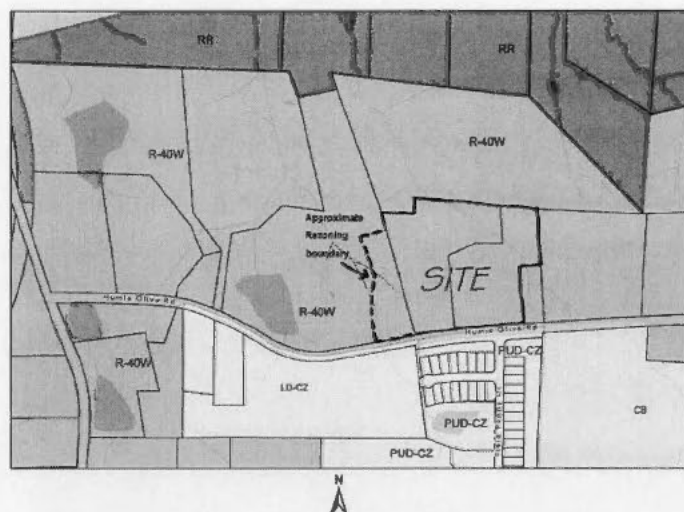


Or go to: www.zoom.com. Click on “JOIN”. Enter the Meeting ID: 839 1693 0492 and then the Passcode: 102193.

Provide your First & Last Name, Email address, and Street address. This will help with attendance at the meeting and register you for the meeting. You will then receive an email confirmation with a link to join the meeting on May 29th.

Or to join the meeting by phone: dial (301) 715-8592 or (305) 224-1968 and enter the Meeting ID 839 1693 0492 and the Passcode 102193. If there are any questions regarding the upcoming meeting or you experience any issues registering for the meeting, please contact our office for assistance.

Vicinity Exhibit



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: Oliver Property Zoning: R-40W

Location: 8608, 8612 & 8620 Humie Olive Rd

Property PIN(s): 0721-00-3444 & 0721-00-0505 Acreage/Square Feet: 16.0 +/-
0711-90-3580 (partial)

Property Owner: Janice Oliver and Mark & Kymberly Mitro

Address: 8608, 8612 & 8620 Humie Olive Rd

City: Apex State: NC Zip: 27502

Phone: _____ Email: _____

Developer: JVI Building & Development, Inc

Address: 1600 Olive Chapel Rd, Suite 400

City: Apex State: NC Zip: 27502

Phone: 919-387-8846 Fax: _____ Email: joey@jviconstruction.com

Engineer: Jones & Crossen Engineering, PLLC - Will Norton

Address: 221 N. Salem St, Suite 001

City: Apex State: NC Zip: 27502

Phone: 919-387-1174 Fax: _____ Email: will@jonescrossen.com

Builder (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager	(919) 372-7468
Public Works - Transportation Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Matt Echols, Utility Engineering Manager (Water & Sewer)	(919) 372-7505
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

Providing Input to Town Council:

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

Private Agreements and Easement Negotiation:

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

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

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

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

Documentation:

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

COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

Noise & Hours of Construction:	Non-Emergency Police	919-362-8661
Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.		
Construction Traffic:	James Misciagno	919-372-7470
Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).		
Road Damage & Traffic Control:	Water Resources – Infrastructure Inspections	919-362-8166
There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.		
Parking Violations:	Non-Emergency Police	919-362-8661
Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.		
Dirt in the Road:	James Misciagno	919-372-7470
Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.		
Dirt on Properties or in Streams:	James Misciagno Danny Smith	919-372-7470 Danny.Smith@ncdenr.gov
Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith (danny.smith@ncdenr.gov) with the State.		
Dust:	James Misciagno	919-372-7470
During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.		
Trash:	James Misciagno	919-372-7470
Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.		
Temporary Sediment Basins:	James Misciagno	919-372-7470
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.		
Stormwater Control Measures:	Jessica Bolin	919-249-3537
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.		
Electric Utility Installation:	Rodney Smith	919-249-3342
Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.		



Jones & Crossen
ENGINEERING, PLLC
Civil Engineering | Construction Management | Land Planning

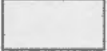


251 N. SALUDA ST.
SUITE 200
PO BOX 3882
APEX, NC 27502
Office: 919-551-1174
Registration: P-0261
www.jonescrossen.com

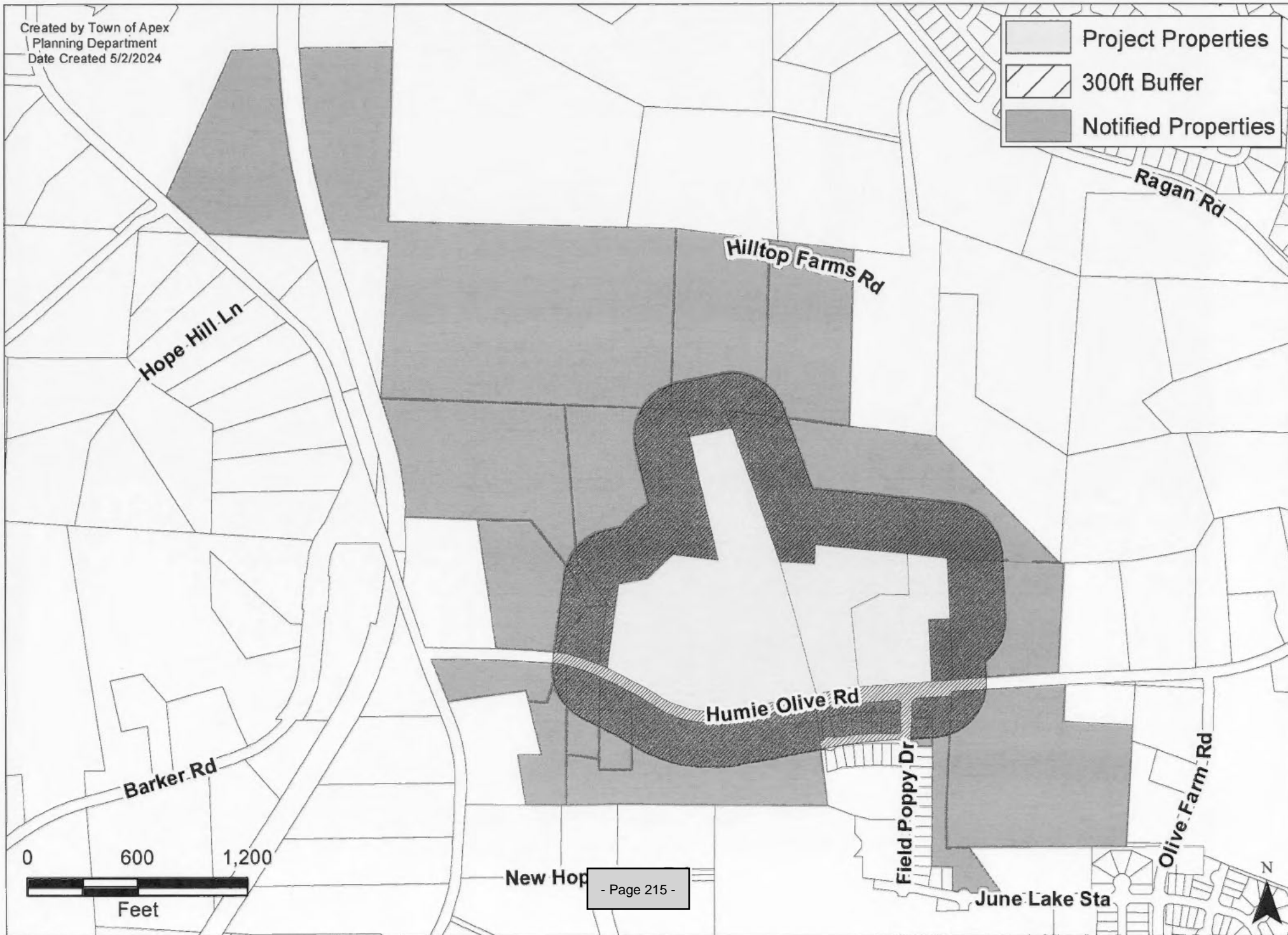
OLIVER PROPERTY
MASTER SUBDIVISION PLAN
NEIGHBORHOOD MEETING EXHIBIT

1"=50'
MAY 14, 2024
2336

Notified Properties within 300ft of the Project Properties

Created by Town of Apex
Planning Department
Date Created 5/2/2024

-  Project Properties
-  300ft Buffer
-  Notified Properties



New Hop

		OWNER	MAILING ADDRESS	
0 OLIVE FARM RD	0720190665	APEX TOWN OF	PO BOX 250	APEX NC 27502-0250
8805 HUMIE OLIVE RD	0710894718	CESPEDES, MERQUIADES N GARCIA, CLAUDIA LISBETH YANES	7704 JENKS RD	APEX NC 27523-7818
0 HUMIE OLIVE RD	0710897972	FULLER - YUMEEWARRA FARMS LLC	8801 FAST PARK DR STE 301	RALEIGH NC 27617-4853
1816 CROSS COUNTRY LN	0721009530	GENTILE, CHRISTOPHER D	1816 CROSS COUNTRY LN	APEX NC 27502-9600
2717 HILLTOP FARMS RD	0711928022	GREEN, JAMES W GREEN, VERONICA	2717 HILLTOP FARMS RD	APEX NC 27502-8714
0 NEW HILL OLIVE CHAPEL RD	0711637141	HANNA, DONALD P	406 DEVONHALL LN	CARY NC 27518-2863
2729 HILLTOP FARMS RD	0711623038	HARTNETT, GARY M HARTNETT, SHARON C	2729 HILLTOP FARMS RD	APEX NC 27502-8714
8600 HUMIE OLIVE RD	0721005342	JUDD, LINDA FAYE JUDD, GRACIE ANN	8600 HUMIE OLIVE RD	APEX NC 27502-8976
8724 HUMIE OLIVE RD	0711811392	LEON, ANNETTE	8724 HUMIE OLIVE RD	APEX NC 27502-9672
0 HUMIE OLIVE RD	0720097066	M/I HOMES OF RALEIGH LLC	1511 SUNDAY DR STE 100	RALEIGH NC 27607-5195
8813 HUMIE OLIVE RD	0711803160	OLIVE, KATHY	8813 HUMIE OLIVE RD	APEX NC 27502-9603
8608 HUMIE OLIVE RD	0721003444	OLIVER, JAMES E JR OLIVER, JANICE	8608 HUMIE OLIVE RD	APEX NC 27502-8976
8612 HUMIE OLIVE RD	0721000505	OLIVER, JAMES E JR OLIVER, JANICE	8620 HUMIE OLIVE RD	APEX NC 27502-8976
8620 HUMIE OLIVE RD	0711903580	OLIVER, JAMES E JR, OLIVER, JANICE	8620 HUMIE OLIVE RD	APEX NC 27502-8976
8728 HUMIE OLIVE RD	0711806319	ROHRER, WILLIAM MICHAEL ROHRER, GINA	8728 HUMIE OLIVE RD	APEX NC 27502-9672
8720 HUMIE OLIVE RD	0711818065	SMITHEY, SHELBY R	8720 HUMIE OLIVE RD	APEX NC 27502-9672
1804 CROSS COUNTRY LN	0721013166	SUMMIT HILL FARM LLC	2508 VETTA CV	APEX NC 27502-9661
		Current Tenant	3100 Armeria DR	APEX NC 27502
		Current Tenant	3104 Armeria DR	APEX NC 27502
		Current Tenant	3110 Armeria DR	APEX NC 27502
		Current Tenant	3114 Armeria DR	APEX NC 27502
		Current Tenant	3118 Armeria DR	APEX NC 27502
		Current Tenant	3122 Armeria DR	APEX NC 27502
		Current Tenant	3126 Armeria DR	APEX NC 27502
		Current Tenant	3130 Armeria DR	APEX NC 27502
		Current Tenant	2305 Field Poppy DR	APEX NC 27502
		Current Tenant	2309 Field Poppy DR	APEX NC 27502
		Current Tenant	2313 Field Poppy DR	APEX NC 27502
		Current Tenant	8633 Humie Olive RD	APEX NC 27502
		Current Tenant	8605 Humie Olive RD	APEX NC 27502
		Current Tenant	8620 Humie Olive RD	APEX NC 27502
		Current Tenant	1625 New Hill Olive Chapel RD	APEX NC 27502

