



# AGENDA | REGULAR TOWN COUNCIL MEETING

August 22, 2023 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

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

## Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tempore: Audra Killingsworth

Council Members: Brett D. Gantt; Terry Mahaffey; Edward Gray; Arno Zegerman

Interim Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

Town Clerk: Allen 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 2023 Revised Council Meeting Calendar**

*Allen Coleman, Town Clerk*

### **CN2 Agreement - Installment Purchasing Agreement (IPA) and Resolution - Equipment and Vehicles**

*Antwan Morrison, Director, Finance Department*

### **CN3 Annexation No. 761 - Calyx Senior Living of Apex (Kobra LLC) - 7.259 acres**

*Allen Coleman, Town Clerk*

### **CN4 Annexation No. 762 - The Summit (FKA Holland Road Mixed Use) - 29.4692 acres**

*Allen Coleman, Town Clerk*

### **CN5 Budget Ordinance Amendment No. 6 - Purchase Order Carryovers Fiscal Year 2023**

*Amanda Grogan, Director, Budget and Performance Management Department*

### **CN6 Budget Ordinance Amendment No. 7 - Moore Street Parking**

*Adam Stephenson, Transportation Engineering Manager, Trans. and Infra. Dev. Dept.*

### **CN7 Budget Ordinance Amendment No. 8 - Deer Creek Reimbursement**

*Marty Stone, P.E., Assistant Town Manager, Operations and Development Portfolio*

**CN8 Capital Project Ordinance Amendment No. 2024-4 - Saunders Street and Hinton Street Sidewalk Project**

*Russell Dalton, P.E., Traffic Engineering Manager, Trans. and Infra. Dev. Dept.*

**CN9 Capital Project Ordinance Amendment No. 2024-5 - Southwest Peakway Project**

*Russell Dalton, P.E., Traffic Engineering Manager, Trans. and Infra. Dev. Dept.*

**CN10 Council Meeting Minutes - August 8, 2023**

*Allen Coleman, Town Clerk*

**CN11 Ordinance Amendment - Chapter 20 Traffic - Section 164(42) - Wirks Worth Circle, No Parking**

*Russell Dalton, P.E., Traffic Engineering Manager, Trans. and Infra. Dev. Dept.*

**CN12 Resolution - Walden Road Abandonment**

*Allen Coleman, Town Clerk*

**CN13 Rezoning Case No. 23CZ10 - Salem Church Road Parcels - Statement and Ordinance**

*June Cowles, Senior Planner, Planning Department*

**CN14 Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment - Statement & Ordinance**

*Amanda Bunce, Current Planning Manager, Planning Department*

**CN15 Speed Limit Concurrence - North Carolina Department of Transportation (NCDOT) - James Street West of S. Hughes Street, 25mph**

*Russell Dalton, P.E., Traffic Engineering Manager, Trans. and Infra. Dev. Dept.*

**CN16 Tobacco Road Place - Fee-In-Lieu (FIL)**

*Angela Reincke, Parks Planning Project Manager, Parks, Recreation, and Cultural Resources Dept.*

**PRESENTATIONS - None**

**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 HEARING**

**PH1 Bond Order - Proposed Public Improvement Bonds**

*Antwan Morrison, Director, Finance Department*

**PH2 Annexation No. 756 - Yellowbridge Capital - 52.375 acres**

*Dianne Khin, Director, Planning Department*

**PH3 Annexation No. 758 - Estates at White Oak - 9.186 acres**

*Dianne Khin, Director, Planning Department*

**PH4 Annexation No. 759 - 5925 Farmpond Road - 2.747 acres**

*Dianne Khin, Director, Planning Department*

**PH5 Annexation No. 760 - 2633 Whistling Quail Run - 3.806 acres**

*Dianne Khin, Director, Planning Department*

**PH6 Transportation Plan Amendment - Old Jenks Road Side Path**

*Jenna Shouse, Senior Long-Range Planner, Planning Department*

**PH7 Transportation Plan Amendment - Transit Trail Side Path**

*Jenna Shouse, Senior Long-Range Planner, Planning Department*

**PH8 Transportation Plan Amendment - Utley Farms Local Connector and Side Path**

*Jenna Shouse, Senior Long-Range Planner, Planning Department*

## **OLD BUSINESS**

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

**NB1 Traffic Safety - Woodall Crest Drive**

*Russell Dalton, P.E., Traffic Engineering Manager, Trans. and Infra. Dev. Dept.*

## **UPDATES BY INTERIM TOWN MANAGER**

## **CLOSED SESSION**

Council will enter into closed session pursuant to:

### **CS1 Laurie Hohe, Town Attorney, Legal Department**

#### **NCGS §143-318.11(a)(3):**

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

### **CS2 Jacques K. Gilbert, Mayor**

#### **NCGS §143-318.11(a)(6):**

*"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."*

### **CS3 Jacques K. Gilbert, Mayor**

#### **NCGS §143-318.11(a)(6):**

*"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."*

## **ADJOURNMENT**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to amend the 2023 Town Council Meeting Calendar.

### Approval Recommended?

Yes

### Item Details

In accordance with North Carolina General Statute 143-318.12, a schedule of regular meetings shall be filed with the Town Clerk to the Town Council. The schedule must show the date, time, and place of each meeting.

It is proposed that the 2023 Town Council Meeting Calendar be amended as follows:

- **CHANGE** - Joint Collaboration Meeting w/Town of Morrisville
  - Location From: Halle Cultural Arts Center 237 North Salem Street, Apex, North Carolina
  - Location To: Apex Senior Center 63 Hunter Street, Apex, North Carolina

### Attachments

- CN1-A1: Revised - 2023 Council Meeting Calendar No. 7
- CN1-A2: Revised - 2023 Text Calendar No. 7



# Town Council 2023 Meeting Calendar

**DRAFT**

January						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	T10	11	S12	13	14
15	16	T17	18	19	20	21
22	23	T24	25	T26	27	28
29	30	T31				
10th	Pre-Budget Public Hearing/		Regular Mtg			
12th	Council Strategic Planning - Location TBD					
17th	Work Session					
26th	Finance Committee Meeting					
31st	Joint Collaboration Meeting/Holly Springs					

February						
S	M	T	W	T	F	S
			T1	2	3	4
5	6	7	8	9	10	11
12	13	T14	15	16	T17	18
19	20	T21	22	23	24	25
26	27	T28				
1st	Economic Development Committee					
17th	Annual Council Retreat - Location TBD					
21st	Work Session					

March						
S	M	T	W	T	F	S
			1	T2	3	4
5	6	7	8	T9	10	11
12	13	T14	15	16	17	18
19	20	P21	22	T23	24	25
26	27	T28	29	30	31	
2nd	Planning Committee					
9th	Personnel Committee					
21st	Work Session					
23rd	Joint Finance/Personnel Committee Mtg					

April						
S	M	T	W	T	F	S
						1
2	3	4	5	T6	7	8
9	T10	T11	12	13	14	15
16	17	T18	19	20	21	22
23	24	T25	26	T27	28	29
30						
6th	Finance Committee					
10th	Finance/Personnel Committee (optional)					
18th	Work Session					
27th	Rules Committee					

May						
S	M	T	W	T	F	S
	1	2	3	4	T5	6
7	8	T9	10	11	T12	13
14	15	T16	T17	T18	19	20
21	22	T23	24	25	26	27
28	T29	30	31			
5th	Budget Work Session					
12th	Personnel Committee					
16th	Work Session					
17th	Economic Development Committee					
18th	Planning Committee					

June						
S	M	T	W	T	F	S
				O1	2	3
4	5	6	7	T8	9	10
11	12	T13	14	15	16	17
18	19	T20	21	22	T23	24
25	26	T27	28	29	30	
1st	Joint Collaboration Meeting/Cary					
8th	Budget Work Session					
22nd	Work Session					
23rd	Rules Committee					

July						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	T8	9	10	T11	12
13	14	T15	16	17	18	19
20	21	T22	T23	T24	25	26
27	28	S29	30	31		
11th	Personnel Committee					
15th	Work Session					
23rd	Economic Development Committee					
24th	Rules Committee					
29th	Joint Collaboration Meeting / Morrisville					

September						
S	M	T	W	T	F	S
						1
2	3	4	5	6	T7	8
9	10	11	12	13	14	15
16	17	T18	T19	T20	T21	22
23	24	T25	T26	T27	T28	29
30						
7th	Planning Committee					
19th	Work Session					
20th	Closed Session - Evaluation (Appointed)					
21st	Finance Committee					
28th	Personnel Committee					

October						
S	M	T	W	T	F	S
1	2	T3	4	5	6	7
8	9	T10	11	12	13	14
15	16	17	18	P19	T20	21
22	23	T24	25	T26	27	28
29	H30	31				
3rd	Closed Session - Evaluation (Appointed)					
12th	Work Session					
20th	Rules Committee					
26th	Finance Committee					
30th	Joint Collaboration Meeting / Wake County					

November						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	T9	10	11
12	13	T14	15	T16	17	18
19	20	21	22	23	24	25
26	27	T28	29	T30		
7th	Municipal Election					
9th	Economic Development Committee					
16th	Work Session					
30th	Planning Committee					

December						
S	M	T	W	T	F	S
						1
2	3	4	5	T6	7	T8
9	10	11	T12	13	T14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					
6th	Organizational Meeting (Swearing-In)					
8th	Personnel Committee					
14th	Work Session					

Holidays	13
Regular Meetings	21
Work Sessions	11
Committee Meetings	21
Budget Hearings/Work Sessions	3
Joint Collaboration Meetings	4
CS - Evaluation (Appointed)	2
Retreat/Strategic Planning	2
<b>Total Meetings</b>	<b>63</b>

**MEETING LOCATION(S)**

- P Police Department
- T Town Hall
- S Senior Center
- H Halle Cultural Arts Center
- O Other

**SPECIAL NOTE**

Meeting Times, Location, Etc. are noted on the next page titled: "Apex Town Council Meeting Calendar for Year 2023 - Text"

63 Meeting days  
 1 Two meetings same day  
**63 Total Meetings**

Questions should be directed to the Town Clerk's Office  
 919-249-1260 or allen.coleman@apexnc.org



**DRAFT - AMENDMENT**  
**TOWN OF APEX TOWN COUNCIL**  
**MEETING CALENDAR FOR YEAR 2023**  
**TEXT Calendar**

In accordance with North Carolina General Statute 143-318.12, a schedule of regular meetings shall be filed with the Town Clerk to the Town Council. The schedule must show the date, time, and place of each meeting. Questions should be directed to the Office of the Town Clerk by phone at 919-249-1260 or by email to [allen.coleman@apexnc.org](mailto:allen.coleman@apexnc.org).

**Special Accommodation Notice:** Anyone needing special accommodations to attend the meeting(s) below 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](mailto:allen.coleman@apexnc.org) or (phone) 919-249-1260.

Meeting Date	Type	Start Time	Location
Tuesday, January 10	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, January 12	Town Council Retreat	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, January 17	Town Council Work Session	2:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, January 24	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, January 26	Finance Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, January 31	Joint Collaboration Meeting Town of Holly Springs	6:00 PM	Bass Lake Retreat Center 900 Bass Lake Road Holly Springs, NC 27540
Wednesday, February 1	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, February 14	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502

Friday, February 17	Town Council Strategic Planning/ Budget Work Session	8:30 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, February 21	Town Council Work Session	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, February 28	Regular Town Council Meeting	7:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, March 2	Planning Committee Meeting	10:30 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, March 9	Personnel Committee Meeting	5:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, March 14	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, March 21	Town Council Work Session Public Safety	3:30 PM	Apex Police Department 205 Saunders Street Apex, NC 27502
Thursday, March 23	Joint Personnel and Finance Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, March 28	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, April 6	Finance Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Monday, April 10	Joint Personnel and Finance Committee Meeting	4:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, April 11	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, April 18	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, April 25	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street



			Apex, NC 27502
Thursday, April 27	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, May 5	Budget Work Session	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 9	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, May 12	Personnel Committee Meeting	2:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 16	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, May 17	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, May 18	Planning Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 23	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, June 1	Joint Collaboration Meeting Town of Cary	5:30 PM	Halle Cultural Arts Center 237 North Salem Street Apex, NC 27502
Thursday, June 8	Budget Work Session	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, June 13	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, June 20	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, June 23	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502

Tuesday, June 27	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 8	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, August 11	Personnel Committee	2:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 15	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 22	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, August 23	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, August 24	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 29	Joint Collaboration Meeting Town of Morrisville	5:30 PM	Apex Senior Center 63 Hunter Street Apex, NC 27502
Thursday, September 7	Planning Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 12	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 19	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, September 20	Closed Session Appointed Personnel Evaluation	5:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, September 21	Finance Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 26	Regular Town	6:00 PM	Apex Town Hall

	Council Meeting		73 Hunter Street Apex, NC 27502
Thursday, September 28	Personnel Committee	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, October 3	Closed Session Appointed Personnel Evaluation	5:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, October 10	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, October 19	Town Council Work Session Public Safety	3:30 PM	Apex Police Department 205 Saunders Street Apex, NC 27502
Friday, October 20	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, October 24	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, October 26	Finance Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Monday, October 30	Joint Collaboration Meeting Wake County	5:00 PM	Halle Cultural Arts Center 237 North Salem Street Apex, NC 27502
Thursday, November 9	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, November 14	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, November 16	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, November 28	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, November 30	Planning Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street

			Apex, NC 27502
Wednesday, December 6	Organizational Meeting	5:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, December 8	Personnel Committee Meeting	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, December 12	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, December 14	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

### Requested Motion

Public Hearing and possible motion to approve an Installment Purchase Agreement (IPA) between Pinnacle Bank and the Town of Apex, with an interest rate of 3.90% for a four (4) year term, and adopt a Resolution approving an installment financing and security agreement to finance motor vehicles and providing for certain other related matters.

### Approval Recommended?

Yes

### Item Details

The current economic environment and the related supply chain issues have continued to present local governments across the country with challenges in accessing vehicles and equipment in a timely manner. It is the goal of management to mitigate these challenges, while also taking advantage of the low interest-rate environment. This debt issuance will assist the town with our continued efforts to effectively manage current and future cash flow needs.

#### A. Installment Purchase Agreements:

- Are one of several financing mechanisms available to local governments;
- Authority is provided in NC General Statue § 160A-20 for vehicles and equipment and do not require Local Government Commission (LGC) approval;
- Allows the Town to spread costs over future years to better align performance with expenditure.

B. The total amount for the vehicle and equipment purchases, which includes taxes, tags, titles and decals, will not exceed \$1,785,000.

#### C. This funding will be provided as follows:

- Fire Department - \$900,000
- Parks, Recreation and Cultural Resources - \$240,000

- Solid Waste - \$235,000
- Water and Sewer - \$410,000

D. Five (5) proposes were received with ratings from 3.90% to 4.59%

E. Pinnacle Bank submitted a proposal with an interest rate of 3.90% for a four-year term and total interest payments of \$159,051.

#### Attachments

- CN2-A1: Installment Purchase Agreement (IPA) - Equipment and Vehicles
- CN2-A2: Resolution - Installment Purchasing Agreement (IPA) and Resolution - Equipment and Vehicles
- CN2-A3: Request for Proposals - Installment Purchasing Agreement (IPA) and Resolution - Equipment and Vehicles
- CN2-A4: Financing Proposals - Installment Purchasing Agreement (IPA) and Resolution - Equipment and Vehicles



**INSTALLMENT FINANCING AND SECURITY AGREEMENT**

BETWEEN

**PINNACLE BANK**

AND

**TOWN OF APEX, NORTH CAROLINA**

DATED AS OF  
AUGUST [31], 2023

**INSTALLMENT FINANCING AGREEMENT**

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and is not part of the Installment Financing Agreement.)

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THIS INSTRUMENT HAS BEEN PRE-AUDITED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.

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Antwan Morrison  
Finance Director  
TOWN OF APEX, NORTH CAROLINA

## INSTALLMENT FINANCING AND SECURITY AGREEMENT

This **INSTALLMENT FINANCING AND SECURITY AGREEMENT**, dated as of August [31], 2023 (this “**Agreement**”), is between **PINNACLE BANK** (the “**Lender**”), and its successors and assigns, and the **TOWN OF APEX, NORTH CAROLINA** (the “**Town**”).