Created by Town of Apex Planning Department
Date Created: 5/2/2024

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: Zoom - see enclosed details

Date of meeting: May 29, 2024 Time of meeting: 6:00 PM - 7:00 PM

Property Owner(s) name(s): Janice Oliver and Mark & Kymberly Mitro

Applicant(s): JVI Building & Development, Inc

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Will Norton, Jones & Crossen Engineering	221 N. Salem St, Suite 001	919-387-1174		<input type="checkbox"/>
2.	Ben Tursam	3112 Maisbank Circle			<input checked="" type="checkbox"/>
3.	Gary & Sharon Hartnett	2729 Hilltop Farms Rd			<input checked="" type="checkbox"/>
4.					<input type="checkbox"/>
5.					<input type="checkbox"/>
6.					<input type="checkbox"/>
7.					<input type="checkbox"/>
8.					<input type="checkbox"/>
9.					<input type="checkbox"/>
10.					<input type="checkbox"/>
11.					<input type="checkbox"/>
12.					<input type="checkbox"/>
13.					<input type="checkbox"/>
14.					<input type="checkbox"/>

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): Janice Oliver and Mark & Kymberly Mitro

Applicant(s): JVI Building & Development, Inc

Contact information (email/phone): will@jonescrossett.com; 919-387-1174

Meeting Address: Zoom - see enclosed details

Date of meeting: May 29, 2024

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:

Does this project have the availability to get larger with more parcels added?

Applicant's Response:

The project is limited in size due to sewer availability so the project is more than likely restricted to these parcels based on elevation and topography and sanitary sewer infrastructure.

Question/Concern #2:

What are the stormwater requirements and will all the runoff from the development go to the stream to the north that runs through our properties? We are concerned with additional runoff and flooding.

Applicant's Response:

The project will be required to meet all Town of Apex and NC standards for stormwater control. The site will manage runoff using retention ponds and control pre vs post flows for the 1 & 10-year storms and not adversely effect any downstream properties by completing a stormwater impact analysis

Question/Concern #3:

Can we access to the runoff calculations and analysis of runoff?

Applicant's Response:

After construction drawings the stormwater calculation package will be public information and can be provided.

Question/Concern #4:

Can the parcel to the west gain sewer and be added?

Applicant's Response:

Because of elevation of existing sewer and topography, sewer access is limited and will not be able to reach further to this parcel.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING 05/29/2024

ADDITIONAL QUESTIONS & ANSWERS

Q: Do you know where the pump station will be located and when it may be planned down the natural draw?

A: I do not know the location of the pump station or when it may be planned to be designed and implemented. I would defer that to Town of Apex public utilities.

Q: Where does the road to the north plan to go?

A: This road is necessary based on the 2045 transportation plan that shows a local street in this area, it is not imminent but provides an opportunity for future parcels to extend should they develop in the future

Q: Will the northern property line be landscape buffer or undisturbed and what can happen across the creek?

A: Our desire would be to keep the landscape buffer natural if it meets the requirements with the existing trees and groundcover that is currently located. The landscape architect will investigate and decide if any supplementary landscaping will be required.

Q: What size lots and what types of product are we looking at doing?

A: The lot sizes are larger in the low density zoning designation, the goal is to do a nice single family product. We are not sure of the exact types of homes but the developer is a custom home builder.

Q: How quickly is this project planning to move?

The project will follow the process of rezoning, master subdivision and construction drawing approvals. There will also be NC Department Of Transportation approvals so there are a lot of processes to go through and this is just the initial rezoning stage.

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, Will Norton, do hereby declare as follows:
Print Name

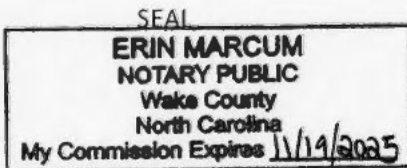
1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property 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 Zoom - see enclosed details (location/address) on May 29, 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.

5/30/24
Date

By: William C. Norton

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Erin Marcum, a Notary Public for the above State and County, on this the 30th day of May, 2024.



[Signature]
Notary Public
Erin Marcum
Print Name

My Commission Expires: November 19, 2025

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.

July 23, 2024

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

8608 & 8612 Hume Olive Rd

0721-00-3444 & 0721-00-0505

8620 Humie Olive Rd (portion of)

0711-90-3580 (partial)

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at <http://www.apexnc.org/180>. Applications for Rezoning must hold a second Neighborhood Meeting in the month prior to the anticipated public hearing date.

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Technical Review Committee (staff)
<input type="checkbox"/> Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"	Technical Review Committee (staff)
<input type="checkbox"/> Special Use Permit	Board of Adjustment (QJPH*)
<input checked="" type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

Proposing to rezone two parcels and a portion of a third parcel on Humie Olive Rd from R-40W to Low Density

Zoning (LD). This would allow for a single family development of up to 3 units per acre.

This is a follow up meeting to the neighborhood meeting held on May 29, 2024.

Estimated submittal date: submitted July 1, 2024

MEETING INFORMATION:

Property Owner(s) name(s):

Janice Oliver and Mark & Kymberly Mitro

Applicant(s):

JVI Building & Development, Inc

Contact information (email/phone):

will@jonescossen.com; 919-387-1174

Meeting Address:

Zoom - see enclosed details

Date/Time of meeting**:

August 15, 2024 6:00 PM - 7:00 PM

Welcome: 6:00 PM

Project Presentation: 6:05 PM

Question & Answer: 6:15 - 7:00 PM

**Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180>.



Jones & Cnossen
ENGINEERING, PLLC

Civil Engineering | Construction Management | Land Planning

221 N. SALEM ST, SUITE 001
PO BOX 1062
APEX, NC 27502
Office: 919-387-1174
Fax: 919-387-3375
www.jonescnossen.com

Zoom Meeting Details – Oliver Property Rezoning & Subdivision

When: **August 15, 2024 06:00 PM Eastern Time (US and Canada)**

Register using the QR code:



Or go to: www.zoom.com. Click on “JOIN”. Enter the Meeting ID: 899 7635 7876 and then the Passcode: 113450.

Provide your First & Last Name, Email address, and Street address. This will help with attendance at the meeting and register you for the meeting. You will then receive an email confirmation with a link to join the meeting on August 15th.

Or to join the meeting by phone: dial (301) 715-8592 or (305) 224-1968 and enter the Meeting ID 899 7635 7876 and the Passcode 113450. If there are any questions regarding the upcoming meeting or you experience any issues registering for the meeting, please contact our office for assistance.

Vicinity Exhibit



Jones & Crossen
ENGINEERING, PLLC

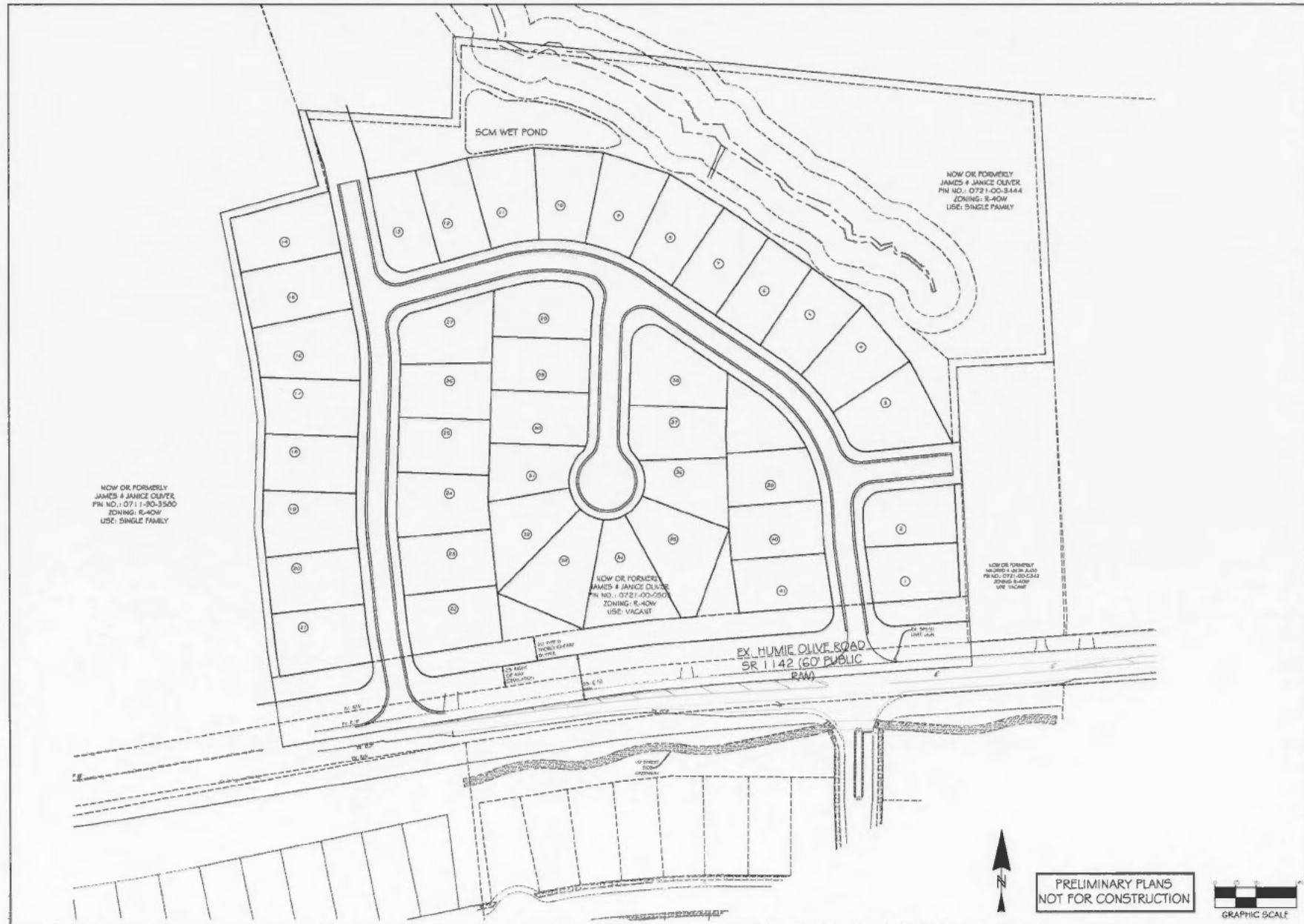
Civil Engineering | Construction Management | Land Planning

221 N. SALEM ST.
SUITE 300
PO BOX 1062
APEX, NC 27502
Office: 919-337-1174
Registration: P-0751
www.JohnsonHomes.com

FOR
REVIEW
ONLY

OLIVER PROPERTY
MASTER SUBDIVISION PLAN
PRELIMINARY LOT LAYOUT PLAN

Frost OK - Allg.	
I° = 50°	FUK
MAY 19, 2024	
4	
233C	



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: Oliver Property Zoning: R-40W

Location: 8608 & 8612 Humie Olive Rd & 8620 Humie Olive Rd (portion of)

Property PIN(s): 0721-00-3444 & 0721-00-0505 Acreage/Square Feet: 0711-90-3580 (partial)

Property Owner: Janice Oliver and Mark & Kymberly Mitro

Address: 8608, 8612 & 8620 Humie Olive Rd

City: Apex State: NC Zip: 27502

Phone: _____ Email: _____

Developer: JVI Building & Development, Inc

Address: 1600 Olive Chapel Rd, Suite 400

City: Apex State: NC Zip: 27502

Phone: 919-387-8846 Fax: _____ Email: joey@jviconstruction.com

Engineer: Jones & Cnossen Engineering, PLLC - Will Norton

Address: 221 N. Salem St, Suite 001

City: Apex State: NC Zip: 27502

Phone: 919-387-1174 Fax: _____ Email: will@jonescnossen.com

Builder (if known): _____

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

Providing Input to Town Council:

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

Private Agreements and Easement Negotiation:

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

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

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

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

Documentation:

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

COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

Noise & Hours of Construction:	Non-Emergency Police	919-362-8661
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Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 am to 8:30 pm so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday-Friday from 8:00 am to 5:00 pm. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

Construction Traffic:	Infrastructure Inspections	919-249-3386
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Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

Road Damage & Traffic Control:	Infrastructure Inspections	919-249-3386
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There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Transportation & Infrastructure Development – Infrastructure Inspections at 919-249-1109. The Town will get NCDOT involved if needed.

Parking Violations:	Non-Emergency Police	919-362-8661
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Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

Dirt in the Road:	Water Resources	919-362-8166
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Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed. Staff will coordinate the cleaning of the roadways with the developer.

Dirt on Properties or in Streams:	Water Resources	919-362-8166
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Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed so that staff can coordinate the appropriate repairs with the developer.

Dust:	Water Resources	919-362-8166
--------------	------------------------	---------------------

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed so that staff can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

Trash:	Water Resources	919-362-8166
---------------	------------------------	---------------------

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed. Staff will coordinate the cleanup and trash collection with the developer/home builder.

Temporary Sediment Basins:	Water Resources	919-362-8166
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Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

Stormwater Control Measures:	Water Resources	919-362-8166
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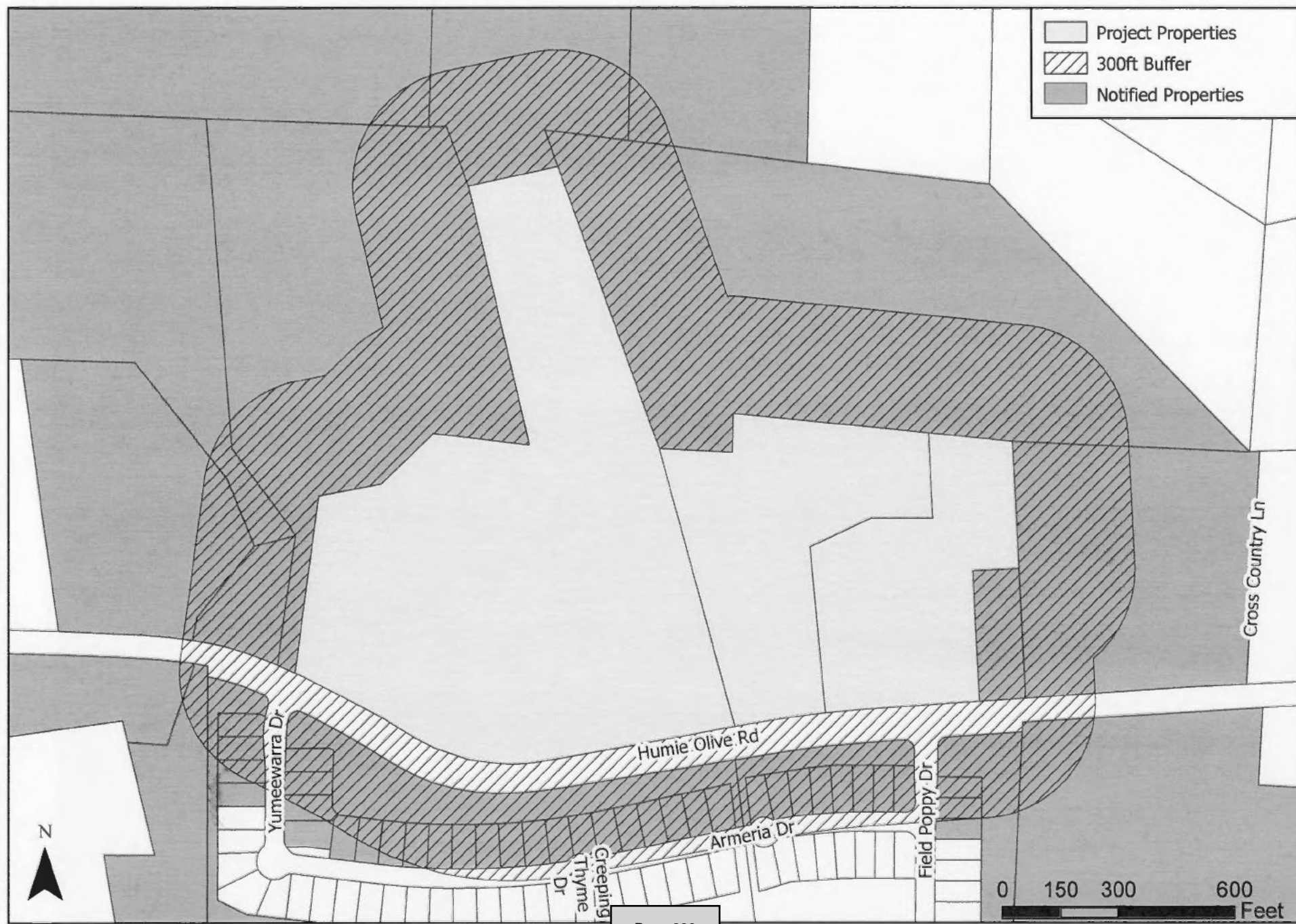
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported by visiting the Report a Concern page at <https://www.apexnc.org/1173/> or by calling the number listed.

Electric Utility Installation:	Rodney Smith	919-249-3342
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Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.

SITE ADDRESS	PIN NUMBER	OWNER	MAILING ADDRESS
8720 HUMIE OLIVE RD	0711818065	SMITHEY, SHELBY R	8720 HUMIE OLIVE RD
2212 YUMEEWARRA DR	0710895996	HHHUNT HOMES RALEIGH-DURHAM LLC	APEX NC 27502-9672
0 HUMIE OLIVE RD	0720097068	M/I HOMES OF RALEIGH LLC	GLEN ALLEN VA 23059-5502
1816 CROSS COUNTRY LN	0721009530	GENTILE, CHRISTOPHER D	RALEIGH NC 27607-5195
2729 HILLTOP FARMS RD	0711923038	HARTNETT, GARY M HARTNETT, SHARON C	APEX NC 27502-9600
0 NEW HILL OLIVE CHAPEL RD	0711637141	HANNA, DONALD P	APEX NC 27502-6714
1804 CROSS COUNTRY LN	0721013166	SUMMIT HILL FARM LLC	CARY NC 27518-2983
0 OLIVE FARM RD	0720190665	APEX TOWN OF	APEX NC 27502-9661
8608 HUMIE OLIVE RD	0721003444	OLIVER, JAMES E JR OLIVER, JANICE	APEX NC 27502-0250
8805 HUMIE OLIVE RD	0710894718	CESPEDES, MERQUIADES N GARCIA, CLAUDIA LISBETH YANES	APEX NC 27502-8976
8612 HUMIE OLIVE RD	0721000505	OLIVER, JAMES E JR OLIVER, JANICE	APEX NC 27523-7818
8813 HUMIE OLIVE RD	0711803160	OLIVE, KATHY	APEX NC 27502-8976
8620 HUMIE OLIVE RD	0711903580	OLIVER, JANICE W TRUSTEE THE JANICE W OLIVER REVOCABLE LIVING TRUST	APEX NC 27502-9603
2717 HILLTOP FARMS RD	0711928022	GREEN, JAMES W GREEN, VERONICA	APEX NC 27502-8976
8726 HUMIE OLIVE RD	0711806319	ROHRER, WILLIAM MICHAEL ROHRER, GINA	APEX NC 27502-6714
8600 HUMIE OLIVE RD	0721005342	JUDD, LINDA FAYE JUDD, GRACIE ANN	APEX NC 27502-9672
8724 HUMIE OLIVE RD	0711811392	LEON, ANNETTE	APEX NC 27502-8976
8633 HUMIE OLIVE RD	0710990900	FULLER - YUMEEWARRA FARMS LLC	APEX NC 27502-9672
		Current Tenant	RALEIGH NC 27617-4853
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Notified Properties within 300ft of the Project Properties



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: Zoom - see enclosed details

Date of meeting: August 15, 2024 Time of meeting: 6:00 PM - 7:00 PM

Property Owner(s) name(s): Janice Oliver and Joey Iannone Jr

Applicant(s): JVI Building & Development, Inc

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Will Norton, Jones & Crossen Engineering	221 N Salem St, Suite 001	919-387-1174		
2.	Gary & Sharon Hartnett	2729 Hilltop Farms Rd			X
3.	James Green	2717 Hilltop Farms Rd			X
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): Janice Oliver and Joey Iannone Jr

Applicant(s): JVI Building & Development, Inc

Contact information (email/phone): will@jonescossen.com; 919-387-1174

Meeting Address: Zoom

Date of meeting: August 15, 2024

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:

Will the existing home be staying that is currently located on one of the properties?