### **PREAMBLES**

**WHEREAS**, the Town has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

**WHEREAS**, the Town Council of the Town (the “**Town Council**”) has previously determined that it is in the best interests of the Town (a) to pay the capital costs of the acquisition of the motor vehicles listed on Exhibit 1 of this Agreement (collectively the “**Vehicles**”), and (b) to place a security interest and lien on the Vehicles;

**WHEREAS**, in order to obtain the s to pay the costs of the Vehicles, the Town Council has determined that it is in the best interests of the Town to enter into this Agreement with the Lender under which the Town will make Installment Payments and Additional Payments in consideration thereof;

**WHEREAS**, the Lender will advance a principal amount of \$1,785,000 (the “**Advance**”) to the Town pursuant to this Agreement to be used to pay the cost of the Vehicles and for other purposes as set forth in this Agreement;

**WHEREAS**, the execution, performance and delivery of this Agreement have been authorized, approved and directed by the Town Council by a resolution finally passed and adopted by the Town Council on August 22, 2023;

**WHEREAS**, the execution, delivery and performance of this Agreement by the Lender have been authorized, approved and directed by all necessary and appropriate action of the Lender;

**WHEREAS**, the obligation of the Town to make the Installment Payments and Additional Payments will constitute a limited obligation of the Town, payable solely from currently budgeted appropriations of the Town; will not constitute a general obligation or other indebtedness of the Town within the meaning of the Constitution of the State of North Carolina (the “**State**”); and will not constitute

a direct or indirect pledge of the faith and credit or taxing power of the Town within the meaning of the Constitution of the State;

**WHEREAS**, in order to further secure the Town’s obligations under this Agreement, the Town has granted to the Lender a security interest in the Vehicles under this Agreement; and

**WHEREAS**, no deficiency judgment may be rendered against the Town in any action for breach of a contractual obligation under this Agreement, and the taxing power of the Town is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under this Agreement;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants in this Agreement contained, the parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

Section 1.1 **Definitions**. The following terms have the meanings specified below unless the context clearly requires otherwise:

**“Additional Payments”** means the reasonable and customary expenses and fees of the Lender, any expenses of the Lender in defending an action or proceeding in connection with this Agreement and any taxes or any other expenses, including, but not limited to, licenses, permits, state and local income, sales and use or ownership taxes or property taxes which the Lender is expressly required to pay as a result of this Agreement (together with interest that may accrue thereon in the event that the Town fails to pay the same, as set forth in this Agreement).

**“Advance”** means the original aggregate principal amount equal to \$1,785,000 advanced by the Lender to enable the Town to (a) acquire the Vehicles under this Agreement and (b) pay the costs of executing and delivering this Agreement, as such amount advanced may be adjusted by amendment to this Agreement.

**“Business Day”** means a day on which the Lender, at its designated corporate office, is not required or authorized by law to remain closed.

**“Closing Date”** means August [31], 2023.

**“Closing Costs”** means and further includes all items of expense directly or indirectly payable by or reimbursable to the Town relating to the financing of the Vehicles, including, but not limited to, filing and recording costs, settlement costs, printing costs, word processing costs, reproduction and binding costs, legal fees and charges and financing and other professional consultant fees.

**“Code”** means the Internal Revenue Code of 1986, as amended, including regulations promulgated thereunder.

**“Cost of Acquisition”** is deemed to include the payment of, or the reimbursement to the Town for the following items:

- (1) obligations incurred or assumed in connection with the acquisition of the Vehicles;
- (2) any and all costs of acquisition of the Vehicles; and

(3) all other costs which are considered to be a part of the costs of the acquisition of the Vehicles in accordance with generally accepted accounting principles and which will not affect the tax status for federal income tax purposes of the designated interest component of the Installment Payments payable by the Town under this Agreement, including sums required to reimburse the Town for advances made by the Town that are properly chargeable to the acquisition of the Vehicles.

**“Default Rate”** means the interest rate in effect under this Agreement immediately prior to an event of default hereunder, plus 4.0% per annum; provided, however that the Default Rate shall not exceed the maximum rate of interest permitted by law.

**“Determination of Taxability”** means and is deemed to have occurred on the date when (a) the Town receives notice from the Lender that the Internal Revenue Service has assessed as includable in gross income the interest component of the Installment Payments made by the Town under this Agreement due to the occurrence of an Event of Taxability or (b) the Town or the Lender receives notice from the Commissioner or any District Director of the Internal Revenue Service that the interest component of the Installment Payments made by the Town under this Agreement is includable in the gross income of the Lender for federal income tax purposes due to the occurrence of an Event of Taxability.

**“Event of Default”** means any of the events of default as defined in Section 11.1.

**“Event of Taxability”** means the occurrence or existence of any fact, event or circumstance caused by either the action or inaction of the Town which has the effect of causing the interest component of the Installment Payments made by the Town under this Agreement to be includable in the gross income of the Lender for federal income tax purposes.

**“Fiscal Year”** means a twelve-month period commencing on July 1 of any year and ending on June 30 of the immediately succeeding year, or such other twelve-month period which may subsequently be adopted as the Fiscal Year of the Town.

**“Inclusion Date”** means the effective date that the interest component of the Installment Payments made by the Town under this Agreement is includable in the gross income of the Lender as a result of a Determination of Taxability.

**“Installment Payments”** means those payments made by the Town to the Lender as described in Article III and in the Payment Schedule attached hereto.

**“Interest Rate”** means 3.90% per annum, calculated on a 30-day month/360-day basis, except as otherwise provided in accordance with Section 3.1(a) and Section 8.1(c).

**“Lender”** means Pinnacle Bank, a corporation duly organized and existing under the laws of the State of Tennessee, and any of its successors or assigns.

**“Net Proceeds”** means, when used with respect to any proceeds from policies of insurance or the proceeds from any sale or lease of the Vehicles, means the amount remaining after deducting from the gross proceeds thereof all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds.

**“Payment Schedule”** means the document setting forth the Town’s Installment Payments which is attached hereto and incorporated herein by reference.

**“State”** means the State of North Carolina.

**“Town”** means the Town of Apex, North Carolina, a political subdivision of the State, validly existing under and by virtue of the Constitution, statutes and laws of the State of North Carolina, and any successor to its functions.

**“Town Council”** means the duly elected governing Town Council of the Town, or any successor to its functions.

**“Town Representative”** means (1) the person or persons at the time designated to act on behalf of the Town for the purpose of performing any act under this Agreement by a written certificate furnished to the Lender containing the specimen signatures of such person or persons and signed on behalf of the Town by the Mayor, the Town Manager or Interim Town Manager or the Finance Director of the Town, or (2) if any or all of the Town’s rights and obligations are assigned under this Agreement, the person or persons at the time designated to act on behalf of the Town and the assignee by a written certificate similarly furnished and of the same tenor.

**“Vehicles”** means the motor vehicles listed on Exhibit 1 of this Agreement acquired by the Town from the proceeds from the Advance and all additions and accessions thereof and thereto.

[END OF ARTICLE I]

**ARTICLE II**  
**THE ADVANCE**

Section 2.1 *The Advance*. The Lender hereby makes an advance to the Town of the Advance, and the Town hereby accepts from the Lender the Advance to be applied in accordance with the terms and conditions of this Agreement. The Town agrees to use the proceeds of the Advance to pay the Cost of Acquisition of the Vehicles.

[END OF ARTICLE II]

**ARTICLE III**  
**INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS**

Section 3.1     ***Amounts and Times of Installment Payments and Additional Payments.***

(a)     Subject to the provisions of Article XIII hereof entitled “Limited Obligation of the Town,” the Town will repay the Advance in semi-annual Installment Payments on each March 1 and September 1, commencing March 1, 2024, consisting of an interest component and a principal component as provided in this Agreement and the Payment Schedule. The Town hereby approves the Advance by the Lender to the Town pursuant to this Agreement in the amount of \$1,785,000 to be repaid by the Town in Installment Payments at an interest rate per annum equal to the Interest Rate. Notwithstanding the foregoing, upon the occurrence and during the continuation of an Event of Default, all amounts payable under this Agreement shall bear interest at the Default Rate until paid.

(b)     Each Installment Payment will be paid in the amounts and at the times set forth in the attached Payment Schedule, except as otherwise provided herein. If an Installment Payment is due on any day which is not a Business Day, such Installment Payment will be due on the next succeeding Business Day and the Town will make such Installment Payment on such Business Day with no additional interest due thereon. Installment Payments will be sufficient in the aggregate to repay the principal amount of the Advance, together with interest thereon, as the same will become due and payable. The Town will pay any Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed. All payments will be made in lawful currency of the United States.

Section 3.2     ***Place of Payments.*** All payments required to be made to the Lender hereunder will be made to the Lender (1) at the address set forth in Section 14.1 in immediately available s, (2) as wire transfers to the Lender on the payable date as directed by the Lender or (3) as may be otherwise directed in writing by the Lender.

Section 3.3     ***No Abatement.*** There will be no abatement or reduction of the Installment Payments or Additional Payments by the Town for any reason, including but not limited to, any failure by the Town to appropriate sufficient s for the payment of the Installment Payments or Additional Payments, any defense, recoupment, setoff, counterclaims or any claim (real or imaginary) arising out of or related to the acquisition of the Vehicles. The Town assumes and bears the entire risk of loss and damage to the Vehicles from any cause whatsoever, it being the intention of the parties that the Installment Payments will be made in all events unless the obligation to make such Installment Payments is terminated as otherwise provided herein.

Section 3.4     ***Prepayment of Advance.*** (a) Upon at least 30 days’ prior written notice to the Lender (unless otherwise waived by the Lender), the Town may prepay, in whole or in part, the outstanding principal component of the Installment Payments on any date at a prepayment price equal to 100% of the principal component of the Installment Payments to be prepaid, plus accrued interest thereon to the prepayment date.

(b) Any prepayment in part shall be applied in inverse order or maturity of the principal components of the Installment Payments. Upon any such prepayment in part, the Lender shall provide the Town with a new Payment Schedule which reflects such prepayment which will replace the Payment Schedule attached hereto.

[END OF ARTICLE III]

**ARTICLE IV  
USE OF PROCEEDS**

Section 4.1 ***Use of Proceeds.*** There is hereby created a separate fund to be held by the Lender, on behalf of the Town, designated as the “Town of Apex 2023 Installment Finance Acquisition Fund.” On the Closing Date, the Lender will cause the Advance to be deposited in the Acquisition Fund. The funds in the Acquisition Fund will be disbursed in accordance with the provisions of this Article IV.

The Town shall invest and reinvest the money, and any interest thereon, held in the Acquisition Fund as permitted under Section 159-30 of the General Statutes of North Carolina, as amended.

Money held in the Acquisition Fund shall be disbursed by the Town to pay the Cost of Acquisition of the Vehicles. Prior to withdrawing funds from the Acquisition Fund, the Town shall submit to the Lender a written requisition signed by an authorized officer of the Town. A form of requisition for the disbursement of funds held in the Acquisition Fund is attached hereto as Exhibit B. If amounts held to the credit of the Acquisition Fund are insufficient to pay the Cost of Acquisition of the Vehicles, then the Town shall provide any balance of funds necessary to pay the Cost of Acquisition of the Vehicles. The Town shall consult with its bond counsel regarding the disposition of any money remaining in the Acquisition Fund, if any, after acquisition of the Vehicles or the earlier termination of the Acquisition Fund, and, if so permitted by the Code, such amount shall be used to pay future Installment Payments coming due under this Agreement in the order of their due dates.

The Acquisition Fund shall be terminated at the earlier of (1) the final distribution of amounts held in the Acquisition Fund and (2) the termination of this Agreement.

Section 4.2 ***Reliance by Lender on Documents.*** The Lender may act in reliance on any writing or instrument or signature which it believes, in good faith, to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Lender is not liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties under this Agreement are limited to the receipt of such money, instruments or other documents received by it as the Lender, and for the disposition of the same in accordance herewith.

[END OF ARTICLE IV]



**ARTICLE V**  
**COVENANTS OF THE TOWN**

Section 5.1 **Care and Use.** The Town will use, and will cause the use of, the Vehicles for its intended purpose, in compliance with all applicable laws and regulations, and, at its sole cost and expense, will service, repair and maintain the Vehicles so as to keep the Vehicles in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted. Any and all additions to or replacements of the Vehicles and all parts thereof will constitute accessions to the Vehicles and will be subject to all the terms and conditions of this Agreement and included in the term “**Vehicles**” as used in this Agreement.

Section 5.2 **Inspection.** The Town will authorize the Lender and its representatives and agents to enter onto the Town’s property and inspect the Vehicles from time to time and the Town will cause Town staff to cooperate with the Lender and its representatives and agents during such inspections. No right of inspection or approval contained in this Agreement imposes on the Lender any duty or obligation whatsoever to undertake any inspection or to give any approval.

Section 5.3 **Taxes.** The Town agrees to pay when due any and all taxes relating to the Vehicles.

Section 5.4 **Insurance.** The Town will obtain and maintain, at its expense, at all times until termination of this Agreement a policy of insurance covering the Vehicles and providing the insurance protection described in this Section. The Town will maintain at its own expense, to the extent applicable to these types of Vehicles, fire, casualty, public liability, property damage and theft insurance, and such other insurance in such amounts and with such deductibles, if permitted, as reasonably required by the Lender from time to time. The Vehicles will be insured in an amount at least equal to their replacement value.

All such insurance will be maintained with an insurance company or companies as will be reasonably satisfactory to the Lender and will provide that losses will be payable to the Lender and the Lender will be named as an additional insured with respect to all such insurance. The Town will deliver to the Lender evidence satisfactory to the Lender of such insurance coverage as the Lender may request. The Town agrees to cooperate fully in all accident insurance investigations, claims and litigation proceedings. The Town will cooperate fully with the Lender in filing any proof of loss with respect to any insurance policy described above. In no event will the Town voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Vehicles without the written consent of the Lender.

Prior to the expiration of any such insurance policy, the Town shall furnish to the Lender evidence satisfactory to the Lender that such insurance policy has been renewed or replaced or is no longer required by this Agreement.

In lieu of separate insurance policies, the Town may maintain blanket or umbrella insurance policies if such policies provide the same coverage required by this Section with protection against each risk not reducible by claims for other risks to amounts less than that specified in this Section and the Town deposits with the Lender a certificate or certificates of the respective insurers evidencing such coverage and stating, as required, the amount of coverage with respect to the Vehicles or any part thereof.

In lieu of policies of insurance written by commercial insurance companies meeting the requirements of this Section, the Town may maintain a program of self-insurance or participate in group risk financing programs, risk pools, risk retention groups, purchasing groups and captive insurance companies, and in state or federal insurance programs, with the prior written consent of the Lender.

Section 5.5 ***Risk of Loss.*** The Town will bear all risk of loss or damage to the Vehicles. In the event of loss or damage to the Vehicles, the Town shall either (a) continue to make the Installment Payments due hereunder and repair or replace the Vehicles or (b) prepay in full the principal components of the outstanding Installment Payments in accordance with Section 3.4 hereof. If the Net Proceeds exceed the amount necessary to repair or replace the Vehicles or prepay the then outstanding principal component of the Installment Payments, such excess will be paid to or retained by the Town.

Section 5.6 ***Performance by the Lender of the Town's Responsibilities.*** Any performance required of the Town or any payments required to be made by the Town may, if not timely performed or paid, be performed or paid by the Lender, and, in such event, the Lender will be immediately reimbursed by the Town for such payments or other performance by the Lender, with interest thereon at a rate equal to the Interest Rate.

Section 5.7 ***Financial Statements.*** The Town shall furnish to the Lender, (a) when the same become available, but in no event later than 210 days after the end of each Fiscal Year, a copy of its annual audited financial statements in an electronic format and (b) a copy of the Town's annual budget for each fiscal year in an electronic format within thirty (30) days after adoption, as well as any amendments to the budget that affect the appropriation for Installment Payments.

The Town represents and warrants to the Lender that all financial statements which have been delivered to the Lender in connection with this Agreement fairly and accurately reflect the Town's financial condition and there has been no material adverse change in the Town's financial condition as reflected in the financial statements since the date thereof.