Applicant's Response:

No, the existing home will be demolished. Based on the existing nature of the house and the orientation of the layout and other requirements that would need to be met to keep the existing home it is best suited to remove it to accomplish the intent of this project.

Question/Concern #2:

Why is the western entrance road shown as a street stub? Does that open up the possibility of future development?

Applicant's Response:

The street stub is shown in this general location based on the 2045 Transportation plan. While that does provide opportunity for a road extension, there isn't much near term opportunity for gravity sewer on parcels directly connecting to this road and therefore I would not anticipate any very near development to continue until that is available.

Question/Concern #3:

What are the lot sizes approximately and the type of homes that would be constructed in this proposed development?

Applicant's Response:

The minimum lot size per the condition is 7500sf but most lots will be larger than that. The developer is a custom home-builder and there are other examples in the town of similar neighborhoods that would be in conjunction with the types of homes that would probably be constructed.

Question/Concern #4:

Will groundwater and well water be effected in the area once an area is developed?

Applicant's Response:

In our experience based on the drainage pattern for the area being maintained and the treatment of stormwater runoff with control measures and ponds the groundwater and well water quality and quantity should be consistent with the existing condition prior to any development taking place.

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, Will Norton, 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 Zoom (location/address) on August 15, 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.

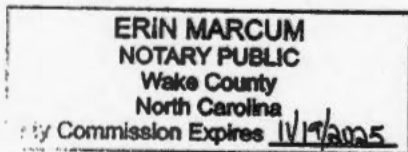
8/16/2024
Date

By: William C Norton

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Erin Marcum, a Notary Public for the above State and County, on this the 16th day of August, 2024.

SEAL



[Signature]
Notary Public
Erin Marcum
Print Name

My Commission Expires: November 19, 2025



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #24CZ12 Oliver Property

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: JVI Building & Development, Inc

Authorized Agent: Will Norton, Jones & Crossen Engineering, PLLC

Property Addresses: 8608, 8612, and 8620 Humie Olive Rd (portion of)

Acreage: ±15.94 acres

Property Identification Numbers (PINs): 0721003444, 0721000505, and 0711903580 (portion of)

2045 Land Use Map Designation: Low Density Residential

Existing Zoning of Properties: Wake County Residential 40W (R-40W)

Proposed Zoning of Properties: Low Density Residential-Conditional Zoning (LD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: September 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 North 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, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/47321>.

Dianne F. Khin, AICP
Planning Director

Published Dates: August 23 – September 9, 2024



TOWN OF APEX
PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ12

Oliver Property

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: JVI Building & Development, Inc

Agente autorizado: Will Norton, Jones & Crossen Engineering, PLLC

Dirección de las propiedades: 8608, 8612, & porción de 8620 Humie Olive Rd

Superficie: ±15.94 acres

Número de identificación de las propiedades: 0721003444, 0721000505, & porción de 0711903580

Designación actual en el Mapa de Uso Territorial para 2045: Low Density Residential

Ordenamiento territorial existente de las propiedades: Wake County Residential 40W (R-40W)

Ordenamiento territorial propuesto para las propiedades: Low Density Residential-Conditional Zoning (LD-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 septiembre 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 North 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/imap>. 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 y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/47321>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 23 de agosto - 9 de septiembre de 2024



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #24CZ12
Oliver Property**

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

- Applicant:** JVI Building & Development, Inc
- Authorized Agent:** Will Norton, Jones & Crossen Engineering, PLLC
- Property Addresses:** 8608, 8612, and 8620 Humie Olive Rd (portion of)
- Acreage:** ±15.94 acres
- Property Identification Numbers (PINs):** 0721003444, 0721000505, and 0711903580 (portion of)
- 2045 Land Use Map Designation:** Low Density Residential
- Existing Zoning of Properties:** Wake County Residential 40W (R-40W)
- Proposed Zoning of Properties:** Low Density Residential-Conditional Zoning (LD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: September 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 North 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, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/47321>.

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 #24CZ12

Oliver Property

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

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Agente autorizado: Will Norton, Jones & Cnossen Engineering, PLLC

Dirección de las propiedades: 8608, 8612, & porción de 8620 Humie Olive Rd

Superficie: ±15.94 acres

Número de identificación de las propiedades: 0721003444, 0721000505, & porción de 0711903580

Designación actual en el Mapa de Uso Territorial para 2045: Low Density Residential

Ordenamiento territorial existente de las propiedades: Wake County Residential 40W (R-40W)

Ordenamiento territorial propuesto para las propiedades: Low Density Residential-Conditional Zoning (LD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

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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:



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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 #24CZ12
Project Location: 8608, 8612, and 8620 Humie Olive Rd (portion of)
Authorized Agent: Will Norton
Firm: Jones & Crossen Engineering, PLLC
Planning Board
Public Hearing Date: September 9, 2024
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 August 23, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

8/26/2024
Date

Marlene L. Khin
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jesus A. Ibanez-Ibarra, a Notary Public for the above

State and County, this the 26th day of August, 2024.



Jesus A. Ibanez-Ibarra
Notary Public

My Commission Expires: 4 / 10 / 2028



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #24CZ12 Oliver Property

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: JVI Building & Development, Inc

Authorized Agent: Will Norton, Jones & Cnossen Engineering, PLLC

Property Addresses: 8608, 8612, and 8620 Humie Olive Rd (portion of)

Acreage: ±15.94 acres

Property Identification Numbers (PINs): 0721003444, 0721000505, and 0711903580 (portion of)

2045 Land Use Map Designation: Low Density Residential

Existing Zoning of Properties: Wake County Residential 40W (R-40W)

Proposed Zoning of Properties: Low Density Residential-Conditional Zoning (LD-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: September 24, 2024 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/maps>. 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/47321>.

Dianne F. Khin, AICP
Planning Director

Published Dates: September 3 – September 24, 2024

Mailed Date: August 30, 2024



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: JVI Building & Development, Inc

Agente autorizado: Will Norton, Jones & Crossen Engineering, PLLC

Dirección de las propiedades: 8608, 8612, & porción de 8620 Humlie Olive Rd

Superficie: ±15.94 acres

Número de identificación de las propiedades: 0721003444, 0721000505, & porción de 0711903580

Designación actual en el Mapa de Uso Territorial para 2045: Low Density Residential

Ordenamiento territorial existente de las propiedades: Wake County Residential 40W (R-40W)

Ordenamiento territorial propuesto para las propiedades: Low Density Residential-Conditional Zoning (LD-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 de la Junta de Planificación: 24 de septiembre de 2024 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/maps>. 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/47321>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 3 de septiembre - 24 de septiembre de 2024
Fecha de envío por correo: 30 de agosto de 2024





TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #24CZ12 Oliver Property

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: JVI Building & Development, Inc

Authorized Agent: Will Norton, Jones & Clossen Engineering, PLLC

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Acreage: ±15.94 acres

Property Identification Numbers (PINs): 0721003444, 0721000505, and 0711903580 (portion of)

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Existing Zoning of Properties: Wake County Residential 40W (R-40W)

Proposed Zoning of Properties: Low Density Residential -Conditional Zoning (LD-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ12

Oliver Property

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del Ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

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Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

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Fecha y hora de la audiencia pública de la Junta de Planificación: 24 de septiembre de 2024 6:00 P.M.

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Mapa de las inmediaciones:



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Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #24CZ12 Oliver Property

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Public Hearing Location: Apex Town Hall
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Town Council Public Hearing Date and Time: September 24, 2024 6:00 PM

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ12

Oliver Property

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Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

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Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

CONTINUED

PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #24CZ12
Oliver Property

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Town Council Public Hearing Date and Time: ~~September 24~~ **October 8, 2024 6:00 PM**

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Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

CONTINUADO

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #24CZ12

Oliver Property

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Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

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Fecha y hora de la audiencia pública de la Junta de Planificación: ~~24 de septiembre~~ **8 de octubre de 2024**

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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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 #24CZ12
Project Location: 8608, 8612, and 8620 Humie Olive Rd (portion of)
Authorized Agent: Will Norton
Firm: Jones & Crossen Engineering, PLLC
Town Council Public Hearing Date: September 24, 2024
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 August 30, 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.

9/4/2024

Date

Shanne F. Khia

Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me,

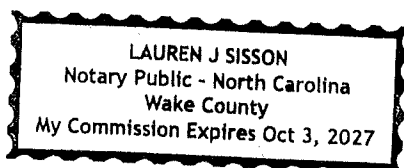
LAUREN J Sisson

, a Notary Public for the above

State and County, this the

4th

day of SEPTEMBER, 2024.



[Signature]