[END OF ARTICLE V]

**ARTICLE VI**  
**TITLE; LIENS**

Section 6.1 **Title.** Title to the Vehicles, once acquired, and any and all additions, accessions, repairs, replacements or modifications thereto will be in the Town from and after the date of execution and delivery of this Agreement. Upon payment or provision for payment in full of all of the Town's obligations hereunder, including the Installment Payments then outstanding and all other payments due hereunder, this Agreement will terminate.

Section 6.2 **Liens.** The Town will not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Vehicles or any interest therein, except for: (1) the lien and security interest of the Lender in the Vehicles; and (2) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Vehicles and as do not materially impair title thereto or the ability of the Town to operate the Vehicles. The Town will promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same arises at any time. The Town will reimburse the Lender for any expense incurred by the Lender in order to discharge or remove any such mortgage, pledge, lien, security interest, charge, encumbrance or claim.

Section 6.3 **Security Agreement.** The Town hereby grants to the Lender a security interest in the Vehicles and in any and all additions, accessions, repairs, replacements, substitutions, and modifications to the Vehicles, and all proceeds of all the foregoing, including any insurance proceeds paid because of loss or damage to the Vehicles to the extent necessary to secure the Town's payment obligations to the Lender under this Agreement. The Town will cause to be filed, at the Town's expense, a financing statement and other related documents as the Lender requires under Article 9 of Chapter 25 of the General Statutes of North Carolina related to the security interest in the Vehicles. Upon acquisition of the Vehicles, the Town will with reasonable dispatch list the Lender as a lienholder on the title to the Vehicles and will cause the certificates of title for the Vehicles to be delivered to the Lender at such address specified by the Lender to the Town for retention in the Lender's files throughout the term of this Agreement.

When the title to each of the Vehicles is issued, the Town shall cause the Lender to be listed as the first lienholder on the title to each of the Vehicles, as follows:

Pinnacle Bank  
150 3<sup>rd</sup> Avenue S., Suite 900  
Nashville, TN 37201

The Town will be responsible for the correct titling of the Vehicles.

The Vehicles are and will throughout the term of this Agreement be and remain personal property. If any of the Vehicles is permanently located on any real estate not owned in fee simple by the Town, the Town will obtain the right or the permission to use the real property on which such Vehicle is located.

[END OF ARTICLE VI]

**ARTICLE VII**  
**REPRESENTATIONS AND WARRANTIES OF THE TOWN**

Section 7.1 *Representations and Warranties of the Town.* The Town represents, warrants and covenants to and with the Lender (all such representations, warranties and covenants to be continuing) that:

(a) The Town is a political subdivision of the State, validly organized and existing under the laws of the State and has all powers necessary to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(b) The Town agrees that during the term of this Agreement, it will take no action that would adversely affect its existence as a political subdivision of the State, cause the Town to be consolidated with or merge into another political subdivision of the State or permit one or more other political subdivision of the State to consolidate with or merge into it, unless the Town is the surviving political subdivision or the political subdivision of the State created thereby expressly assumes in writing the Town's obligations hereunder;

(c) This Agreement and all other documents relating hereto and the performance of the Town's obligations hereunder have been duly and validly authorized, executed and delivered by the Town and approved under all laws, regulations and procedures applicable to the Town including, but not limited to, compliance with public meeting and bidding requirements, and, assuming the due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, constitute valid, legal and binding obligations of the Town, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and such principles of equity as a court having proper jurisdiction may impose;

(d) Neither the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof conflicts with or results in a breach of the terms, conditions, or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound or constitutes a default under any of the foregoing, nor conflicts with or results in a violation of any provision of applicable law or regulation governing the Town and no representation, covenant and warranty in this Agreement is false, misleading or erroneous in any material respect;

(e) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the Town's knowledge, threatened, against or affecting the Town challenging the validity or enforceability of this Agreement or any other documents relating hereto and the performance of the Town's obligations hereunder, and compliance with the provisions hereof, under the circumstances contemplated hereby, does not and will not in any material respect conflict with, constitute on the part of the Town a breach of or default under, or result in the creation of a lien or other encumbrance on any property of the Town (except as contemplated herein) pursuant to any agreement or other instrument to which the Town is a party, or any existing law, regulation, court order or consent decree to which the Town is subject;

(f) The resolution relating to the performance by the Town of this Agreement and the transactions contemplated hereby has been duly adopted, is in full force and effect and has not been in any respect modified, revoked or rescinded;

(g) The Town will (1) cause its Town Manager or Interim Town Manager to include the Installment Payments coming due in any Fiscal Year in the corresponding annual budget request and will require the Town Manager or Interim Town Manager to use his or her best efforts to obtain an appropriation therefor and (2) require that the deletion of such funds from the Town's final budget be made only pursuant to an express resolution of the Town Council which explains the reason for such action. This covenant on the part of the Town contained in this Section 7.1(g) is deemed to be and will be construed to impose by law ministerial duties and it will be the duty of each and every public official of the Town to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Town to carry out and perform the covenant in this subparagraph and the agreements in this Agreement to be carried out and performed by the Town; *provided, however*, that nothing contained in this Section 7.1(g) obligates the Town to so appropriate the funds included in such proposed budget;

(h) The Town acknowledges and agrees that this transaction is an arm's-length commercial transaction between the Town and the Lender. In connection with this transaction, the Lender is acting solely as a principal and not as a municipal advisor, financial advisor, agent or fiduciary to the Town or any other person or entity. The Lender has not assumed any advisory or fiduciary responsibility to the Town with respect to this transaction, and nothing in this transaction or in any prior relationship between the Town and the Lender shall be deemed to create an advisory, fiduciary or agency relationship between the Town and the Lender in respect of this transaction. The Town has consulted its own legal and other advisors to the extent it has deemed appropriate.

[END OF ARTICLE VII]

**ARTICLE VIII**  
**TAX COVENANTS AND REPRESENTATIONS**

Section 8.1     ***Tax Covenants and Representations.***

(a)     The Town covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest portion of the obligations created by this Agreement for federal income tax purposes. The Town will not directly or indirectly use or permit the use of any proceeds of any fund created under this Agreement or any funds of the Town, or take or omit to take any action that would cause the obligations created by this Agreement to be an “*arbitrage bond*” within the meaning of Section 148(a) of the Code. The Town will maintain books on which will be recorded (1) the Lender, or (2) any assignee of the Installment Payments due under this Agreement, as the registered owner of such Installment Payments. The Town further covenants that this Agreement is not a “*private activity bond*” as defined in Section 141 of the Code.

(b)     Without limiting the generality of the foregoing, the Town agrees that there will be paid from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the obligation created under this Agreement from time to time. This covenant will survive the termination of this Agreement pursuant to Section 6.1.

(c)     In the event of a Determination of Taxability, the interest rate payable under this Agreement, from and after the Inclusion Date, shall be adjusted to preserve the Lender’s after-tax economic yield with respect to the interest components of the Installment Payments, taking into account any interest expense deductions lost by the Lender as a direct or indirect result of the Town’s actions. In addition, the Town shall pay to the Lender, to the fullest extent permitted by applicable law, (i) an amount necessary to reimburse the Lender for any interest, penalties, or other charges assessed by the Internal Revenue Service and the Department of Revenue by reason of the Lender’s failure to include the interest portion of the Installment Payments in its gross income for income tax purposes, and (ii) upon request of the Lender, additional interest as a result of the increase in the interest rate on all previous payments made by the Town after the Inclusion Date. In the event of a Determination of Taxability, the Lender shall provide the Town with a new Payment Schedule which reflects the new interest rate which will replace the Payment Schedule attached hereto.

(d)     Notwithstanding any provision in this Agreement to the contrary, if the Town provides to the Lender an opinion of nationally recognized bond counsel reasonably acceptable to the Lender to the effect that any action required under this Article VIII is no longer required, or to the effect that some further action is required, to maintain tax-exempt status, the Town and the Lender may rely conclusively on such opinion in complying with the provisions of this Article VIII.

[END OF ARTICLE VIII]

**ARTICLE IX**  
**INDEMNIFICATION**

Section 9.1 ***Indemnification.*** To the fullest extent permitted by law, the Town covenants to defend, indemnify and hold harmless the Lender and its officers, directors, members, employees and agents (collectively, the “*Indemnified Party*”) against any and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Agreement and shall reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of the transactions contemplated by this Agreement. In particular, without limitation, the Town shall and hereby agrees, to the fullest extent permitted by law, to indemnify and save the Indemnified Party harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of any breach or default on the part of the Town in the performance of any of its obligations under this Agreement.

[END OF ARTICLE IX]

**ARTICLE X**  
**DISCLAIMER OF WARRANTIES**

Section 10.1 ***No Representations by the Lender.*** The Town acknowledges and agrees that the design for the Vehicles has not been made by the Lender, and the Lender has not supplied any plans or specifications with respect thereto and that the Lender (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Vehicles; (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Vehicles or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Vehicles or any component part thereof or any property or rights relating thereto at any stage of the construction thereof; (c) has not at any time had physical possession of the Vehicles or any component part thereof or made any inspection thereof or any property or rights relating thereto; and (d) has not made any warranty or other representation, express or implied, that the Vehicles or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the result which the Town intends therefor, or (iii) is safe in any manner or respect.

Section 10.2 ***Disclaimer by the Lender.*** The Lender makes no express or implied warranty or representation of any kind whatsoever with respect to the Vehicles of any component part thereof to the Town or in regard to any other circumstance whatsoever with respect thereto, including but not limited to any warranty or representations with respect to: the merchantability or the fitness or suitability thereof for any purpose; the design or condition thereof; the safety, workmanship or quality thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the title to or interest of the Lender therein; the ability thereof to perform any function; that the Advance will be sufficient (together with any other available funds of the Town) to pay the cost of implementing the Vehicles; or any other characteristics of the Vehicles, it being agreed that all risks relating to the Vehicles, the completion thereof or the transactions contemplated hereby are to be borne by the Town and the benefits of any and all implied warranties and representations of the Lender are hereby waived by the Town.

[END OF ARTICLE X]



**ARTICLE XI**  
**DEFAULT AND REMEDIES**

Section 11.1 **Definition of Event of Default.** The Town is deemed to be in default hereunder upon the happening of any of the following events of default (each, an “**Event of Default**”):

- (a) The Town fails to pay any Installment Payment or Additional Payment when due;
- (b) The Town fails to budget and appropriate money sufficient to pay all Installment Payments and the reasonably estimated Additional Payments coming due in the following Fiscal Year of the Town;
- (c) The Town deletes from its duly adopted budget any appropriation for the purposes specified in clause (b) above;
- (d) The Town fails to perform or observe any term, condition or covenant of this Agreement on its part to be observed or performed, other than as referred to in clauses (a), (b) or (c) above, or breaches any warranty by the Town herein contained, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the Town by the Lender, unless the Lender agrees in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period and if corrective action is instituted by the Town within the applicable period and diligently pursued, the Town shall have such additional period of time to correct the failure as shall be necessary to correct such failure so long as such correction is diligently pursued;
- (e) Any bankruptcy, insolvency or reorganization proceedings or similar litigation, is instituted by the Town, or a receiver, custodian or similar officer is appointed for the Town or any of its property, and such proceedings or appointments are not vacated or fully stayed within 90 days after the institution or occurrence thereof;
- (f) Any representation, warranty or statement made by the Town herein or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect on the date made; or
- (g) An attachment, levy or execution is levied on or against any of the Vehicles.

Section 11.2 **Remedies on Default.** Upon the occurrence of any Event of Default, the Lender may exercise any one or more of the following remedies as the Lender, in its sole discretion, elects:

- (a) Declare the unpaid portion of the then outstanding principal component of the Installment Payments immediately due and payable, without notice or demand to the Town;
- (b) Proceed by appropriate court action to enforce the performance by the Town of the applicable covenants of this Agreement or to recover for any breach thereof;
- (c) Exercise all the rights and remedies of a secured party or creditor under the Uniform Commercial Code of the State and the general laws of the State with respect to the enforcement of the security interest granted or reserved hereunder and to sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the Town, and apply the proceeds of any such sale, lease, sublease or other disposition, after deducting all costs and expenses, including court costs and attorneys’ fees, incurred with the recovery, repair,

storage and other sale, lease, sublease or other disposition, toward the balance due under this Agreement and, thereafter, to pay any remaining proceeds to the Town; or

- (d) Pursue any other remedy available at law or equity to the Lender.

NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, IT IS THE INTENT OF THE PARTIES HERETO TO COMPLY WITH SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED. NO DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST THE TOWN IN FAVOR OF THE LENDER IN VIOLATION OF SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED, INCLUDING, WITHOUT LIMITATION, ANY DEFICIENCY JUDGMENT FOR AMOUNTS THAT MAY BE OWED HEREUNDER WHEN THE SALE OF ALL OR ANY PORTION OF THE VEHICLES IS INSUFFICIENT TO PRODUCE ENOUGH MONEY TO PAY IN FULL ALL REMAINING OBLIGATIONS UNDER THIS AGREEMENT.

Section 11.3 ***Further Remedies.*** This Agreement will remain in full force and effect and the Town will be and remain liable for the full performance of all its obligations under this Agreement. All remedies of the Lender are cumulative and may be exercised concurrently or separately. The exercise of any one remedy will not be deemed an election of such remedy or preclude the exercise of any other remedy.

[END OF ARTICLE XI]

**ARTICLE XII**  
**ASSIGNMENT**

Section 12.1 *Assignment.* Except pursuant to this Agreement, the Town will not sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance on or against any interest in this Agreement, and the Vehicles (except for any permitted encumbrances under Section 6.2) without the prior written consent of the Lender. The Town's interest in this Agreement may not be assigned or transferred by operation of law.

Except as set forth below, the Lender may, at any time and from time to time, assign all or any part of its interest in the Vehicles or this Agreement, including, without limitation, the Lender's rights to receive Installment Payments payable to the Lender hereunder. Any assignment made by the Lender or any subsequent assignee will not purport to convey any greater interest or rights than those held by the Lender pursuant to this Agreement.

The Town agrees that this Agreement may become part of a pool of obligations at the Lender's or its assignee's option. Any assignment by the Lender may be only to a bank, insurance company, or similar financial institution. Notwithstanding the foregoing, no assignment or reassignment of the Lender's interest in this Agreement will be effective unless and until the Town receives a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Town agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the Town, and the Town will keep a complete and accurate record of all assignments as required by the Code. After the giving of any such notice, the Town will thereafter make all payments in accordance with the notice to the assignee named therein and will, if so requested, acknowledge such assignment in writing, but such acknowledgment will in no way be deemed necessary to make the assignment effective.

[END OF ARTICLE XII]

**ARTICLE XIII**  
**LIMITED OBLIGATION OF THE TOWN**

Section 13.1 *Limited Obligation of the Town.* No provision of this Agreement will be construed or interpreted as creating a pledge of the faith and credit of the Town within the meaning of any State constitutional debt limitation. No provision of this Agreement will be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of the constitution of the State. This Agreement will not directly or indirectly or contingently obligate the Town to make any payments beyond any payments appropriated in the sole discretion of the Town for any Fiscal Year in which this Agreement is in effect; *provided, however,* that any failure or refusal by the Town to appropriate funds which results in its failure to make any payment coming due hereunder will in no way obviate the occurrence of an Event of Default resulting from such nonpayment. No deficiency judgment may be rendered against the Town in any action for breach of a contractual obligation hereunder, and the taxing power of the Town is not and may not be pledged directly or indirectly or contingently to secure any amounts due hereunder. No provision of this Agreement will be construed to pledge or to create a lien on any class or source of the Town's funds, nor will any provision of this Agreement restrict the future issuance of any of the Town's bonds or obligations payable from any class or source of the Town's funds. To the extent of any conflict between this Article XIII and any other provision of this Agreement, this Article XIII will take priority.

[END OF ARTICLE XIII]

**ARTICLE XIV  
MISCELLANEOUS**

Section 14.1 **Notices.** Any and all notices, requests, demands, and other communications given under or in connection with this Agreement are only effective if made in writing and delivered either personally, by overnight delivery service or mailed by certified or registered mail, postage prepaid, or return receipt requested, and addressed as follows:

IF TO THE TOWN:           Town of Apex  
                                  73 Hunter Street  
                                  Apex, North Carolina 27502  
                                  Attention: [Town Manager]

IF TO THE LENDER:       Pinnacle Bank  
                                  3515 Glenwood Avenue, Suite 100  
                                  Raleigh, North Carolina 27612  
                                  Attention: James R. Graham

The Town and the Lender may, by written notice to each other, designate any further or different addresses or method of delivery to which subsequent notices, certificates or other communications will be sent.

Section 14.2 **Time.** Time is of the essence of this Agreement and each and all of its provisions.

Section 14.3 **If Payment or Performance Date not a Business Day.** If the date for making any payment, or the last date for performance of any act or the exercising of any right, as provided in this Agreement, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Agreement, and no interest will accrue for the period after such nominal date.

Section 14.4 **Waiver.** No covenant or condition of this Agreement can be waived except by the written consent of the Lender. Any failure of the Lender to require strict performance by the Town or any waiver by the Lender of any terms, covenants or contracts in this Agreement will not be construed as a waiver of any other breach of the same or any other term, covenant or contract in this Agreement.

Section 14.5 **Section Headings.** All section headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 14.6 **Entire Agreement.** This Agreement, together with the schedules and Exhibits attached to this Agreement, constitutes the entire agreement between the parties, and this Agreement will not be modified, amended, altered or changed except as the Town and the Lender may subsequently agree in writing.

Section 14.7 **Binding Effect.** Subject to the specific provisions of this Agreement, this Agreement is binding on and inures to the benefit of the parties and their respective successors and assigns (including expressly any successor of the Lender).

Section 14.8 **Covenants of Town not Covenants of Officials Individually.** No covenant, stipulation, obligation or agreement contained herein will be deemed to be a covenant, stipulation,

obligation or agreement of any present or future member, agent or employee of the Town in such person's individual capacity, and neither the members of the Town Council nor any other officer of the Town Council or the Town will be subject to any personal liability or accountability by reason of the execution of this Agreement. No member of the Town Council or any agent or employee of the Town will incur any personal liability in acting or proceeding or if not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement.

Section 14.9 **Severability.** If any portion of this Agreement is determined to be invalid under any applicable law, such provision will be deemed void and the remainder of this Agreement will continue in full force and effect.

Section 14.10 **Governing Law.** This Agreement will be construed, interpreted and enforced in accordance with, the laws of the State.

Section 14.11 **Execution in Counterparts; Electronic Signature.** This Agreement may be executed in any number of counterparts, by manual, facsimile, digital, electronic, or .pdf signatures, each of which will be deemed an original, but all of which taken together will constitute but one and the same instrument. An executed copy of this Agreement delivered by facsimile, email, or other electronic means will be deemed to have the same legal effect as delivery of a manual signed copy of this Agreement. This Agreement and related documents may be sent and stored by electronic means.

Section 14.12 **E-Verify.** The Lender understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Lender uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Lender will not use any subcontractors in connection with this Agreement.

Section 14.13 **Iran Divestment Act Certification.** As of the date of this Agreement, the Lender is not on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Article 6E of Chapter 147 of the General Statutes of North Carolina.

Section 14.14 **Companies that Boycott Israel Act Certification.** As of the date of this Agreement, the Lender is not listed on any list created and maintained by the North Carolina Department of State Treasurer pursuant to the Divestment from Companies that Boycott Israel Act, Article 6G, as amended, of Chapter 147 of the General Statutes of North Carolina.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

*IN WITNESS WHEREOF*, the Town and the Lender have caused this Installment Financing Agreement to be executed by their duly authorized officers as of the day and year first above written.

**TOWN OF APEX, NORTH CAROLINA**

[SEAL]

By: \_\_\_\_\_  
[ ]

ATTEST:

\_\_\_\_\_  
Allen Coleman  
Clerk to the Town Council  
of the Town of Apex, North Carolina

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

[TOWN SIGNATURE PAGE TO THE INSTALLMENT FINANCING AND SECURITY AGREEMENT (DATED AS OF AUGUST [31], 2023 BETWEEN PINNACLE BANK AND THE TOWN OF APEX, NORTH CAROLINA)]

[COUNTERPART SIGNATURE PAGE TO THE INSTALLMENT FINANCING AND SECURITY AGREEMENT  
(DATED AS OF AUGUST [31], 2023 BETWEEN PINNACLE BANK AND THE TOWN OF APEX, NORTH  
CAROLINA)]

**PINNACLE BANK**  
as Lender

By: \_\_\_\_\_  
Name: James R. Graham  
Title: Senior Vice President



**EXHIBIT A**

**PAYMENT SCHEDULE**

<u>PAYMENT DATE</u>	<u>INSTALLMENT PAYMENT – PRINCIPAL COMPONENT</u>	<u>INSTALLMENT PAYMENT – INTEREST COMPONENT*</u>	<u>TOTAL INSTALLMENT PAYMENT</u>
03/01/2024			
09/01/2024			
03/01/2025			
09/01/2025			
03/01/2026			
09/01/2026			
03/01/2027			
09/01/2027			
<b>TOTAL</b>			

## **EXHIBIT 1**

1. The Vehicles consists of all motor vehicles and all other items of personal property acquired with the proceeds of the Installment Financing and Security Agreement, dated as of August [31], 2023, between Pinnacle Bank and the Town of Apex, North Carolina, all additions, attachments, accessions, substitutions and replacements thereof or thereto, any rental payments due or to become due thereunder, and any and all proceeds thereof, including without limitation, the proceeds of insurance thereon.

**EXHIBIT B**

**FORM OF REQUISITION**

**ACQUISITION FUND REQUISITION**

[To Be Prepared on Town’s Letterhead for Submission]

[Date]

Pinnacle Bank, as Custodian  
Attn: James R. Graham  
3515 Glenwood Avenue, Suite 100  
Raleigh, NC 27612

RE: Request for disbursement of funds from the Acquisition Fund related to the Installment Financing and Security Agreement, dated as of August [31], 2023, between the Town of Apex, North Carolina and Pinnacle Bank (the “Agreement”)

Ladies and Gentlemen:

The Town of Apex, North Carolina (the “Town”), requests the disbursement of funds from the Acquisition Fund established under the terms and provisions of the Agreement for the following Costs of Acquisition of the Vehicles and/or Closing Costs of the above-referenced Agreement:

[insert description and Costs of Acquisition of the Vehicles and/or Closing Costs]

This is requisition number \_\_\_\_ from the Acquisition Fund.

**Disbursements will be made to the [Town][Vendor] as follows:**

Amount:

Applicable Vendor Invoices:

Description of Costs of Acquisition of the Vehicles/Closing Costs:

Location of Vehicles/Facilities:

To receive funds via wire transfer please include:

Receiving Bank:

ABA Routing Number:

Beneficiary Name:

Beneficiary Physical Address:

Account Number:

The Town makes this requisition pursuant to the following representations:

1. The purpose of this disbursement is for partial payment of the Costs of Acquisition of the Vehicles and/or Closing Costs under the Agreement.
2. The requested disbursement has not been subject to any previous requisition.
3. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.
4. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.
5. Each amount requested for payment in this requisition either (a) represents reimbursement to the Town for a cost related to either the Cost of Acquisition of the Vehicles and/or related Closing Costs of the Agreement which have been previously paid by the Town, or (b) as directed by the Town in this requisition, will be paid by the Custodian from the Acquisition Fund directly to the third party vendors described in this requisition to provide for payment of either the Cost of Acquisition of the Vehicles and/or related Closing Costs of the Agreement.
6. Attached is evidence that demonstrates that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

TOWN OF APEX, NORTH CAROLINA

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

Name: \_\_\_\_\_

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

APPROVED BY PINNACLE BANK:

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

Name: \_\_\_\_\_

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

A regular meeting of the Town Council of the Town of Apex, North Carolina, was duly held on August 22, 2023 at 6:00 p.m. in the Apex Town Hall Council Chamber, 73 Hunter Street, Apex, North Carolina. Mayor Jacques Gilbert presiding.

Councilmembers Present: Mayor Jacques Gilbert

Councilmembers Absent:

\* \* \* \* \*

Mayor Gilbert introduced the following resolution, a summary of which had been provided to each Councilmember, a copy of which was available with the Clerk to the Town Council and which was read by title:

**A RESOLUTION APPROVING AN INSTALLMENT FINANCING AND SECURITY AGREEMENT TO FINANCE MOTOR VEHICLES AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS**

*WHEREAS*, the Town of Apex, North Carolina (the “*Town*”) is a political subdivision validly existing under the constitution, statutes and laws of the State of North Carolina (the “*State*”);

*WHEREAS*, the Town has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

*WHEREAS*, the Town Council of the Town (the “*Town Council*”) has determined that it is in the best interest of the Town to enter into an installment financing and security agreement under North Carolina General Statutes Section 160A-20 (the “*Agreement*”) with Pinnacle Bank (the “*Lender*”) in order to obtain funds to purchase various items of motor vehicles (the “*Vehicles*”) and pay costs of executing and delivering the Agreement, and to put a security interest and lien on the Vehicles in favor of the Lender in order to provide security for the Town’s obligations under the Agreement;

*WHEREAS*, the Town will enter into the Agreement in an aggregate principal amount of not to exceed \$1,785,000;

*WHEREAS*, there has been made available to the Town Council in the office of the Town’s Finance Director the form of the Agreement which the Town proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing; and

WHEREAS, it appears that the Agreement is in appropriate form and is an appropriate instrument for the purposes intended;

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

Section 1.  **Ratification of Prior Actions.** All actions of the Interim Town Manager and the Finance Director, and their respective designees, in effectuating the proposed financing are approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Agreement.

Section 2.  **Approval, Authorization and Execution of Agreement.** The Town Council approves the acquisition and financing of the Vehicles in accordance with the terms of the Agreement, which will be a valid, legal and binding obligation of the Town in accordance with its terms. The Town Council approves the amount advanced by the Lender to the Town pursuant to the Agreement in an aggregate principal amount not to exceed \$1,785,000 at an interest rate of 3.90%, such amount to be repaid by the Town to the Lender as provided in the Agreement. The form, terms and content of the Agreement are in all respects authorized, approved and confirmed. The Mayor, the Interim Town Manager, the Town Attorney, the Finance Director and the Town Clerk, or their respective designees (the “*Authorized Officers*”), are authorized, empowered and directed to execute and deliver the Agreement for and on behalf of the Town, including necessary counterparts, in substantially the form made available to the Town Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Town Council of any and all such changes, modifications, additions or deletions. From and after the execution and delivery of the Agreement, each Authorized Officer is authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

Section 3.  **Further Actions.** Each Authorized Officer is designated as the Town’s representative to act on behalf of the Town in connection with the transactions contemplated by the Agreement. The Authorized Officers are authorized and directed to proceed with acquisition and financing of the Vehicles in accordance with the terms of the Agreement, and to seek opinions on matters of law from the Town Attorney, which the Town Attorney is authorized to furnish on behalf of the Town, and opinions of law from such other attorneys for all documents contemplated under this Resolution as required by law. The Authorized Officers are authorized to designate one or more employees of the Town to take all actions which they are authorized to perform under this Resolution, and each is in all respects authorized on behalf of the Town to supply all information pertaining to the transactions contemplated by the Agreement. The Authorized Officers are authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Agreement or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution and the on-going administration of the Agreement. Any and all acts of the Authorized Officers may be done individually or collectively.

Section 4.  **Bank Qualification.** The Town hereby designates the Agreement as a "qualified tax-exempt obligation" for purposes of Internal Revenue Code Section 265(b)(3).

Section 5.  **Severability.** If any section, phrase or provision of this Resolution is for any reason declared invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 6. *Repealer.* All motions, orders, resolutions, ordinances and parts thereof in conflict herewith are repealed.

Section 7. *Effective Date.* This Resolution is effective on the date of its adoption.

\* \* \* \* \*

On motion of Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the foregoing resolution entitled “**A RESOLUTION APPROVING AN INSTALLMENT FINANCING AND SECURITY AGREEMENT TO FINANCE MOTOR VEHICLES AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS**” was duly approved by the following vote:

AYES:

NAYES:

STATE OF NORTH CAROLINA                    )  
  )  
TOWN OF APEX   )                   ss:

I, Allen Coleman, Clerk to the Town Council of the Town of Apex, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**A RESOLUTION APPROVING AN INSTALLMENT FINANCING AND SECURITY AGREEMENT TO FINANCE MOTOR VEHICLES AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS**” adopted by the Town Council of the Town of Apex, North Carolina at a regular meeting held on the 22nd day of August, 2023.

***WITNESS*** my hand and the corporate seal of the Town of Apex, North Carolina, this the 22nd day of August, 2023.

\_\_\_\_\_  
Allen Coleman  
Clerk to the Town Council  
Town of Apex, North Carolina

# Town of Apex

## REQUEST FOR PROPOSAL

### INSTALLMENT PURCHASE FINANCING UNDER G. S. 160A-20

July 21, 2023

The Town of Apex, North Carolina (hereinafter referred to as the "Town") desires to enter into an installment financing agreement pursuant to N. C. G. S. 160A-20 in the principal amount not to exceed \$1,785,000 This is the financing of the vehicles and equipment described below. The Town is soliciting your proposal to provide the necessary financing, subject to the terms and conditions set forth in this Request for Proposal.

The Town will be obligated to make the payments to fall due under the installment financing agreement.

#### VEHICLES/EQUIPMENT TO BE FINANCED:

Fire Department	Fire Truck	\$ 900,000
Parks & Recreation	Buses (2)	240,000
Solid Waste	Grabble Truck	235,000
Water & Sewer	Skid Steer	180,000
Water & Sewer	Valve Truck	<u>230,000</u>
Total		<u>\$ 1,785,000</u>

The current general obligation ratings for the Town are:

Aaa	Moody's Investors Services
AAA	Standard & Poor's Rating Services

Town staff expects to award the bid to the financial institution by Friday August 11, 2023 and the respective resolution will be considered by the Town Council at their meeting on Tuesday, August 22, 2023. The Town anticipates closing this transaction on or prior to Thursday, August 31, 2023.

#### CONTRACT SPECIFICATIONS

1. The desired amount of the financing is not to exceed \$1,785,000
2. The desired term of the financing is for a **four (4) year** period with level principal, a fixed interest rate and semi-annual payments made in arrears.



3. All proposals must specify the rate of interest to be charged and also provide a schedule of amortization. Proposals without an amortization schedule will not be considered.
4. List all additional costs expected to be associated with this financing in your bid, including but not limited to all origination, prepayment, legal and escrow fees/penalties that the Town of Apex may be required to pay. If a fee/cost is not shown in your bid, the Town will not be obligated to pay it.
5. Total funding will be placed into escrow. Interest on which will accrue to the Town of Apex and be credited to the escrow account. Bids should be based on gross funding of the equipment (without consideration of investment earnings).
6. The installment financing agreement must not contain a non-substitution clause and there must be a non-appropriation clause in the agreement.
7. Both parties must agree that the installment financing agreement shall be governed by the State of North Carolina. Proposer will obey all state and federal statutes, rules and regulations that are applicable to the financing.
8. The town reserves the right to reject any and all bids.

***SUBMISSION OF PROPOSAL***

**Submit proposal to my attention by, Monday, August 7, 2022 (by 5:00 pm), via mail (Town of Apex – 73 Hunter Street, PO Box 250 – Apex, NC 27502), e-mail or delivery.**

If you have any questions or need additional information, please call me at 919-249-3315 or e-mail: [antwan.morrison@apexnc.org](mailto:antwan.morrison@apexnc.org).

Thank you in advance for your consideration of this proposal.