Notary Public

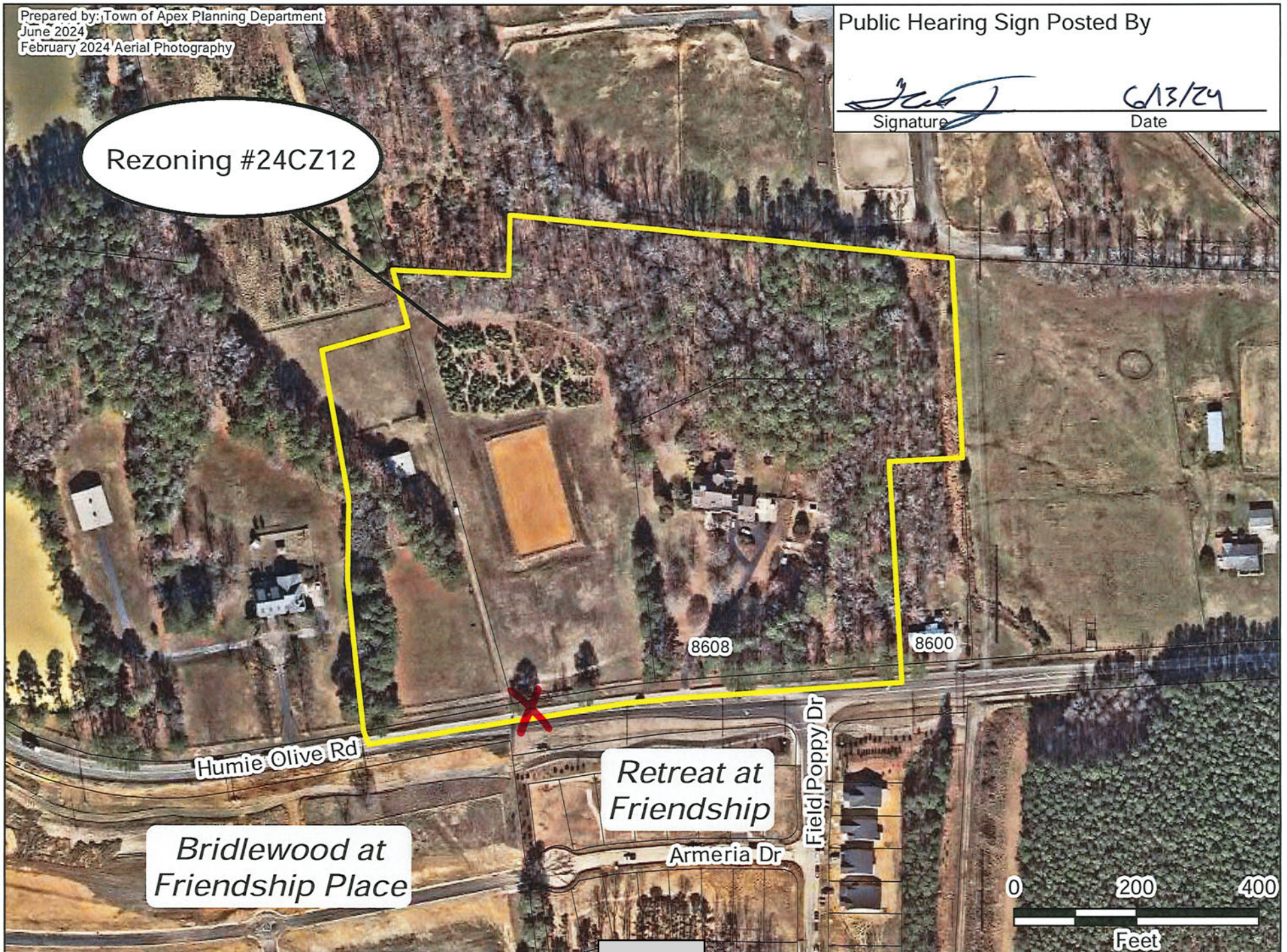
My Commission Expires: 10 / 03 / 2027

Public Hearing Sign Posted By


Signature

6/13/24
Date

Rezoning #24CZ12





WAKE COUNTY PUBLIC SCHOOL SYSTEM

Office of Student Assignment
5625 Dillard Dr.
Cary, NC 27518
studentassignment@wcpss.net

tel: (919) 431-7333
fax: (919) 694-7753

July 26, 2024

Dianne Khin, AICP
Director, Planning Department
Town of Apex
Dianne.Khin@apexnc.org

Dear Dianne,

The Wake County Public School System (WCPSS) Office of School Assignment received information about a proposed rezoning/development within the Town of Apex planning area. We are providing this letter to share information about WCPSS's capacity related to the proposal. The following information about the proposed rezoning/development was provided through the Wake County Residential Development Notification database:

- Date of application: June 3, 2024
- Name of development: 24CZ12 Oliver Property
- Address of rezoning: 8608, 8612, & 8620 (Portion of) Humie Olive Rd
- Total number of proposed residential units: 47
- Type(s) of residential units proposed: Apartments

Based on the information received at the time of application, the Office of School Assignment is providing the following assessment of possible impacts to the Wake County Public School System:

- ☐ Schools at all grade levels within the current assignment area for the proposed rezoning/development are anticipated to have sufficient capacity for future students.
- ☒ Schools at the following grade levels within the current assignment area for the proposed rezoning/development are anticipated to have insufficient capacity for future students; transportation to schools outside of the current assignment area should be anticipated:

☒ Elementary

☒ Middle

☒ High

The following mitigation of capacity concerns due to school construction or expansion is anticipated:

- ☐ Not applicable – existing school capacity is anticipated to be sufficient.
- ☐ School expansion or construction within the next five years is not anticipated to address concerns.
- ☒ School expansion or construction within the next five years may address concerns at these grade levels:

☐ Elementary

☐ Middle

☒ High

Thank you for sharing this information with the Town of Apex Planning Board and Town Council as they consider the proposed rezoning/development.

Sincerely,



Susan W. Pullium, MSA
Senior Director

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #24CZ12 Oliver Property

Planning Board Meeting Date: September 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: ± 15.94 acres

PIN(s): 0721003444, 0721000505, and 0711903580 (portion of)

Current Zoning: Wake County Residential 40W (R-40W)

Proposed Zoning: Low Density Residential-Conditional Zoning (LD-CZ)

2045 Land Use Map: Low Density Residential

Town Limits: No. Annexation is required at the time of the rezoning.

Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☒ Parks, Recreation, Open Space, and Greenways Plan
☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #24CZ12 Oliver Property

Planning Board Meeting Date: September 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: #24CZ12 Oliver Property

Planning Board Meeting Date: September 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: #24CZ12 Oliver Property

Planning Board Meeting Date: September 9, 2024



Planning Board Recommendation:

Motion: To recommend approval as presented

Introduced by Planning Board member: Alyssa Byrd

Seconded by Planning Board member: Keith Braswell

☐ *Approval:* the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.

☒ *Approval with conditions:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

Conditions as offered by developer and 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 September 2024.

Attest:



Tina Sherman, Planning Board Chair



Dianne Khin, Planning Director

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

Planning Board Meeting Date: September 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: *To recommend approval as presented.*

Introduced by Planning Board member: Jeff Hastings

Seconded by Planning Board member: Sarah Soh

- ☒ 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 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 September 2024.

Attest:


Tina Sherman, Planning Board Chair


Dianne Khin, Planning Director

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 15.94 ACRES LOCATED AT 8608, 8612, AND PORTION OF 8620 HUMIE OLIVE ROAD FROM WAKE COUNTY RESIDENTIAL-40W (R-40W) TO LOW DENSITY RESIDENTIAL-CONDITIONAL ZONING (LD-CZ)
#24CZ12

WHEREAS, JVI Building & Development, Inc, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of June 2024 (the “Application”). The proposed conditional zoning is designated #24CZ12;

WHEREAS, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #24CZ12 before the Planning Board on the 9th day of September 2024;

WHEREAS, the Apex Planning Board held a public hearing on the 9th day of September 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #24CZ12. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #24CZ12;

WHEREAS, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #24CZ12 before the Apex Town Council on the 8th day of October 2024;

WHEREAS, the Apex Town Council held a public hearing on the 8th day of October 2024. Joshua Killian, Planner I, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #24CZ12 were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

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

WHEREAS, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The proposed density and uses are consistent with adjacent developments while providing continued growth of available housing within Apex; and

WHEREAS, the Apex Town Council by a vote of __ to __ approved Application #24CZ12 rezoning the subject tract located at 8608, 8612, and portion of 8620 Humie Olive Road from Wake County Residential-40W (R-40W) to Low Density Residential-Conditional Zoning (LD-CZ).

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

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

Section 2: The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the “Rezoned Lands” from Wake County Residential-40W (R-40W) to Low Density Residential-Conditional Zoning (LD-CZ) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #24CZ12

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

Section 4: The “Rezoned Lands” are subject to all of the following conditions which are imposed as part of this rezoning:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

- | | |
|------------------------|------------------|
| 1. Single-family | 4. Greenway |
| 2. Accessory apartment | 5. Park, active |
| 3. Utility, minor | 6. Park, passive |

Zoning Conditions

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
6. A varied color palette shall be utilized throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Front porches shall be a minimum of 6 feet deep.

Additional Zoning Conditions

10. The minimum average lot size shall be 7500 sf. and the maximum gross density will be 3 units per acre.
11. Signage or information brochures shall be provided by any homeowner's association areas regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
12. Developer shall install pollinator-friendly and native flora within SCM planting areas.
13. At least 75% of the plant species used in the landscape design shall be native species to the eastern U.S.
14. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
15. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.

Ordinance Amending the Official Zoning District Map #24CZ12

16. A minimum of two pet waste stations shall be installed in HOA common area.
17. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
18. Any required outdoor lighting shall utilize full cutoff fixtures that have a maximum color temperature of 3000K. (to apply only to signage and other common owned elements.)
19. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
20. Stormwater design shall meet the 25-year storm for pre- and post- attenuation requirements.
21. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
22. No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.
23. In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.
24. Construction shall be restricted to Monday – Saturday, no later than 7pm, to allow for a reprieve from construction noise in the evenings and on Sundays.
25. Developer shall dedicate right-of-way and construct minimum improvements along the Humie Olive Road property frontage based on a Rural 2-lane Thoroughfare on 110-foot right-of-way according to the Apex Transportation plan with 5-foot sidewalk along the north side of Humie Olive Road. Additionally, the eastern access point shall provide full movement aligned with Field Poppy Drive with an eastbound left turn lane to be constructed by the developer, and the western access point if proposed or required shall be constructed as right-in/right-out only, subject to review and approval by Apex and NCDOT.

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

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

Motion by Council Member _____

Seconded by Council Member _____

With ____ Council Member(s) voting "aye."

With ____ Council Member(s) voting "no."

This the ____ day of _____ 2024.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney

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

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

BEGINNING at the southwest corner Tract B (B.M. 1984, Pg. 1809), the northwest corner Lot 1 (B.M. 2015, Pg. 979), an eastern corner Lot 3 (B.M. 1998, Pg. 1044); thence South 87° 04' 31" East, 190.14 feet; thence North 00° 53' 39" East, 100.01 feet; thence South 84° 23' 47" East, 725.74 feet; thence South 02° 49' 32" East, 327.51 feet; thence South 87° 10' 28" West, 119.74 feet; thence South 02° 49' 32" East, 365.50 feet to a point in Humie Olive Road ~ NCSR 1142; thence South 86° 13' 49" West, 61.06 feet; thence South 85° 53' 22" West, 147.45 feet; thence South 85° 46' 28" West, 104.35 feet; thence South 85° 15' 06" West, 77.57 feet; thence South 83° 08' 38" West, 60.19 feet; thence South 81° 24' 46" West, 53.40 feet; thence South 81° 10' 21" West, 136.24 feet; thence South 81° 04' 57" West, 19.75 feet; thence South 80° 48' 43" West, 98.53 feet; thence South 81° 08' 26" West, 96.92 feet; thence North 08° 53' 07" West, 117.99 feet; thence North 06° 01' 54" West, 153.32 feet; thence North 01° 49' 03" East, 131.14 feet; thence North 07° 27' 48" West, 74.87 feet; thence North 11° 15' 27" West, 180.72 feet; thence North 74° 43' 52" East, 125.65 feet; thence North 15° 16' 08" West, 95.80 feet to the BEGINNING, containing 15.9428 total acres more or less.