Best regards,

A. Antwan Morrison

Finance Director

Town of Apex  
 Equipment and Vehicles - FY 2023-2024 - \$1,785,000  
 Financing Proposals  
 Monday, August 7, 2023

BANK	TERM	INTEREST RATE		(PER AMTZN SCHED)	(PER AMTZN SCHED)	NOTES	Total Payments	Total Interest
				MAXIMUM INTEREST COST	MAXIMUM ANNUAL DEBT SERVICE			
Banc of America Public Captial Corp	4	4.2404%	Non BQ	\$ 37,845.13	\$ 489,867.40	No pre-payment penalty w/ 30 day notice No closing costs or other fees Escrow funds within NCCMT Semi-annual payments	\$ 1,959,469.60	\$ 174,469.60
PNC Bank	4	4.5400%	Non BQ	\$ 40,519.50	\$ 512,094.19	Semi-annual payments Default rate PNC Prime Rate plus 3% Legal counsel fees \$5,000 - 7,500 Annual audit statements due within 210 days	\$ 1,967,337.75	\$ 182,337.75
First National Bank	4	4.4200%	BQ	\$ 37,914.39	\$ 491,890.64	Semi-annual payments First payment March 1, 2024	\$ 1,967,562.48	\$ 182,562.48
		4.5900%	Non BQ	\$ 39,372.63	\$ 493,690.34	No pre-payment penalty Escrow account No origination fee \$1,000 legal fees maximum 120 days make annual CPA audit available Proposal good through August 31, 2023	\$ 1,974,761.31	\$ 189,761.31
JP Morgan Chase	4	4.2400%	Non BQ	\$ 37,842.00	\$ 507,743.25	Semi-annual payments No pre-payment penalty Escrow account No fees or closing costs Proposal good through August 31, 2023	\$ 1,955,289.00	\$ 170,289.00
Pinnacle Bank	4	3.9000%	BQ or Non BQ	\$ 35,387.63	\$ 503,634.04	Semi-annual payments No origination fees or other costs; \$25 per wire draw fee Requisition process by letter Escrow account	\$ 1,944,050.97	\$ 159,050.97

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for September 12, 2023, on the Question of Annexation - Apex Town Council's intent to annex 7.259 acres, Calyx Senior Living of Apex (Kobra LLC), Satellite Annexation No. 761 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

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

### Attachments

- CN3-A1: Resolution Directing the Town Clerk to Investigate Petition
  - Certificate of Sufficiency by the Town Clerk
  - Resolution Setting Date of Public Hearing
- CN3-A2: Legal Description - Satellite Annexation No. 761
- CN3-A3: Aerial Map - Satellite Annexation No. 761
- CN3-A4: Plat Map - Satellite Annexation No. 761
- CN3-A5: Annexation Petition - Satellite Annexation No. 761





RESOLUTION DIRECTING THE TOWN CLERK  
TO INVESTIGATE PETITION RECEIVED UNDER G.S. § 160A-58.1

Satellite Annexation Petition No. 761  
Calyx Senior Living of Apex (Kobra LLC) – 7.259 acres

WHEREAS, G.S. § 160A- 58.2 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

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

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

This the 22nd day of August, 2023.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Satellite Annexation Petition No. 761  
Calyx Senior Living of Apex (Kobra LLC) – 7.259 acres

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

I, Allen L. Coleman, Town Clerk, do hereby certify that I have investigated the annexation petition attached hereto, and have found, as a fact, that said petition is signed by all owners of real property lying in the noncontiguous area described therein, in accordance with G.S. § 160A-58.1 (b), as amended.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 22nd day of August, 2023.

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

(Seal)



RESOLUTION SETTING DATE OF PUBLIC HEARING  
ON THE QUESTION OF ANNEXATION PURSUANT TO G.S. § 160A-58.2 AS AMENDED

Satellite Annexation Petition No. 761  
Calyx Senior Living of Apex (Kobra LLC) – 7.259 acres

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 12th day of September, 2023.

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

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

This the 22nd day of August, 2023.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Allen L. Coleman, Town Clerk

Attachment: Legal Description

ANNEXATION LEGAL DESCRIPTION

PARCEL OF LAND LOCATED IN WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A NEW IRON PIPE HAVING NC GRID COORDINATES N: 729,334.62', E: 2,031,356.11' NAD 83/11 AS DETERMINED BY AN ACTUAL GPS SURVEY (COMBINED GRID FACTOR 0.9998686), SET IN THE NORTHERN RIGHT OF WAY OF DOMINIK COURT (SR 1600), SAID IRON PIPE MARKING THE SOUTHEAST CORNER OF THAT PROPERTY OWNED BY TOWN OF APEX (DEED BOOK 9991, PAGE 1308, BOOK OF MAPS 2002, PAGE 1467 LOT 1 WAKE COUNTY REGISTRY) AND SAID IRON PIPE BEING IN THE EXISTING TOWN OF APEX CORPORATE LIMITS; THENCE LEAVING THE NORTHERN RIGHT OF WAY OF DOMINIK COURT WITH THE TOWN OF APEX ALONG THE EXISTING TOWN OF APEX CORPORATE LIMITS THE FOLLOWING TWO (2) CALLS, 1) N 00° 31' 04" W 49.68' TO AN EXISTING IRON PIPE, 2) N 62° 31' 07" W 69.95' TO AN EXISTING IRON PIPE, SAID IRON PIPE BEING IN THE EASTERN LINE OF THAT PROPERTY OWNED BY ROY B. MILLER (DEED BOOK 2799, PAGE 154 WAKE COUNTY REGISTRY); THENCE LEAVING THE EXISTING TOWN OF APEX CORPORATE LIMITS WITH THE EASTERN LINE OF ROY B. MILLER AND PROCEEDING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS N 00° 29' 33" W 235.19' TO AN EXISTING IRON PIPE, SAID IRON PIPE BEING IN THE SOUTHERN RIGHT OF WAY OF JENKS ROAD (SR 1601); THENCE WITH THE SOUTHERN RIGHT OF WAY OF JENKS ROAD THE FOLLOWING THREE (3) CALLS, 1) S 76° 38' 59" E 59.32' TO AN EXISTING RIGHT OF WAY DISK, 2) A CURVE TO THE LEFT HAVING ARC LENGTH 357.06', RADIUS OF 2080.00', CHORD BEARING AND DISTANCE OF S 86° 35' 18" E 356.62' TO A CALCULATED POINT, SAID CALCULATED POINT BEING IN THE EXISTING TOWN OF APEX CORPORATE LIMITS, 3) PROCEEDING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS A CURVE TO THE LEFT HAVING ARC LENGTH 106.41', RADIUS OF 2080.00', CHORD BEARING AND DISTANCE OF N 87° 01' 42" E 106.39' TO AN EXISTING RIGHT OF WAY DISK, 2) S 81° 56' 11" E 131.39' TO AN EXISTING RIGHT OF WAY DISK, SAID RIGHT OF WAY DISK BEING IN THE WESTERN RIGHT OF WAY OF NC 540; THENCE WITH THE WESTERN RIGHT OF WAY OF NC 540 AND CONTINUING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS THE FOLLOWING TWO (2) CALLS, 1) S 09° 16' 09" W 304.14' TO AN EXISTING RIGHT OF WAY DISK, 2) S 05° 37' 20" W 110.33' TO AN EXISTING RIGHT OF WAY DISK IN THE WESTERN RIGHT OF WAY OF NC 540 AND THE NORTHERN RIGHT OF WAY OF DOMINIK COURT; THENCE WITH THE NORTHERN RIGHT OF WAY OF DOMINIK COURT AND CONTINUING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS S 74° 18' 12" W 168.90' TO AN EXISTING RIGHT OF WAY DISK; THENCE LEAVING THE NORTHERN RIGHT OF WAY OF DOMINIK COURT AND CONTINUING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS S 27° 16' 47" W 30.00' TO A

CALCULATED POINT IN THE CENTERLINE OF DOMINIK COURT; THENCE WITH THE CENTERLINE OF DOMINIK COURT AND CONTINUING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS THE FOLLOWING TWO (2) CALLS, 1) N 62° 43' 13" W 231.75' TO A CALCULATED POINT, 2) N 62° 58' 48" W 176.12' TO A CALCULATED POINT; THENCE LEAVING THE CENTERLINE OF DOMINIK COURT AND CONTINUING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS THE FOLLOWING TWO (2) CALLS, 1) N 27° 01' 11" E 29.72' TO A CALCULATED POINT, 2) N 00° 31' 04" W 0.32' BACK TO THE POINT AND PLACE OF BEGINNING, CONTAINING 5.459 ACRES OR 0.0085 SQUARE MILES MORE OR LESS.

#### AREA IN RIGHT OF WAY

BEGINNING AT AN EXISTING IRON PIPE, SAID IRON PIPE BEING IN THE SOUTHERN RIGHT OF WAY OF JENKS ROAD (SR 1601); THENCE LEAVING THE SOUTHERN RIGHT OF WAY OF JENKS ROAD ALONG AND WITH THE NEW TOWN OF APEX CORPORATE LIMITS N 00° 29' 33" W 156.71' TO A CALCULATED POINT IN THE NORTHERN RIGHT OF WAY OF JENKS ROAD; SAID CALCULATED POINT BEING IN THE EXISTING TOWN OF APEX CORPORATE LIMITS; THENCE WITH THE NORTHERN RIGHT OF WAY OF JENKS ROAD AND PROCEEDING ALONG THE EXISTING TOWN OF APEX CORPORATE LIMITS THE FOLLOWING TWO (2) CALLS, 1) S 81° 40' 19" E 83.30' TO A CALCULATED POINT, 2) A CURVE TO THE LEFT HAVING ARC LENGTH 331.31', RADIUS OF 1920.00', CHORD BEARING AND DISTANCE OF S 86° 36' 51" E 330.81' TO A CALCULATED POINT; THENCE LEAVING THE NORTHERN RIGHT OF WAY OF JENKS ROAD AND THE EXISTING TOWN OF APEX CORPORATE LIMITS PROCEEDING ALONG THE NEW TOWN OF APEX CORPORATE LIMITS S 00° 51' 25" E 160.04' TO A CALCULATED POINT, SAID CALCULATED POINT BEING IN THE SOUTHERN RIGHT OF WAY OF JENKS ROAD; THENCE ALONG AND WITH THE SOUTHERN RIGHT OF WAY OF JENKS ROAD THE FOLLOWING TWO (2) CALLS, 1) A CURVE TO THE RIGHT HAVING ARC LENGTH 357.06', RADIUS OF 2080.00', CHORD BEARING AND DISTANCE OF N 86° 35' 18" W 356.62' TO AN EXISTING RIGHT OF WAY DISK, 2) N 76° 38' 59" W 59.32' BACK TO THE POINT AND PLACE OF BEGINNING, CONTAINING 1.800 ACRES OR 0.028 SQUARE MILES MORE OR LESS

AS SHOWN ON PLAT ENTITLED "SATELLITE ANNEXATION MAP FOR THE TOWN OF APEX", PROPERTY AS DESCRIBED IN DEED BOOK 8739 PAGE 1293 WAKE COUNTY REGISTRY, STANDING IN THE NAME OF KOBRA LLC., BY THOMAS A. TELLUP, PLS, SUMMIT DESIGN AND ENGINEERING SERVICES PROJECT 22-0086, DATED APRIL 28, 2023, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAME.





**Annexation #761**

SYMBOL LEGEND	
	EXISTING IRON PIPE
	EXISTING IRON ROD
	EXISTING CONCRETE MONUMENT
	IRON PIN SET
	BENCHMARK
	CONIFEROUS TREE
	DECIDUOUS TREE
	BOLLARD
	SIGN
	SANITARY CLEANOUT
	SANITARY MANHOLE
	FLARED END SECTION
	STORM INLET
	STORM MANHOLE
	ELECTRIC BOX
	GUY WIRE ANCHOR
	LIGHT POLE
	YARD LIGHT
	POWER POLE
	GAS METER
	GAS VALVE
	TELEPHONE BOX
	FIRE HYDRANT
	WATER METER
	WATER VALVE
	BACK FLOW PREVENTER
	HANDICAP PARKING
	PVC POLYVINYL CHLORIDE PIPE
	REINFORCED CONCRETE PIPE
	DUCTILE IRON PIPE
	C&G CURB AND GUTTER
	INVERT
	ELEVATION
	FINISHED FLOOR ELEVATION

LINE LEGEND	
	WATER LINE
	OVERHEAD ELECTRIC LINE
	SANITARY LINE
	GAS LINE
	PROPERTY LINE
	LINE NOT SURVEYED
	RIGHT OF WAY LINE
	EXISTING STORM PIPE
	EXISTING TREE LINE

**NOTE "A"**  
EXISTING PHYSICAL CONDITIONS AND EASEMENTS NOT SHOWN.

**NOTE "B"**  
THIS MAP PREPARED FOR THE SOLE PURPOSE TO ANNEX A MUNICIPAL BOUNDARY. THIS MAP IS NOT A RECOMBINATION SURVEY MAP. THIS MAP SHOULD NOT BE USED TO TRANSFER ANY PROPERTY SHOWN HEREON.

**NOTE "C"**  
THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30 (J).

**NOTE "D"**  
SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED DURING THIS SURVEY. ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN HEREON. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND CONTAINERS WHICH MAY AFFECT THE USE OF THIS TRACT.

**NOTE "E"**  
THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN ARE BASED ON VISIBLE EVIDENCE AND DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON, AND ADDITIONAL BURIED UTILITIES MAY EXIST. CONTACT THE APPROPRIATE UTILITY COMPANIES FOR INFORMATION REGARDING BURIED UTILITIES.

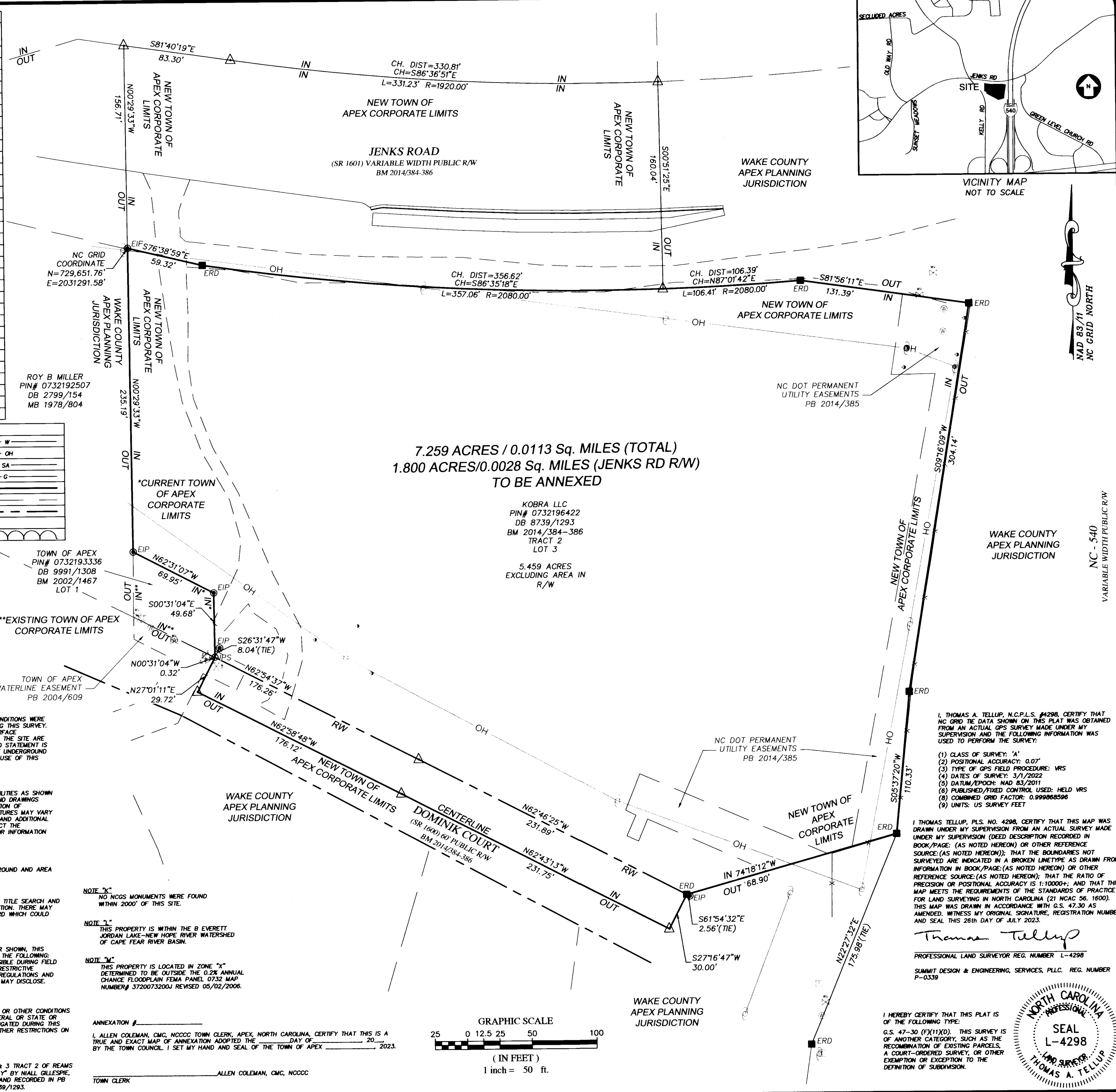
**NOTE "F"**  
ALL DISTANCES ARE HORIZONTAL GROUND AND AREA BY COORDINATE COMPUTATION.