The above-described area is recorded in:

D.B. 19675, Pg. 748 and a portion of D.B. 19654, Pg. 2201

B.M. 2015, Pg. 979 ~ Lot 1 & 2, B.M. 1998, Pg. 1044, & B.M. 2000, Pg. 1767

PIN 0721-00-3444, PIN 0721-00-0505, & a portion of PIN 0711-90-3580

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

PRELIMINARY

NOT TO BE USED AS A SURVEY
OR TO TRANSFER ANY PROPERTY
DESCRIBED HEREIN

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: October 8, 2024

Item Details

Presenter(s): Marty Stone, Assistant Town Manager – Development and Operations Portfolio

Department(s): Town Manager's Office

Requested Motion

Discussion and possible motion to adopt a resolution approving a land exchange agreement between the Town of Apex and ACRE Manager LLC and to authorize the Town Manager to execute the agreement on behalf of the Town of Apex.

Approval Recommended?

Yes

Item Details

ACRE Manager LLC ("ACRE") and the Town own adjacent properties on Perry Road. ACRE has proposed a land exchange with the Town pursuant North Carolina General Statute §160A-271 and as described in the attached agreement. ACRE proposes to convey to the Town an approximately 23.27 acre tract of land in exchange for the Town's conveyance of an approximately 34.81 acre tract of land to ACRE. In addition, ACRE proposes to pay addition compensation to the Town for the exchange. The additional compensation is determined at the time of closing as described in the proposed agreement. Additional details of the proposal are contained in the attached land exchange agreement.

Attachments

- NB1-A1: Resolution Authorizing A Land Exchange Between the Town of Apex and ACRE Manager, LLC of Tracts Located on Perry Road in Apex, North Carolina
- NB1-A2: Land Exchange Agreement – Perry Road Land Exchange
- NB1-A3: Land Swap Exhibit – Perry Road Land Exchange
- NB1-A4: Public Notice Affidavit – Perry Road Land Exchange



RESOLUTION NO. _____

**RESOLUTION AUTHORIZING A LAND EXCHANGE BETWEEN THE TOWN OF APEX
AND ACRE MANAGER, LLC OF TRACTS LOCATED ON PERRY ROAD IN APEX,
NORTH CAROLINA**

Council Member _____ moved, seconded by Council Member _____,
and the Town of Apex Town Council (the “Council”) approved by a vote of ____ to _____, that the
following Resolution be adopted by the Council:

WHEREAS, Section 160A-271 of the North Carolina General Statutes expressly provides that a
city may exchange real property belonging to the city for other real property by private negotiations if
the city receives a full and fair consideration in exchange for its property; and

WHEREAS, the Town and ACRE Manager, LLC desire to exchange with each other certain
tracts of real property and additional consideration; and

WHEREAS, the Town Council determines that it is in the public interest to effect the exchange
embodied in the Land Exchange Agreement attached hereto.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Apex as follows:

For the purpose stated above, and under the authority of § 160A-271 of the North Carolina
General Statutes, the land exchange as described in the Land Exchange Agreement attached hereto is
hereby approved, and the Town Manager of the Town of Apex is authorized to sign the Land Exchange
Agreement attached hereto in order to enter into said Agreement on behalf of the Town.

This Resolution is effective upon adoption.

This the ____ day of October, 2024.

By: _____
Jacques K. Gilbert,
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

NORTH CAROLINA

LAND EXCHANGE AGREEMENT

WAKE COUNTY

THIS LAND EXCHANGE AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2024, by and between ACRE Manager, LLC, a Delaware Limited Liability Company (“ACRE”) and the Town of Apex (“Town”)(each, a “party” and collectively, the “parties”).

WITNESSETH:

WHEREAS, Section 160A-271 of the North Carolina General Statutes expressly provides that a city may exchange any real property belonging to the city for other real property by private negotiations if the city receives full and fair consideration in exchange for its property; and

WHEREAS, ACRE and the Town desire to exchange certain tracts of real property of like value and the Apex Town Council authorized this Agreement on October 8th , 2024.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Land Exchange.

(a) Town is owner of a 51.16-acre tract of land, Wake County PINs 0741326706 and 0741427922 (the “Town Tract”) and ACRE is under contract to purchase a 47.01-acre tract of land, Wake County PIN 0741331566 (the “ACRE Tract”). The Town Tract and the ACRE Tract are adjacent and share a common property line.

(b) Subject to the terms and conditions of this Agreement, Town agrees to convey to ACRE an approximately 34.81 acre portion of the Town Tract west of the future alignment of Perry Road, labeled “Tract #2” (the “Town Exchange Property”) on the exhibit titled “Hopson Gateway – Land Swap Exhibit 9-24-2024” attached as **Exhibit A** (the “Land Exchange Exhibit”) in exchange for an approximately 23.27 acre portion of the ACRE Tract east of the future alignment of Perry Road, labeled “Tract #3” (the “ACRE Exchange Property”) on the Land Exchange Exhibit. After Closing (as defined below), ACRE will own “Tract #1” and “Tract #2” (collectively, the “New ACRE Tract”) and the Town will own “Tract #3” and “Tract #4” (collectively, the “New Town Tract”). Prior to Closing, the parties shall cause an exempt subdivision plat (the “Exempt Subdivision Plat”) to be drafted to create the New ACRE Tract and the New Town Tract. The Exempt Subdivision Plat shall be held in trust and recorded at Closing contemporaneously with the Deeds. The Exempt Subdivision Plat may increase or decrease the acreages of the New ACRE Tract and New Town Tract by up to five (5%) as agreed to between the parties to reflect updated survey data and/or other development needs. If the tract acreages shown on the Exempt Subdivision Plat differ by more than five (5%) from the acreages shown on the Land Exchange Exhibit, either party may elect to terminate this Agreement or consent to the acreage as shown on the Exempt Subdivision Plat. Town consent to a difference in acreage greater than 5% shall be subject to the requirements of Article 12, Sale and Disposition of Property, Chapter 160A of the North Carolina General Statutes.

(c) At Closing (as defined below), ACRE shall pay the Town additional consideration (the “Additional Consideration”) which represents the difference between the market value of the Town Tract and the market value of the New Town Tract. The Additional Consideration, together with the conveyance of the ACRE Exchange Property to the Town, shall constitute full and fair consideration for the Town Exchange Property. The Additional Consideration shall be calculated as follows:

(i) If the closing of the swap occurs within 60 days of the approval of the resolution authorizing the exchange, the consideration to be paid by ACRE to the Town shall equal \$160,000.00 per acre for the difference in acreage between the Town Exchange Property and the ACRE Exchange Property. The difference in acreage is 11.54 acres. The consideration in this alternative (i) shall equal \$1,846,400.00.

(ii) If the closing of the swap occurs between 60 days after the approval of the resolution authorizing the exchange and August 31, 2025, the consideration to be paid by ACRE to the Town shall equal \$168,000 per acre for the difference in acreage between the Town Exchange Property and the ACRE Exchange Property. The difference in acreage is 11.54 acres. The consideration in this alternative (ii) shall equal \$1,938,720.00.

(iii) If the closing of the swap occurs after August 31, 2025, the consideration to be paid by ACRE to the Town shall equal \$176,400 per acre for the difference in acreage between the Town Exchange Property and the ACRE Exchange Property. The difference in acreage is 11.54 acres. The consideration in this alternative (iii) shall equal \$2,035,656.00.

If Tract acreages are adjusted on the Exempt Subdivision Plat as permitted by Section 1(b) of this Agreement, the Additional Consideration shall be adjusted using the formula provided above in subsections (i) through (iii).

Section 2. Rezoning. ACRE intends to develop the New ACRE Tract (the “Development”). The Development requires the New ACRE Tract to be rezoned (the “Rezoning”). Town agrees to execute any and all documents reasonably necessary to allow ACRE to submit the Rezoning application to include the Town Exchange Property no later than November 1, 2024.

Section 3. Underlying Contract. Town acknowledges ACRE is party to an agreement with the current property owner to purchase the ACRE Tract (the “Underlying Contract”). If the Underlying Contract is terminated, for any reason or no reason, then this Agreement shall automatically terminate without liability to ACRE, any funds paid to the Town hereunder shall be refunded, and the parties shall have no further rights or obligations under this Agreement. If the Underlying Contract is terminated, ACRE shall provide the Town with written notice no later than ten (10) days following such termination.

Section 4. Perry Road Alignment. The existing Perry Road right of way traverses the New Town Tract (the “Existing Perry Road ROW”). The Land Exchange Agreement depicts a preliminary alignment (the “Perry Road Alignment”) of Perry Road to be constructed to its ultimate section as a 4-land divided road by ACRE as part of the Development and based on the alignment shown on the Town’s Thoroughfare and Collector Street Plan. NCDOT approval of the Perry Road Alignment is a precondition to closing. Prior to Closing, ACRE and the Town

shall collaborate to obtain initial NCDOT review of plans to close the Existing Perry Road ROW. If NCDOT fails to approve the Perry Road Alignment, then this Agreement shall automatically terminate without liability to either party.

Section 5. Commissions; Agency. Neither party shall be responsible for payment of any commission to a broker or agent arising out of this Agreement except as specifically retained and agreed by that party, and each party agrees to otherwise indemnify the other, non-retaining party from liability for any such commission.

Section 6. Cooperation. Each party agrees to take such action and execute such documents as are reasonably necessary to enable the other party to use the property it acquires under this Agreement for the use intended by the acquiring party.

Section 7. Environmental. Each party warrants that, to the best of that party's actual knowledge, the property being conveyed by that party is free of underground storage tanks, pollution, contamination, hazardous materials, toxic wastes, asbestos, and products containing same, and is in compliance with all environmental regulations. Each party shall, upon signing this Agreement, furnish the other party with any available environmental reports or audits pertaining to the property being conveyed by that party.

Section 8. Property Condition. Except as specifically set forth herein, neither party warrants the physical condition of the property being conveyed by that party or any improvements thereon, and each tract is conveyed "as-is" as to physical condition.

Section 9. Examination Period. The parties shall have the right from the Effective Date of this Agreement through 11:59 p.m. Eastern Time on that date which is one hundred twenty (120) days after the Effective Date (the "Examination Period") to make such investigations, studies and tests with respect to the exchange properties as the parties deem necessary or appropriate to determine the feasibility of acquiring and developing the exchange properties. If, during the Examination Period, either party determines, in its sole discretion, that the other party's Exchange Property is not acceptable, then such party may terminate this Agreement and the parties shall have no further rights or obligations under this Agreement.

Section 10. Closing. Closing of the exchange (the "Closing") shall occur following ACRE closing on the purchase of the ACRE Tract (the "First Closing"). Town acknowledges that Closing is expressly contingent on occurrence of the First Closing and that, if the First Closing does not occur for any reason, the parties shall have no further rights or obligations under this Agreement. Unless the Parties otherwise agree, the Closing shall occur no later than close of business on August 26, 2026 (the "Closing Date"), provided ACRE may, in its sole discretion, consummate the Closing earlier than the Closing Date upon thirty (30) days' prior written notice to Town. At Closing, the following shall occur:

- (a) At, or prior to, Closing, each party shall deliver to the other party the following:
 - (i) A Special Warranty Deed (the "Deed") fully and duly executed and acknowledged by the party, that conveys to the other party the tract as provided in Section 1, subject only to the Permitted Exceptions. Each party agrees to pay at Closing the cost of the excise tax if any due and payable in connection with recording the deed

from it to the other party and to pay at Closing the cost of recording the deed to it from the other party.