**NOTE "G"**  
THIS SURVEY WAS DONE WITHOUT A TITLE SEARCH AND IS BASED ON REFERENCED INFORMATION. THERE MAY EXIST OTHER DOCUMENTS OF RECORD WHICH COULD AFFECT THIS PROPERTY.

**NOTE "H"**  
EXCEPT AS SPECIFICALLY STATED OR SHOWN, THIS SURVEY DOES NOT REPORT ANY OF THE FOLLOWING: EASEMENTS, OTHER THAN THOSE VISIBLE DURING FIELD EXAMINATION, BUILDING SETBACKS, RESTRICTIVE COVENANTS, ZONING OR LAND USE REGULATIONS AND ANY FACTS WHICH A TITLE SEARCH MAY DISCLOSE.

**NOTE "I"**  
WETLANDS, JURISDICTIONAL WATERS OR OTHER CONDITIONS WHICH MAY BE REGULATED BY FEDERAL OR STATE OR LOCAL AGENCIES WERE NOT INVESTIGATED DURING THIS SURVEY. RIPARIAN BUFFERS AND OTHER RESTRICTIONS ON DEVELOPMENT MAY BE REQUIRED.

**NOTE "J"**  
SEE PLATS:  
"BOUNDARY SURVEY OF LOTS 1, 2, & 3 TRACT 2 OF REAMS FARM & NC HWY 540 RIGHT OF WAY" BY MIALL GILLESPIE, LS-2629, DATED MARCH 17, 2014 AND RECORDED IN PB 2014 PAGES 384-386, AND DB 8739/1293.



ROY B MILLER  
PIN# 0732192507  
DB 2799/154  
MB 1978/804

KOBRA LLC  
PIN# 0732196422  
DB 8739/1293  
BM 2014/384-386  
TRACT 2  
LOT 3

5.459 ACRES  
EXCLUDING AREA IN  
R/W

I, THOMAS A. TELLUP, N.C.P.L.S. #4998, CERTIFY THAT NC GRID DATA SHOWN ON THIS PLAT WAS OBTAINED FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- CLASS OF SURVEY: "A"
- POSITIONAL ACCURACY: 0.07'
- TYPE OF GPS FIELD PROCEDURE: VRS
- DATES OF SURVEY: 3/1/2022
- DATUM/EPOCH: NAD 83/2011
- PUBLISHED/FIXED CONTROL USED: HELD VRS
- COMBINED GRID FACTOR: 0.999868596
- UNITS: US SURVEY FEET

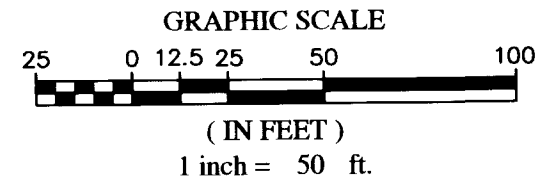
I, THOMAS TELLUP, P.L.S. NO. 4298, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK/PAGE: (AS NOTED HEREON)) OR OTHER REFERENCE SOURCE: (AS NOTED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED IN A BROKEN LINTYPE AS DRAWN FROM INFORMATION IN BOOK/PAGE: (AS NOTED HEREON)) OR OTHER REFERENCE SOURCE: (AS NOTED HEREON); THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS MAP WAS DRAWN IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 26th DAY OF JULY 2023.

*Thomas Tellup*

PROFESSIONAL LAND SURVEYOR REG. NUMBER L-4298  
SUMMIT DESIGN & ENGINEERING, SERVICES, PLLC. REG. NUMBER P-0339



I HEREBY CERTIFY THAT THIS PLAT IS OF THE FOLLOWING TYPE:  
G.S. 47-30 (F)(1)(X). THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.



COPYRIGHT © 2023  
SUMMIT DESIGN AND  
ENGINEERING SERVICES

DRAWING ALTERATION  
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS  
ACTING UNDER THE DIRECTION OF LICENSED  
ARCHITECT, PROFESSIONAL ENGINEER, LANDSCAPE  
ARCHITECT, OR LAND SURVEYOR TO ALTER ANY ITEM  
ON THIS DOCUMENT IN ANY WAY. ANY LICENSEE WHO  
ALTERS THIS DOCUMENT IS REQUIRED BY LAW TO  
AFFIX HIS OR HER SEAL AND THE NOTATION "ALTERED  
BY FOLLOWED BY HIS OR HER SIGNATURE AND  
SPECIFIC DESCRIPTION OF THE ALTERATIONS."

**SUMMIT**  
DESIGN AND ENGINEERING SERVICES

License #: P-0339  
320 Executive Court  
Hillsborough, NC 27278-8551  
Voice: (919) 732-3883 Fax: (919) 732-6676  
www.summitde.net

SATELLITE ANNEXATION MAP for the  
**TOWN OF APEX**

WHITE OAK TWP., WAKE CO., NORTH CAROLINA  
FIELD WORK PERFORMED MARCH 9, 2022  
PROPERTY AS DESCRIBED IN DEED BOOK 8739 PAGE 1293  
STANDING IN THE NAME OF  
KOBRA LLC

SURVEY PROJECT MGR: TT	DRAWN BY: JRW	CHECKED BY: TT
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PROJECT NO.  
**22-0086**  
DRAWING NO.  
**22-0086\_ANNEX**

PETITION FOR VOLUNTARY ANNEXATION  
Town of Apex, North Carolina



**ANNEXATION PETITION SUBMISSION:** Applications are due by 12:00 pm on the first business day of each month. See the "[Annexation Petition Schedule](#)" on the website for details.

**ANNEXATION FEE:** \$200.00

**VOLUNTARY ANNEXATION:** Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1. A petition submitted pursuant to North Carolina General Statute 160A-58.1 need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

**HARD COPY SUBMITTAL REQUIREMENTS:**

- Town of Apex Petition for Annexation with original wet ink signatures. No photocopies or scanned images.
- Petition Fee

**ELECTRONIC SUBMITTAL REQUIREMENTS: [IDT Plans](#)**

- Town of Apex Petition for Annexation
- Written Metes and Bounds Legal Description: Submit original PDF. Scanned documents will not be accepted.
- Electronic plat submittal (18" x 24")

**REVIEW AND APPROVAL PROCESS:**

- **SUBMITTAL:** Submit hard copy application with original wet signatures (no photo copies or scanned images) and fee to the Department of Planning and Community Development and upload an electronic copy of the application, legal description and Annexation Plat via [IDT Plans](#).
- **REVIEW BY STAFF:** The Planning and Community Development Department and Development Services Department review the annexation submission. Comments will be sent to the applicant via email.
- **DESIGNATION OF ANNEXATION NUMBER:** The application is assigned an annexation number once the annexation petition is received.
- **ANNEXATION PLAT SUBMISSION:** After the map and legal description are deemed sufficient by the Town of Apex, the applicant is required to submit three (3) Mylar annexation plats to the Department of Planning and Community Development by the due date on the attached Annexation Schedule.
- **1<sup>ST</sup> TOWN COUNCIL MEETING:** This Town Council Meeting is typically held the second Tuesday of each month. The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.
- **LEGAL ADVERTISEMENT:** A legal advertisement will be published on the Town of Apex's website no more than 25 days and no less than 10 days prior to the date of the public hearing.
- **2<sup>ND</sup> TOWN COUNCIL MEETING/PUBLIC HEARING:** This Town Council Meeting is typically held the fourth Tuesday of each month. The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Apex.
- **RECORDATION:** If the annexation is approved by the Town Council, the Town Clerk will have the Annexation Plats recorded at the Wake County or Chatham County Register of Deeds, as appropriate. Wake County or Chatham County will keep one of the recorded plats, one copy will be returned to the Department of Planning and Community Development, and the surveying company is given the remaining recorded Annexation Plat.

**FOR WELL AND/OR SEPTIC FAILURES:**

If the purpose of the petition is to connect to public water and/or sewer, contact Water Resources Director Michael Deaton at 919-249-3413 or [michael.deaton@apexnc.org](mailto:michael.deaton@apexnc.org) to confirm that public water and/or sewer is available to the property. In order to receive public water and/or sewer services from the Town of Apex, refer to the checklist of items below to assist with obtaining one or both of these services:

- Apply for a plumbing permit with the Building Inspections and Permitting Department.
- The plumbing permit and associated costs for water and/or sewer will be included with the permit.

Please refer to the [Town of Apex Fee Schedule](#) for the list of current fees.

**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 #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
 Fee Paid \$ \_\_\_\_\_ 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**

_____	_____
Owner Name (Please Print)	Property PIN or Deed Book & Page #
919-377-8066	srjewett54@gmail.com
Phone	E-mail Address
_____	_____
Owner Name (Please Print)	Property PIN or Deed Book & Page #
_____	_____
Phone	E-mail Address
_____	_____
Owner Name (Please Print)	Property PIN or Deed Book & Page #
_____	_____
Phone	E-mail Address

**SURVEYOR INFORMATION**

Surveyor: Summit Engineering  
 Phone: 919-732-3883 Fax: 919-732-6676  
 E-mail Address: don.sever@summitde.com

**ANNEXATION SUMMARY CHART**

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>7.259</u> <del>5.46</del>	Need water service due to well failure <input type="checkbox"/>
Population of acreage to be annexed: <u>n/a</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>n/a</u>	Water service (new construction) <input checked="" type="checkbox"/>
Proposed # of housing units: <u>1 ALF</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>PUD-CZ</u>	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 Department of Planning and Community Development 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.)

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
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: \_\_\_\_\_

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 IN A LIMITED LIABILITY COMPANY

In witness whereof, Kobra, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 8 day of August, 2023

Name of Limited Liability Company Kobra, LLC,

By: X Susan R. [Signature]  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Sandra Martin Clark, a Notary Public for the above State and County, this the 8th day of August, 2023.

Sandra Martin Clark  
Notary Public

SEAL



My Commission Expires: 1-26-23

COMPLETE IF IN A PARTNERSHIP

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for September 12, 2023, on the Question of Annexation - Apex Town Council's intent to annex 29.4692 acres, The Summit (formerly known as (FKA) Holland Road Mixed Use, Annexation No. 762 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

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

### Attachments

- CN4-A1: Resolution Directing the Town Clerk to Investigate Petition
  - Certificate of Sufficiency by the Town Clerk
  - Resolution Setting Date of Public Hearing
- CN4-A2: Legal Description - Annexation No. 762
- CN4-A3: Aerial Map - Annexation No. 762
- CN4-A4: Plat Map - Annexation No. 762
- CN4-A5: Annexation Petition - Annexation No. 762





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

Annexation Petition No. 762  
The Summit (FKA Holland Road Mixed Use) – 29.4692 acres

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

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

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

This the 22nd day of August, 2023.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk





CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition No. 762  
The Summit (FKA Holland Road Mixed Use) – 29.4692 acres

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 22nd day of August, 2023.

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

(Seal)



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

Annexation Petition No. 762  
The Summit (FKA Holland Road Mixed Use) – 29.4692 acres

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 12th day of September, 2023.

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

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

This the 22nd day of August, 2023.

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Jacques K. Gilbert, Mayor

ATTEST:

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Allen L. Coleman, Town Clerk

Attachment: Legal Description

Annexation Legal Description for REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638

All those certain parcels of land, situated in Apex, Buckhorn Township Wake County, North Carolina, being known as REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638, Wake County Records, and being more particularly described as follows:

Commencing at a 3/4" Iron Pipe found at the Western Property Corner of Shelba W Clem, Diane P Williams & Lisa W Krummel (REID: 0193211, DB 16078, Pg 788) and Eastern Right of Way of Humie Olive Road (SR-1142), Wake County records and being designated as the Point of Commencement as shown on map made by Bateman Civil Survey Company, dated 5/9/2023 and entitled "Annexation Map for the Town of Apex" Buckhorn Township, Wake County, Apex, North Carolina, REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638 ", having State Plane Coordinates N:709673.02, E:2028829.01; Thence S88°19'24"E, 384.60' to a Point, Said Point being the Point of Beginning having State Plane Coordinates N:709661.77, E:2029213.45; Thence S88°19'24"E, 339.43' to a 1/2" Bent Iron Pipe found in a tree at the Northeast Property Corner of RIED:0193211; thence S88°18'19"E, 125.81' to a 2" Iron Pipe found at the Southeast Property Corner of RIED:0296869; thence N05°08'57"E, 754.01' to a 1/2" Iron Pipe Found at the Northwest Property Corner of REID:0160074; thence N05°08'57"E, 237.74' to a 1/2" Iron Pipe Found at the Northwest Property Corner of REID:0087601 Shown as 'Control Corner' on said Map; thence S88°41'36"E, 630.83' to a 1/2" Iron Pipe Found at the Southeast Property Corner of REID:0427358; thence S88°22'38"E, 318.67' to a Point on the Western Right of Way of Holland Road (SR-1149); thence along the Western Right of Way of Holland Road (SR-1149) S16°36'59"W, 29.83' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S14°47'09"W, 57.10' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S13°34'48"W, 58.46' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S12°15'11"W, 59.64' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S10°51'46"W, 57.69' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S10°06'24"W, 56.38' to a Point; thence to the Western Right of Way of Holland Road (SR-1149) S09°41'43"W, 68.40' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S09°41'43"W, 228.74' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S09°46'21"W, 98.04' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S09°44'05"W, 30.03' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) S09°56'33"W, 62.62' to an Point; thence along the Western Right of Way of Holland Road (SR-1149) S10°27'07"W, 140.48' to a 3/4" Iron Pipe Found; thence along the Western Right of Way of Holland Road (SR-1149) S84°27'46"E, 7.97' to a 3/4" Iron Pipe Found; thence along the Western Right of Way of Holland Road (SR-1149) S13°06'20"W, 161.42' to a Point being on the Western Right of Way of Holland Road (SR-1149) and Northern Right of Way of Old US-1 Highway (SR-1011); thence along the Northern Right of Way of Old US-1 Highway (SR-1011) S71°01'04"W, 194.85' to a Point; thence along the Northern Right of Way of Old US-1 Highway (SR-1011) S02°07'36"W, 5.36' to a 2" Crimp Top Iron Pipe Found; thence along the Northern Right of Way of Old US-1 Highway (SR-1011) S71°12'43"W, 609.79' to a Existing Railroad Spike Found on the Eastern Right of Way of Humie Olive Road (SR-1142) and Northern Right of Way of Old US-1 Highway (SR-1011) ; thence along the Eastern Right of Way of Humie Olive Road (SR-1142) N65°06'16"W, 365.03' to a 1/2" Iron Pipe in a Tree Found; thence along the Eastern Right of Way of Humie Olive Road (SR-1142) N65°04'49"W, 28.91' to a 3/4" Iron Pipe Found; thence along the Eastern Right of Way of Humie Olive

Road (SR-1142) N65°33'00"W, 160.67' to a ¾" Iron Pipe Found; thence along the Eastern Right of Way of Humie Olive Road (SR-1142) N66°25'10"W, 96.93' to a Point; thence leaving the Eastern Right of Way of Humie Olive Road (SR-1142) N23°47'37"E, 143.50' to a Point, said being the Point of Beginning. Said Annexation contains 1,224,197 square feet, 28.1036 acres, more or less.

#### Annexation Legal Description for Annexation Area #1

All those certain parcels of land, situated in Apex, Buckhorn Township Wake County, North Carolina, being known as Old US 1 Highway (SR-1011), Wake County Records, and being more particularly described as follows:

Beginning at a Existing Railroad Spike Found on the Eastern Right of Way of Humie Olive Road (SR-1142) & Northern Right of Way of Old US 1 Highway (SR-1011), Wake County records and being designated as the Point of Beginning as shown on map made by Bateman Civil Survey Company, dated 5/9/2023 and entitled "Annexation Map for the Town of Apex" Buckhorn Township, Wake County, Apex, North Carolina, REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638 ", having State Plane Coordinates N:709259.34, E:2029747.98"

Thence along the Northern Right of Way of Old US-1 Highway (SR-1011) N71°12'43"E, 334.46' to a Point; thence across the Right of Way of Old US-1 Highway (SR-1011) S18°47'17"E, 59.54' to a Point on the Southern Right of Way of Old US-1 Highway (SR-1011), thence along the Southern Right of Way of Old US-1 Highway (SR-1011) S71°11'06"W, 22.49' to a Point; thence along the Southern Right of Way of Old US-1 Highway (SR-1011) S29°47'22"W, 20.05' to a Point; thence along the Southern Right of Way of Old US-1 Highway (SR-1011) S66°51'41"W, 105.25' to a Point; thence along the Southern Right of Way of Old US-1 Highway (SR-1011) S70°21'31"W, 117.65' to a Point; thence along the Southern Right of Way of Old US-1 Highway (SR-1011) S79°37'28"W, 20.87' to a Point; thence along the Southern Right of Way of Old US-1 Highway (SR-1011) N19°02'39"W, 12.99' to a Point; thence across the Right of Way of Old US-1 Highway (SR-1011) N57°40'59"W, 85.44' to an Existing Railroad Spike Found on the Eastern Right of Way of Humie Olive Road (SR-1142) and Northern Right of Way of Old US-1 Highway (SR-1010);, said Existing Railroad Spike being the Point of Beginning.

Said Annexation contains 23,462 square feet, 0.5386 acres, more or less.

#### Annexation Legal Description for Annexation Area #2

All those certain parcels of land, situated in Apex, Buckhorn Township Wake County, North Carolina, being known as Old US 1 Highway (SR-1011), Wake County Records, and being more particularly described as follows:

Beginning at a Point on the Western Right of Way of Holland Road (SR-1149) & Northwest Property Corner of REID:0087601, Wake County records and being designated as the Point of Beginning as shown on map made by Bateman Civil Survey Company, dated 5/9/2023 and entitled "Annexation Map for the Town of Apex" Buckhorn Township, Wake County, Apex, North Carolina, REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638 ", having State Plane Coordinates N:710612.45, E:2030716.71"

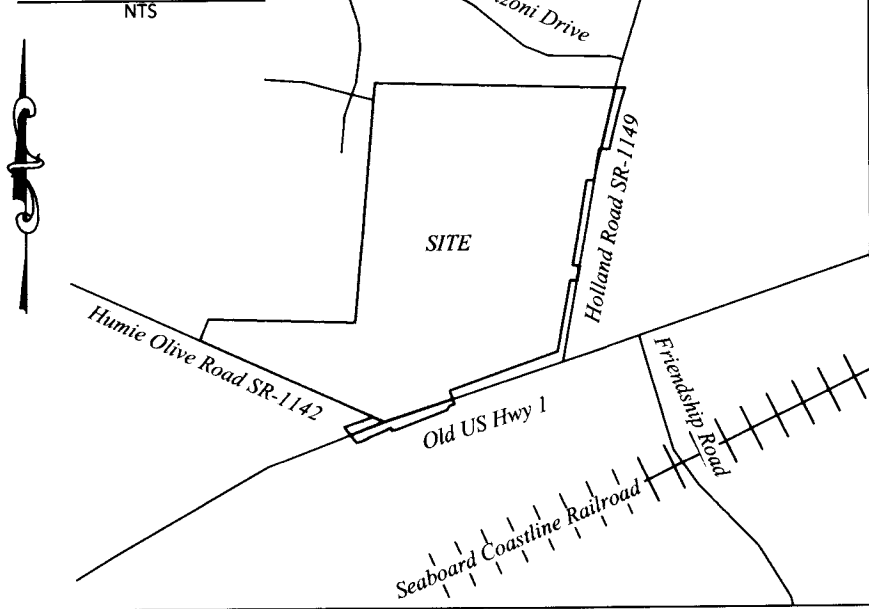
Thence across the Right of Way of Holland Road (SR-1149) to the Eastern Right of Way of Holland Road (SR-1149) S88°22'38"E, 79.35' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S17°12'05"W, 13.32' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S17°04'02"W, 37.06' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149)

S15°46'08"W, 55.32' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S14°32'05"W, 56.80' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S13°12'12"W, 57.87' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S11°50'52"W, 42.20' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) N87°21'07"W, 42.94' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S10°51'46"W, 6.88' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S10°06'24"W, 56.07' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S09°41'43"W, 68.29' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S09°41'43"W, 228.76' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S09°46'21"W, 98.06' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S09°44'05"W, 30.07' to a Point; thence along the Eastern Right of Way of Holland Road (SR-1149) S09°56'33"W, 62.67' to a Point; thence across the Right of Way of Holland Road (SR-1149) N88°20'16"W, 30.36' to a ¾" Iron Pipe Found on the Western Right of Way of Holland Road (SR-1149); thence along the Western Right of Way of Holland Road (SR-1149) N09°56'33"E, 62.62' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N09°44'05"E, 30.03' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N09°46'21"E, 98.04' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N09°41'43"E, 228.74' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N09°41'43"E, 68.40' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N10°06'24"E, 56.38' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N10°51'46"E, 57.69' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N12°15'11"E, 59.64' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N13°34'48"E, 58.46' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N14°47'09"E, 57.10' to a Point; thence along the Western Right of Way of Holland Road (SR-1149) N16°36'59"E, 29.83' to a Point on the Western Right of Way of Holland Road (SR-1149) & Northwest Property Corner of REID:0087601, said Point being the Point of Beginning.

Said Annexation contains 36,028 square feet, 0.8270 acres, more or less.



**VICINITY MAP**



- REFERENCES:**  
 BM 1992, PG 933  
 BM 2000, PG 1931  
 BM 2005, PG 1522  
 BM 2010, PG 1132  
 BM 2013, PG 1405  
 DB 16078, PG 788  
 DB 8718, PG 1301  
 DB 8718, PG 1292  
 DB E, PG 835  
 DB 18763, PG 1063  
 DB 8718, 1304  
 DB 5746, PG 146

**Owner Information**

REID:0193211  
 Shelba W Clem, P Diane Williams & Lisa W Krummel  
 3007 Buckingham Way, Apex, NC, 27502  
 REID:0087601  
 Annie P & Billy Stroup  
 1924 Old US 1 Hwy #1S, Apex, NC, 27502  
 REID:0334537  
 RGNC-10, LLC  
 7307 NW 122nd Avenue, Parkland, FL, 33076  
 REID:0160076  
 Joanne Pendergraft Hearn Heirs (Bonnie Wood)  
 1115 Dycus Road, Sanford, NC, 27330  
 REID:0070103  
 Pamela Purefoy, Francis T Bullock & Ernestine Smith  
 3116 Holland Road, Apex, NC, 27502  
 REID:0160074  
 Johnny & Carolyn M Pendergraft  
 2212 Old US 1 Hwy#1S, Apex, NC, 27502  
 REID:0197638  
 David Ray Powell  
 861 Bethlehem Church Rd, Youngsville NC, 27596

**GENERAL NOTES**

- This survey was prepared by Bateman Civil Survey Co., under the supervision of Jeffrey W. Baker, PLS.
- Property lines shown were taken from existing field evidence, existing deeds and/or plats of public record, and information supplied to the surveyor by the client.
- No investigation into the existence of jurisdictional wetlands or riparian buffers performed by this firm.
- Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence or any other facts that an accurate and current title search may disclose.
- All distances are horizontal ground distances and all bearings are North Carolina State Plane Coordinate System unless otherwise shown.
- No Grid Monuments found within 2000'.
- Areas are by coordinate computation.
- Tied to the National CORS Network through NC YRS.
- This plat is considered preliminary unless signed & sealed by a Licensed Surveyor.

CLASS OF SURVEY: D  
 POSITIONAL ACCURACY: 0.06'  
 TYPE OF GPS FIELD PROCEDURE: NC CORS NETWORK  
 DATES OF SURVEY: MAY - JULY 2021  
 DATUM/EPOCH: NAD83/NSRS2011  
 GEOID MODEL: 18  
 COMBINED GRID FACTOR(S): 0.999888420  
 UNITS: US SURVEY FEET

"I, Jeffrey W. Baker, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 16078, Pg 788, Book 8718, Pg 1301, Book 8718, Pg 1292, Book E, Pg 835, Book 18763, Pg 1063, Book 8718, Pg 1304, Book 5746, Pg 146); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 1992, Pg 933, Book 2000, Pg 1931, Book 2005, Pg 1522, Book 2005, Pg 1522, Book 2013, Pg 1405; that the ratio of precision or positional accuracy as calculated is 1:10000+; that this plat was prepared in accordance with G.S. 47-30 as amended, witness my original signature, license number and seal this 14th day of August, A.D. 2023."

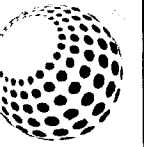
*Jeffrey W. Baker*  
 Professional Land Surveyor  
 License Number-4412

I, Jeffrey W. Baker, Professional Land Surveyor No. L-4412 certify That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exceptions to the definition of subdivision.

*Jeffrey W. Baker* 8/14/23  
 Jeffrey W. Baker, PLS L-4412 date



Required Base Information:	
Project Information	
Name	The Summit
Address	7528 Humie Olive Road, 2236 Old US-1 Hwy, 1001, 1004, 1005 Red Cardinal Lane, 3104, 3116 Holland Road, Apex, NC
Parcel IDs	# 0720992587, #0720998487, # 0730091779, #0731001087, #0731004075, #0731003359
Owner's Information:	
Name	Shelba W Clem, P Diane Williams & Lisa W Krummel, Annie P & Billy Stroup, RGNC-10, LLC, Joanne Pendergraft Hearn Heirs, Pamela Purefoy, Francis T Bullock & Ernestine Smith, Johnny & Carolyn M Pendergraft, David Ray Powell
Address	3007 Buckingham Way, Apex, NC, 27502 1924 Old US 1 Hwy #1S, Apex, NC, 27502 7307 NW 122nd Avenue, Parkland, FL, 33076 1115 Dycus Road, Sanford, NC, 27330 3116 Holland Road, Apex, NC, 27502 2212 Old US 1 Hwy#1S, Apex, NC, 27502 861 Bethlehem Church Rd, Youngsville NC, 27596
Phone Number	(754) 875-2975 Mr. Geno Ray
E-mail Address	geno@lginvest.net
Surveyor's or Professional Engineer's Information	
Name	Jeffrey W. Baker
Seal	North Carolina
Registration	L-4412
Date Of The Survey And Plat Preparation	05/09/2023
Zoning District And Zoning Case #	21CZ14 / PUD-CZ
Annexation #	
Township, County, State	Buckhorn, Wake, North Carolina
Primary Or Secondary Watershed	Primary
FEMA Designated Floodplain?	'X' (Map 3720073000K, Date 7/19/2022) 'X' (Map 3720072000K, Date 7/19/2022) 'X' (Map 3720073100K, Date 7/19/2022) 'X' (Map 3720072100K, Date 7/19/2022)



**Bateman Civil Survey Company**

Engineers • Surveyors • Planners  
 2524 Reliance Ave., Apex, NC 27539  
 Phone: 919.577.1080 Fax: 919.577.1081  
 NCBELS FIRM No. C-2378

**ANNEXATION MAP**  
**For The Town of Apex**

Buckhorn Township / Wake County / Apex / North Carolina  
 REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638

Rev: 6/27/23  
 Drawn: JCH  
 Checked: BN  
 Scale: na  
 Date: 5/31/2023  
 Project: 210357

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 \_\_\_\_\_, 20\_\_\_\_, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_ Day / Month / Year

Allen Coleman, CMC, NCCCC, Town Clerk

Line #	Direction	Length
L1	S88°19'24"E	339.43
L2	S88°18'19"E	125.81
L3	N05°08'57"E	754.01
L4	N05°08'57"E	237.74
L5	S88°41'36"E	630.83
L6	S88°22'38"E	318.67
L7	S16°36'59"W	29.83
L8	S14°47'09"W	57.10
L9	S13°34'48"W	58.46
L10	S12°15'11"W	59.64
L11	S10°51'46"W	57.69
L12	S10°06'24"W	56.38
L13	S09°41'43"W	68.40
L14	S09°41'43"W	228.74
L15	S09°46'21"W	98.04
L16	S09°44'05"W	30.03
L17	S09°56'33"W	62.62
L18	S10°27'07"W	140.48
L19	S84°27'46"E	7.97
L20	S13°06'20"W	161.42
L21	S71°01'04"W	194.85
L22	S02°07'36"W	5.36
L23	S71°12'43"W	609.79
L24	N65°06'16"W	365.03
L25	N65°04'49"W	28.91
L26	N65°33'00"W	160.67
L27	N66°25'10"W	96.93
L28	N23°47'37"E	143.50
L29	S88°22'38"E	79.35
L30	S17°12'05"W	13.32
L31	S17°04'02"W	37.06
L32	S15°46'08"W	55.32
L33	S14°32'05"W	56.80
L34	S13°12'12"W	57.87
L35	S11°50'52"W	42.20
L36	N87°21'07"W	42.94
L37	S10°06'24"W	56.07
L38	S10°06'24"W	56.07
L39	S09°41'43"W	68.29
L40	S09°41'43"W	228.76

Line #	Direction	Length
L41	S09°46'21"W	98.06
L42	S09°44'05"W	30.07
L43	S09°56'33"W	62.67
L44	N88°20'16"W	30.36
L45	N71°12'43"E	334.46
L46	S18°47'17"E	59.54
L47	S71°11'06"W	22.49
L48	S29°47'22"W	20.05
L49	S66°51'41"W	105.25
L50	S70°21'31"W	117.65
L51	S79°37'28"W	20.87
L52	N19°02'39"W	12.99
L53	N57°40'59"W	85.44

Adjoiner Information

- A) Bella Casa Homeowners Association Inc  
PIN: 0721909863, REID: 0439538  
DB 16826, Pg 2506, BM 2016, Pg 1360  
Zoned: MD-CZ, Use: Common Area
- B) Bella Casa Homeowners Association Inc  
PIN: 0731000924, REID: 0427371  
DB 16255, Pg 912, BM 2015, Pg 129  
Zoned: MD-CZ, Use: Common Area
- C) Marc Chadwick  
PIN: 0731001666, REID: 0427359  
DB 17636, Pg 965, BM 2015, Pg 129  
Zoned: MD-CZ, Use: Single Family
- D) Thomas C & Jodi L Clark  
PIN: 0731003635, REID: 0427358  
DB 16386, Pg 2162, BM 2015, Pg 129  
Zoned: MD-CZ, Use: Single Family
- E) James D & Clyde L Evans  
PIN: 0731005747, REID: 0021100  
DB 3265, Pg 761  
Zoned: RR, Use: Single Family
- F) Roman Catholic Diocese of Raleigh LLC  
PIN: 0731006698, REID: 0191290  
DB 13301, Pg 659, BM 2008, Pg 2094  
Zoned: RR, Use: Vacant
- G) Roman Catholic Diocese of Raleigh LLC  
PIN: 0731101525, REID: 0379146  
DB 13301, Pg 659, BM 2012, Pg 830  
Zoned: RR, Use: Church
- H) Western Wake Bible Chapel  
PIN: 0731009204, REID: 0145652  
DB 17026, Pg 2586, BM 1981, Pg 154  
Zoned: RR, Use: Vacant

- LEGEND**
- NAIL FOUND
  - IRON PIPE/PIN FOUND
  - ⊙ COMPUTED POINT
  - BM BOOK OF MAPS
  - DB DEED BOOK
  - N/F NOW OR FORMERLY
  - R/W RIGHT OF WAY
  - POC POINT OF COMMENCEMENT
  - POB POINT OF BEGINNING
  - EIP EXISTING IRON PIPE
  - ERRS EXISTING RAILROAD SPIKE
  - EPK EXISTING PK NAIL
  - BOUNDARY LINE
  - - - EXISTING PROPERTY LINE
  - - - EASEMENT LINE
  - - - NEW CORPORATE LIMITS
  - - - EXISTING CORPORATE LIMITS
  - ANNEXATION AREA