(ii) The Exempt Subdivision Plat.

(iii) An affidavit (the "Title Affidavit") stating that there are no liens on the property for work performed on or materials provided to that party's tract as of the Closing Date.

(iv) A certificate (the "FIRPTA Certificate") executed and sworn to by it that it is not a "foreign person" as defined under Section 1445 of the Internal Revenue Code.

(v) If required by the Title Company, a gap indemnity.

(vi) An executed Closing statement reflecting the transaction described in this Agreement.

(vii) Such other executed documents as may be necessary to consummate the transaction.

(b) Each party shall pay for the costs of the title insurance policy (if any) obtained by it for the tract to be conveyed to it. Each party shall pay its own costs and expenses incurred in connection with this Agreement, including its respective attorneys' fees and any other expenses specifically allocated hereunder.

(c) If property tax bills for the ACRE Tract and Town Tract for the year in which Closing occurs are available on the Closing Date, then taxes shall be prorated as of the Closing Date and paid at Closing. If property tax bills for the ACRE Tract and Town Tract for the year in which closing occurs are not available on the Closing Date, then taxes shall not be prorated or paid at Closing and ACRE shall be responsible for paying all property taxes for the New ACRE Tract and the Town shall be responsible for paying all property taxes for the New Town Tract for the year in which Closing occurs.

Section 11. Title.

(a) At Closing, each party shall deliver to the other the Deed, subject to Permitted Exceptions (as defined below), conveying to the other, indefeasible, fee simple, marketable title to the Property, insurable at regular rates by a reputable title insurance company (the "Title Company").

(b) Within ten (10) days after the Effective Date of this Agreement, each party shall deliver to the other copies of all relevant title information and title policies in possession of, or reasonably available to it.

(c) As a condition to being obligated to close, each party shall be able to obtain a commitment for a policy of title insurance insuring title to the property it will receive at standard rates from the Title Company, subject only to the following (collectively, the "Permitted Exceptions"):

(i) Real property taxes for the year of Closing, not yet due and payable.

(ii) Valid and enforceable easements, covenants, restrictions, reservations and rights-of-way and other matters of record (excluding mortgages, deeds of trust, attachments, judgments, liens for delinquent taxes, mechanic's liens and other monetary liens).

(iii) Zoning ordinances affecting the property.

(d) Each party shall have until the end of the Examination Period to cause title to the property to be examined and then to notify the other party of any objections thereto that render title other than good, marketable and insurable. If a party so notifies the other party and the other party does not cure the title defect within fifteen (15) days of receipt of the Notice, then notifying party shall have the right to terminate this Agreement by written Notice to the other party.

Section 12. Warranties. The parties respectively make the following representations to each other. Such representations shall be deemed made as of the Closing Date.

(a) Each party has the full right, power, and authority to execute, deliver, and perform this Agreement.

(b) There are no unpaid bills for labor or materials related to the tracts. There are no taxes, charges or assessments that would constitute a lien against the tracts that are unpaid other than ad valorem taxes for the current year not yet due and payable.

(c) Each party has complied with all applicable laws, ordinances, regulations, and restrictions relating to its tracts.

Section 13. Notices. Any required notice under this Agreement shall be in writing and delivered in person, by certified mail, return receipt requested, or by nationally recognized overnight delivery service. Notices shall be effective as of the time of delivery. Notices shall be addressed as follows:

To ACRE:

ACRE MANAGER, LLC
252 NW 29th Street, 9th floor
Miami, FL 33127
Attn: Jesse Kehoe
(786) 634-4857
Jesse.Kehoe@acremgt.com

With Copy to:

Parker Poe Adams & Bernstein LLP
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601
Attn: Matthew Carpenter
(919) 835-4049
Matthew.Carpenter@parkerpoe.com

To Town:

Town of Apex
PO Box 250
Apex, NC 27502
Attn: Randy Vosburg, Town Manager

(919) 249-1042
Randy.Vosburg@apexnc.org

With Copy to:

Town of Apex
PO Box 250
Apex, NC 27502
Attn: Town Attorney
(919) 249-3376
Laurie.Hohe@apexnc.org

Each party may, at any time, and from time to time, designate in writing a substitute address by giving notice to the other party.

Section 14. Further Assurances. Each party agrees to perform, execute, acknowledge and deliver and cause to be performed, executed, and acknowledged and delivered all such further acts, assignments, transfers and assurances as shall reasonably be requested of it to carry out this Agreement. Without in any manner limiting their specific rights and obligations in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

Section 15. Effective Date; Assignment. This Agreement shall become binding on the date signed by both parties (the “Effective Date”). ACRE may assign this Agreement to any party controlled by, under common control with, or affiliated with ACRE without Town’s written consent.

Section 16. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of this Agreement.

Section 17. Other Terms or Conditions. This Agreement is the entire agreement between ACRE and Town concerning the properties and no modification of this Agreement shall be effective unless in writing and signed by the parties.

EXECUTED the date and year noted beside the respective signatures.

ACRE Manager, LLC,
a Delaware Limited Liability Company

By: _____
Name/Title:

STATE OF _____
_____ COUNTY

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.

Date: _____
_____, Notary Public

[Affix Notary Stamp or Seal]

My Commission Expires: _____

Town of Apex

Randal Vosburg, Town Manager

(Corporate Seal)

ATTEST:

Allen Coleman, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Allen Coleman personally came before me this day and acknowledged he is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Manager, sealed with its corporate seal and attested by him as its Town Clerk. Witness my hand and official stamp or seal, this the ____ day of _____, 2024.

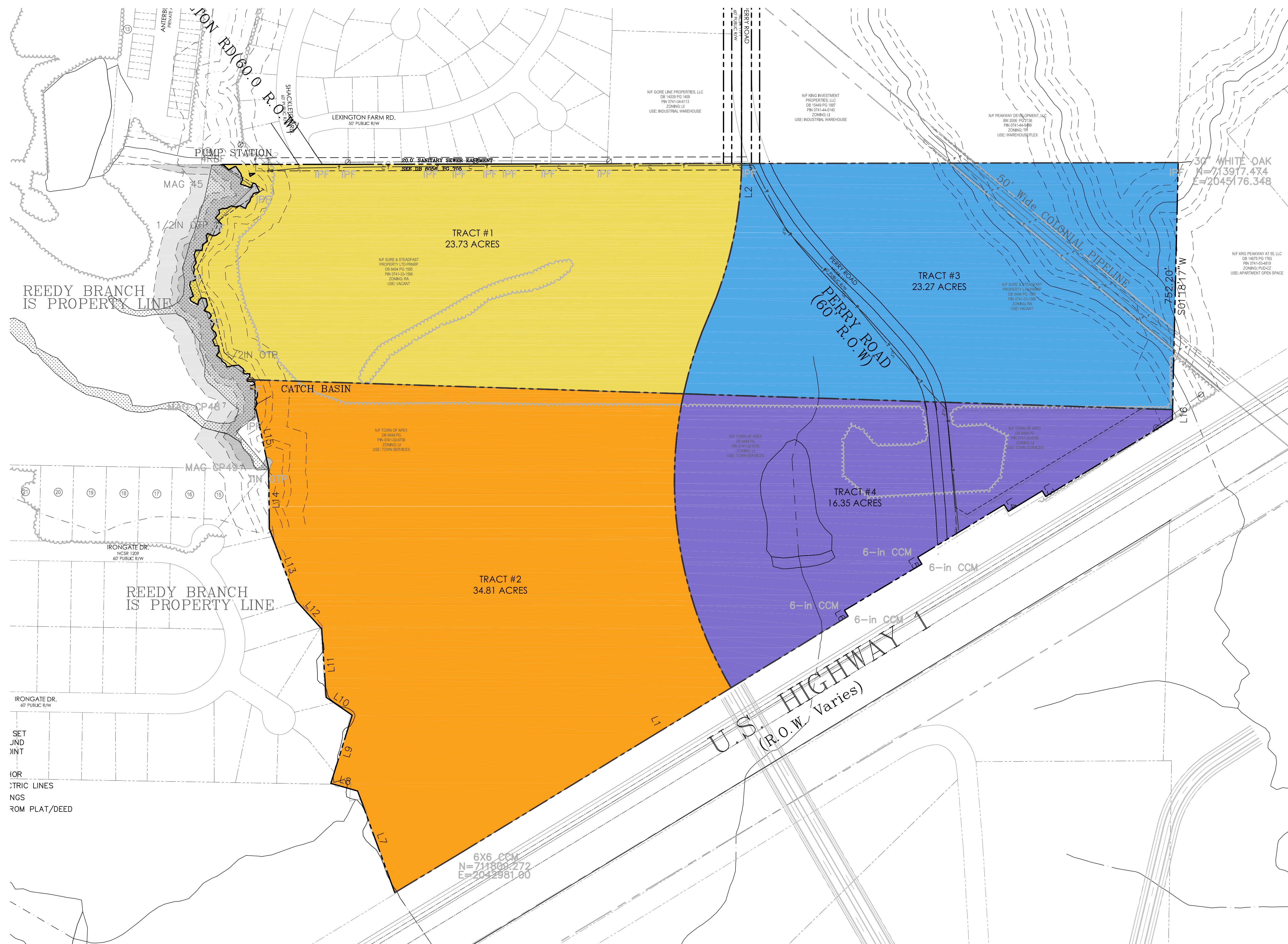
[Notary Signature]

_____, Notary Public

[Print or Type Notary Name]

My Commission Expires: _____

EXHIBIT A
Land Exchange Exhibit



AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
19949	596655	Print Legal Ad-IPL01964040 - IPL0196404		\$3,454.76	4	91 L

Attention: Amy Amy Degen

TOWN OF APEX
PO BOX 250
APEX, NC 275022312

Allen.Coleman@apexnc.org

**TOWN OF APEX, NORTH CAROLINA
OFFICE OF THE TOWN CLERK
PO BOX 250, APEX, NC 27502
E-mail: Allen.Coleman@apexnc.org
Phone (919) 249-1260
NOTICE OF THE TOWN COUNCIL'S INTENT TO EXCHANGE
REAL PROPERTY**

Please take notice that at its next regular meeting on the 8th day of October, 2024, the Apex Town Council intends to authorize the exchange of real property owned by it described below as "the Town Tract" for real property owned by Sure & Steadfast Properties Limited Partnership ("ACRE"), described below as "the ACRE Tract."

(1) The Town Tract is a portion of PIN # 0741-32-6706 located in White Oak Township, Apex, North Carolina, and is more particularly described as follows: BEING A PORTION OF TRACT C-1 OF A DIVISION OF TRACT "C" AS SHOWN ON THE SURVEY FOR THE TOWN OF APEX DATED JAN 3, 1989, ASHLEY ELKINS, RLS AND RECORDED AT BOOK OF MAPS 1989, PAGE 59, WAKE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 30IN WHITE OAK TREE AT THE NORTHEAST CORNER OF THE ABOVE REFERENCED SURVEY, DESCRIBED AT THAT TIME AS A 24IN WHITE OAK TREE WITH STATE PLAN COORDINATES N 713.917.474 E 2.045.176.348; THENCE SOUTH 89°52'59" WEST, PASSING OVER A REFERENCE IRON PIN AT 3.45 FEET AND AN IRON PIN FOUND ON THE WESTERLY RIGHT-OF-WAY (ROW) OF EXISTING PERRY ROAD (60.0' R.O.W.) AT 1305.43 FEET, FOR A TOTAL DISTANCE OF 1329.28 FEET TO A POINT, SAID POINT BEING ON THE CENTERLINE OF A PROPOSED 110' ROW;

THENCE ALONG SAID PROPOSED CENTERLINE THE FOLLOWING THREE COURSES: - A CURVE FROM SAID POINT OF BEGINNING SOUTHERLY AND SOUTHWESTERLY A DISTANCE OF 419.85 FEET ALONG THE CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 1,202.781 FEET WITH A CHORD ANGLE SOUTH 10°46'12" WEST FOR 417.72 FEET TO A COMPUTED POINT;

- A TANGENT SOUTH 22°30'45" WEST FOR 110.19 FEET TO A COMPUTED POINT IN THE FUTURE CENTERLINE OF THE PERRY ROAD RIGHT-OF-WAY;

- A CURVE FROM SAID TANGENT POINT SOUTHERLY AND SOUTHEASTERLY A DISTANCE OF 197.22 FEET ALONG THE CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 1,310.34 FEET WITH A CHORD ANGLE SOUTH 16°35'32" WEST FOR 197.03 FEET TO A COMPUTED POINT; SAID POINT BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID CENTERLINE OF THE FUTURE PERRY ROAD EXTENSION WITH A CURVE FROM SAID POINT OF BEGINNING SOUTHERLY AND SOUTHEASTERLY A DISTANCE OF 928.00 FEET ALONG A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 1,244.07 FEET WITH A CHORD ANGLE SOUTH 09°10'23" EAST FOR 906.63 FEET TO A COMPUTED POINT ALONG THE NORTHERN RIGHT-OF-WAY OF US 1 HIGHWAY;

THENCE LEAVING SAID PROPOSED ROW AND ALONG THE US HIGHWAY 1 ROW SOUTH 58°34'57" WEST, A DISTANCE OF 977.38 FEET TO A CALCULATED POINT; THENCE ALONG THE NORTHERN US HIGHWAY 1 ROW TO A FOUND 6-IN CONCRETE MONUMENT WITH STATE PLANE COORDINATES N 711,809.272 AND E 2,042.981.00; THENCE SOUTH 58°55'33" WEST, A DISTANCE OF 221.57 FEET TO THE CENTER OF REEDY BRANCH;

THENCE ALONG SAID BRANCH THE FOLLOWING TWENTY-THREE (23) COURSES:

NORTH 20°02'18" WEST, A DISTANCE OF 329.56 FEET;

NORTH 74°05'29" WEST, A DISTANCE OF 84.99 FEET;

NORTH 17°23'59" EAST, A DISTANCE OF 217.31 FEET;

NORTH 55°30'13" WEST, A DISTANCE OF 96.25 FEET;

NORTH 03°43'27" WEST, A DISTANCE OF 208.74 FEET;

NORTH 42°12'57" WEST, A DISTANCE OF 115.08 FEET;

NORTH 20°21'51" WEST, A DISTANCE OF 204.80 FEET;

NORTH 20°31'32" WEST, A DISTANCE OF 30.00 FEET;

NORTH 00°41'48" WEST, A DISTANCE OF 181.88 FEET;

NORTH 12°04'12" WEST, A DISTANCE OF 179.91 FEET;

NORTH 41°37'43" WEST, A DISTANCE OF 8.65 FEET;

NORTH 27°36'56" EAST, A DISTANCE OF 18.18 FEET;

NORTH 21°03'46" WEST, A DISTANCE OF 13.80 FEET;

NORTH 31°11'08" EAST, A DISTANCE OF 10.66 FEET;

NORTH 00°04'20" EAST, A DISTANCE OF 11.34 FEET;

NORTH 46°43'00" WEST, A DISTANCE OF 13.69 FEET;

NORTH 76°43'52" WEST, A DISTANCE OF 11.75 FEET;

NORTH 06°15'16" WEST, A DISTANCE OF 7.49 FEET;

NORTH 66°29'35" EAST, A DISTANCE OF 15.99 FEET;

NORTH 32°25'43" WEST, A DISTANCE OF 9.99 FEET;

SOUTH 79°43'00" WEST, A DISTANCE OF 7.50 FEET;

NORTH 78°53'05" WEST, A DISTANCE OF 10.59 FEET;

NORTH 05°25'53" WEST, A DISTANCE OF 4.86 FEET;

THENCE LEAVING SAID BRANCH SOUTH 88°08'27" EAST ALONG THE SOUTHERN BORDER OF THE HEREIN DESCRIBED TRACT 1, BEING ALSO THE SOUTHERN BOUNDARY OF THAT 48.786 ACRE TRACT OF LAND SHOWN ON THE SURVEY FOR MYRTLE S. HOPSON DATED MAY 2, 1997, DRAWN BY SMITH AND SMITH SURVEYORS AND RECORDED AT BOOK OF MAPS 1997, PAGE 835, WAKE COUNTY, A DISTANCE OF 1329.43 FEET TO THE POINT OF BEGINNING, CONTAINING 34.81 ACRES, MORE OR LESS.

(2) The ACRE Tract is a portion of PIN # 0741-33-1566 located in White Oak Township, Apex, North Carolina, and is more particularly described as follows: BEING A PORTION OF THAT 48.786 ACRE TRACT OF LAND SHOWN ON THE SURVEY FOR MYRTLE S. HOPSON DATED MAY 2, 1997, DRAWN BY SMITH AND SMITH SURVEYORS AND RECORDED AT BOOK OF MAPS 1997, PAGE 835, WAKE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 30IN WHITE OAK TREE REFERENCED ON SAID SURVEY AS A24IN WHITE OAK TREE WITH STATE PLAN COORDINATES N 713.917.474 E 2.045.176.348; THENCE SOUTH 01°18'17" WEST, A DISTANCE OF 752.20 FEET; THENCE NORTH 88°08'27" WEST, ALONG THE NORTHERN BOUNDARY OF THE TOWN OF APEX PROPERTY SHOWN AS TRACT C-1 OF A DIVISION OF TRACT "C" AS SHOWN ON THE SURVEY FOR THE TOWN OF APEX DATED JAN 3, 1989, ASHLEY ELKINS, RLS AND RECORDED AT BOOK OF MAPS 1989, PAGE 59, WAKE COUNTY, A DISTANCE OF 1489.45 FEET TO THE CENTERLINE OF THE FOREMENTIONED FUTURE PERRY ROAD ROW; THENCE ALONG SAID CENTERLINE THE FOLLOWING THREE (3) COURSES:

- A CURVE FROM SAID TANGENT POINT NORTHERLY AND NORTHEASTERLY A DISTANCE OF 197.22 FEET ALONG THE CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 1,310.34 FEET WITH A CHORD ANGLE NORTH 16°35'32" EAST FOR 197.03 FEET TO A COMPUTED POINT;

- A TANGENT NORTH 22°30'45" EAST FOR 110.19 FEET TO A COMPUTED POINT IN THE FUTURE CENTERLINE OF THE PERRY ROAD RIGHT-OF-WAY;

- A CURVE FROM SAID POINT OF BEGINNING NORTHERLY AND NORTHEASTERLY A DISTANCE OF 419.85 FEET ALONG THE CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 1,202.78 FEET WITH A CHORD ANGLE NORTH 10°46'12" EAST FOR 417.72 FEET TO A COMPUTED POINT;

THENCE NORTH 89°53'00" EAST, A DISTANCE OF 1329.28 FEET PASSING OVER A REFERENCE IRON PIN AT A DISTANCE OF 1329.28 FEET TO THE POINT OF BEGINNING, CONTAINING 23.27 ACRES, MORE OR LESS.

(3) Other Consideration: ACRE will pay to the Town additional consideration for the exchange, calculated as follows:

(a) If the closing of the swap occurs within 60 days of the approval of the resolution authorizing the exchange, the consideration to be paid by ACRE to the Town shall equal \$160,000.00 per acre for the difference in acreage between the Town Tract and the ACRE Tract. The difference in acreage is 11.54 acres. The consideration in this alternative (a) shall equal \$1,846,400.00.

(b) If the closing of the swap occurs between 60 days after the approval of the resolution authorizing the exchange and August 31, 2025, the consideration to be paid by ACRE to the Town shall equal \$168,000.00 per acre for the difference in acreage between the Town Tract and the ACRE Tract. The difference in acreage is 11.54 acres. The consideration in this alternative (b) shall equal \$1,938,720.00.

(c) If the closing of the swap occurs after August 31, 2025, the consideration to be paid by ACRE to the Town shall equal \$176,400 per acre for the difference in acreage between the Town Tract and the ACRE Tract. The difference in acreage is 11.54 acres. The consideration in this alternative (c) shall equal \$2,035,656.00.

(4) The value of the Town Tract is approximately \$3,916,125.00 and the value of the ACRE Tract is approximately \$2,385,175.00.

Submitted by:

Allen L. Coleman, CMC, NCCCO

This 8th day of October, 2024

IPL0196404

Sep 27 2024

STATE OF NORTH CAROLINA COUNTY OF WAKE, COUNTY OF DURHAM

Before the undersigned, a Notary Public of Dallas County, Texas, duly commissioned and authorized to administer oaths, affirmations, etc., personally appeared Tara Pennington, who being duly sworn or affirmed, according to law, doth depose and say that he or she is Accounts Receivable Specialist of the News & Observer Publishing Company, a corporation organized and doing business under the Laws of the State of North Carolina, and publishing a newspaper known as The News & Observer, Wake and State aforesaid, the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina, and that as such he or she makes this affidavit; and is familiar with the books, files and business of said corporation and by reference to the files of said publication the attached advertisement for TOWN OF APEX was inserted in the aforesaid newspaper on dates as follows:

1 insertion(s) published on:

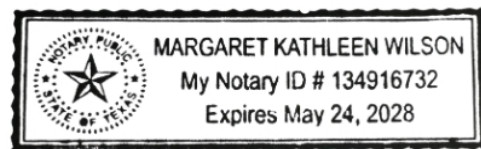
09/27/24

Tara Pennington

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Margaret K. Wilson

Notary Public in and for the state of Texas, residing in
Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!