Adjoiner Information

- H) Western Wake Bible Chapel  
PIN: 0731009204, REID: 0145652  
DB 17026, Pg 2586, BM 1981, Pg 154  
Zoned: RR, Use: Vacant
- I) Joyce Kelly  
PIN: 0730093122, REID: 0049223  
DB 1769, Pg E  
Zoned: RR, Use: Single Family
- J) Miller Land Group LLC  
PIN: 0720999210, REID: 0087305  
DB 17412, Pg 99  
Zoned: B1, Use: Business
- K) Downtown Friendship LCC  
PIN: 0720988948, REID: 0031759  
DB 18566, Pg 168  
Zoned: TF-CZ, Use: Vacant
- L) Downtown Friendship LCC  
PIN: 0720985958, REID: 0067365  
DB 18877, Pg 2622  
Zoned: MORR-CZ, Use: Single Family
- M) David Ray Powell  
PIN: 0720993254, REID: 0071500  
DB 5746, Pg 146  
Zoned: RR, Use: Vacant

'POC'  
3/4" EIP  
'Control Corner'  
N:709673.02  
E:2028829.01

Owner Information

- REID:0193211  
Shelba W Clem, P Diane Williams & Lisa W Krummel  
3007 Buckingham Way, Apex, NC, 27502  
REID:0087601  
Annie P & Billy Stroup  
1924 Old US 1 Hwy #1S, Apex, NC, 27502  
REID:0334537  
RGNC-10, LLC  
7307 NW 122nd Avenue, Parkland, FL, 33076  
REID:0160076  
Joanne Pendergraft Hearn Heirs (Bonnie Wood)  
1115 Dycus Road, Sanford, NC, 27330  
REID:0070103  
Pamela Purefoy, Francis T Bullock & Emistine Smith  
3116 Holland Road, Apex, NC, 27502  
REID:0160074  
Johnny & Carolyn M Pendergraft  
2212 Old US 1 Hwy#1S, Apex, NC, 27502  
REID:0197638  
David Ray Powell  
861 Bethlehem Church Rd, Youngsville NC, 27596

N/F  
Terry G & Tina L Withoutukas  
PIN: 0721907619  
REID: 0439529  
DB 17010, Pg 2455  
BM 2016, Pg 1360  
Zoning: MD-CZ  
Use: Vacant

N/F  
Daniel R & Ellen R Griffin  
PIN: 0721908740  
REID: 0439528  
DB 16994, Pg 472  
BM 2016, Pg 1360  
Zoning: MD-CZ  
Use: Vacant

N/F  
Elizabeth G &  
Elizabeth R Clark  
PIN: 0721902492  
REID: 0296870  
DB 16788, Pg 681  
Zoning: RR  
Use: Vacant

TOA Sanitary Sewer Easement  
DB 18051, Pg 1398

10' Temporary Construction Easement  
DB 18051, Pg 1398

N/F  
Johnny & Carolyn  
Pendergraft  
PIN: 0730091779  
REID: 0160074  
DB 8718, Pg 1292  
BM 2000, Pg 1931  
Zoning: PUD-CZ  
Use: Single Family

N/F  
Joann Hearn  
Pendergraft Heirs  
PIN: 0731001087  
REID: 0160076  
DB 16-E, Pg 835  
BM 2005, Pg 1522  
Zoning: PUD-CZ  
Use: Single Family

**Annexation Area**  
REID:0193211, 0087601,  
0334537, 0160076, 0070103,  
0160074 & 0197638  
**1,224,197 sf**  
**28.1036 ac**

**TOTAL Annexation Area**  
**1,283,687 sf**  
**29.4692 ac**

N/F  
David R Powell  
PIN: 0720998487  
REID: 0197638  
DB 5746, Pg 146  
BM 2013, Pg 1405  
Zoning: PUD-CZ  
Use: Single Family

N/F  
Shelba W Clem,  
Diane P Williams &  
Lisa W Krummel  
PIN: 0720992587  
REID: 0193211  
DB 16078, Pg 788  
BM 1992, Pg 933  
Zoning: PUD-CZ  
Use: Single Family

CP&L Easement  
DB 9605, Pg 100

Temporary Construction Easement  
DB 9605, Pg 100

Apex Joint Electric & Water Easement  
DB 13089, Pg 755 / DB 15023, Pg 766  
DB 15071, Pg 438 / BM 2017, Pg 902

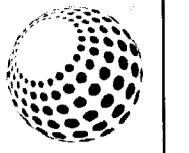
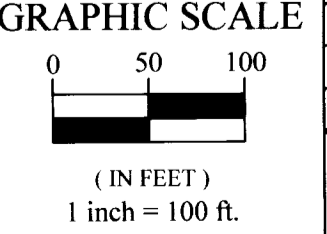
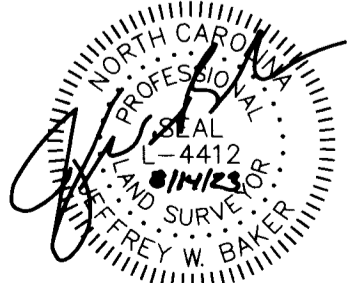
Apex Water Utility &  
Temporary Construction Easement  
DB 13089, Pg 755

NC DOT Utility Easement  
BM 2017, Pg 902

Slope Easement  
DB 15536, Pg 1602  
BM 2013, Pg 1405

Temporary Construction Easement  
DB 15536, Pg 1602  
BM 2013, Pg 1405

**Annexation Area #1**  
**23,462 sf**  
**0.5386 ac**



**Bateman Civil Survey Company**  
Engineers • Surveyors • Planners  
2524 Reliance Ave., Apex, NC 27539  
Phone: 919.577.1080 Fax: 919.577.1081  
NCBELS FIRM No. C-2378

**ANNEXATION MAP**  
**For The Town of Apex**  
Buckhorn Township / Wake County / Apex / North Carolina  
REID:0193211, 0087601, 0334537, 0160076, 0070103, 0160074 & 0197638

Rev: 8/27/23  
Drawn: JCH  
Checked: JWB  
Scale: 1"=100'  
Date: 5/31/2023  
Project: 210357

**2 of 2**



# 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 #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

Fee Paid \$ \_\_\_\_\_

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

See Attached List	See Attached List
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

## SURVEYOR INFORMATION

Surveyor: Bateman Civil Survey Company (attn: Steven Carson and Josh Davidson)

Phone: (919) 577-1080 Fax: (919)577-1081

E-mail Address: steven@batemancivilsurvey.com; josh@batemancivilsurvey.com

## ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>29.4692</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>10</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>5</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>120 max</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>PUD-CZ</u>	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 #: 2023-012

Submittal Date: 6/1/23

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, RGNC-10 a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 6 day of May, 2023

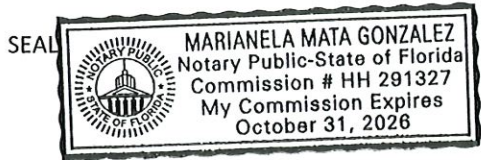
Name of Limited Liability Company RGNC-10 LLC

By: [Signature]  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE Broward

Sworn and subscribed before me, Marianela Mata G, a Notary Public for the above State and County, this the 06 day of May, 2023.

[Signature]  
Notary Public



My Commission Expires: 10/31/2026

COMPLETE IF IN A PARTNERSHIP

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

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.)

David R Powell

Please Print

[Signature]

Signature

DIANE BALDERSON

Please Print

[Signature]

Signature

Please Print

Signature

Please Print

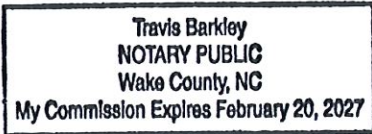
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, TRAVIS BARKLEY, a Notary Public for the above State and County,  
this the 10th day of MAY, 2023

[Signature]  
Notary Public

SEAL



My Commission Expires: FEB 20, 2027

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

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

President (Signature)

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

Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Estate of Joan Pendergrift Hearn Bonnie A. Wood executor  
Please Print Signature

by  
Please Print

Bonnie H. Wood,  
Executor

Signature

Please Print

Signature

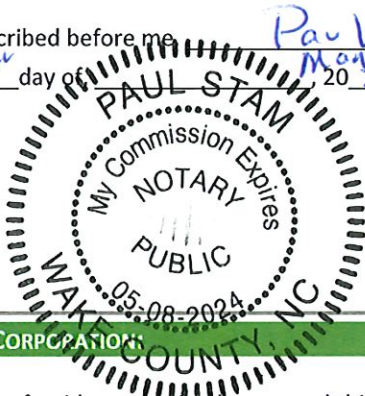
Please Print

Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Paul Stam, a Notary Public for the above State and County,  
this the 10<sup>th</sup> day of May, 2023

SEAL



Paul Stam  
Notary Public

My Commission Expires: May 8, 2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

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

President (Signature)

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

Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Johnny Pendergraft

Please Print

Johnny Pendergraft

Signature

Carolyn Pendergraft

Please Print

Carolyn Pendergraft

Signature

Please Print

[Signature]

Signature

Please Print

Signature

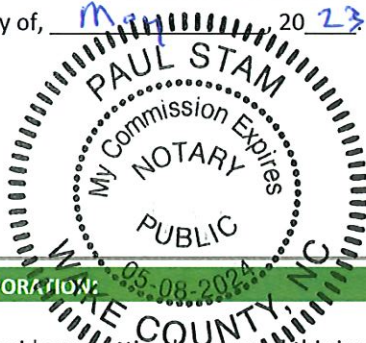
STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Paul Stam, a Notary Public for the above State and County,  
this the 10<sup>th</sup> day of May, 2023.

[Signature]

Notary Public

SEAL



My Commission Expires: May 8, 2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

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

President (Signature)

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

Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Fionneka Purefoy  
Please Print

*Fionneka Purefoy*  
Signature

Crystal Purefoy  
Please Print

*Crystal Purefoy*  
Signature

\_\_\_\_\_  
Please Print

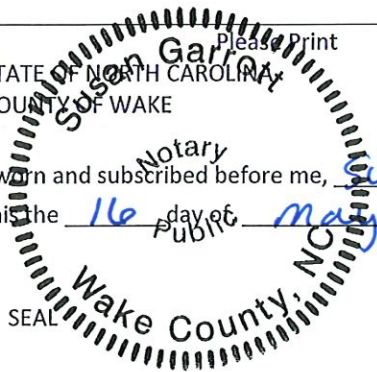
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Susan Garrott, a Notary Public for the above State and County,  
this the 16 day of May, 2023.



*Susan Garrott*  
Notary Public

My Commission Expires: 12/2/2024

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.)

Nelson R Smith  
Please Print

*Nelson R Smith*  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, CARL D. DOUGLAS a Notary Public for the above State and County,  
this the 9 day of MAY, 2023

*Carl D. Douglas*  
Notary Public

SEAL  
4 April 2024

My Commission Expires: 4 APRIL 2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

By: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Shane B. Walker  
Please Print

Shane B. Walker  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

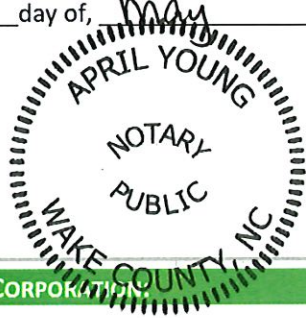
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Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, April Young, a Notary Public for the above State and County,  
this the 19 day of May, 2023.

SEAL



April Young  
Notary Public

My Commission Expires: 2/13/2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

By: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

SEAL

\_\_\_\_\_  
Notary Public

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.)

Pamela Diane Williams  
Please Print

PAMELA DIANE WILLIAMS  
Signature

Lisa Krummel  
Please Print

Lisa Krummel  
Signature

Shelba W. Clem  
Please Print

Shelba W. Clem  
Signature

Jeff Krummel  
Please Print

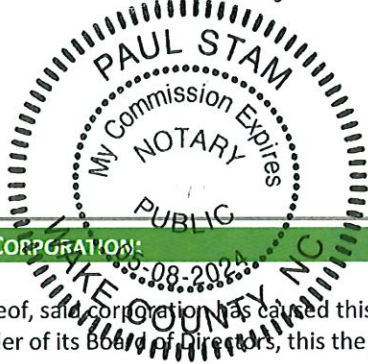
Jeff Krummel  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Paul Stam, a Notary Public for the above State and County,  
this the 15 day of May, 2023

Paul Stam  
Notary Public

SEAL



My Commission Expires: My 8, 2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

By: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Billy Edwin Stroup

Please Print

*[Handwritten Signature]*

Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

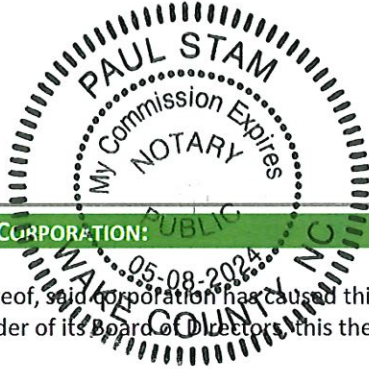
STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Paul Stam, a Notary Public for the above State and County,  
this the 10<sup>th</sup> day of May, 2023

*[Handwritten Signature]*

Notary Public

SEAL



My Commission Expires: May 8, 2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

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

President (Signature)

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

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

PETITION FOR VOLUNTARY ANNEXATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Frances T. Bullock  
Please Print

Frances T. Bullock  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Frances T. Bullock a Notary Public for the above State and County,  
this the 16 day of May, 2023.

Shirley S. Harris  
Notary Public

SEAL

My Commission Expires: 3-28-2026

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

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

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: \_\_\_\_\_

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Amanda Grogan, Director

Department(s): Budget & Performance Management

### Requested Motion

Motion to adopt Budget Ordinance Amendment No. 6 for the purchase order carryovers from Fiscal Year 2023.

### Approval Recommended?

Yes

### Item Details

The town's purchase order (PO) cut off procedure helps the organization focus on that particular fiscal year's critical work and service provision. All expenditures paid and POs issued directly affect the town's fund balance policy calculations. Revenues of that fiscal year should be matched with expenditures of that same fiscal year.

Any PO's issued within an annual budget (General Fund, Water/Sewer Fund, Electric Fund, etc.) should only be issued with the intent that the service will be provided and product received by June 30<sup>th</sup>. Any outstanding PO is carefully reviewed by staff to determine the need to carry it over into the new fiscal year. Typically, these are for items on backorder, not yet received (e.g. electric transformers, police cars), ongoing construction projects (e.g. Public Works renovations) and ongoing professional or contracted services (e.g. Long-Range Water Resources Plan).

Budget Ordinance Amendment No. 6 appropriates the following amounts by fund for PO carryovers.

- General Fund: \$3,167,925
- Affordable Housing: \$350,000
- Electric Fund: \$1,215,259
- Water Sewer Fund: \$1,574,097
- Total: \$6,307,281

## Attachments

- CN5-A1: Budget Ordinance Amendment No. 6 - Purchase Order (PO) Carryovers





# Town of Apex

## Budget Ordinance Amendment No. 6

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2023-2024 Budget Ordinance be adopted:

### General Fund

#### Section 1. Revenues:

Appropriated Fund Balance	\$3,167,925
<b>Total Revenues</b>	<b>\$3,167,925</b>

#### Section 2. Expenditures:

Administration	\$15,000
Information Technology	\$237,626
Budget & Performance Management	\$27,100
Finance	\$7,750
Community Development & Neighborhood Connections	\$48,500
Planning	\$3,906
Facility Services	\$266,369
Police	\$156,867
911 Communications	\$21,127
Fire & Rescue	\$791,448
Transportation & Infrastructure Development	\$244,950
Streets	\$585,971
Solid Waste	\$299,892
Parks & Recreation	\$171,775
Special Appropriations - Apex Customer Assistance	\$289,645
<b>Total Expenditures</b>	<b>\$3,167,925</b>

### Affordable Housing Fund

#### Section 3. Revenues:

Appropriated Fund Balance	\$350,000
<b>Total Revenues</b>	<b>\$350,000</b>

#### Section 4. Expenditures:

Affordable Housing Fund	\$350,000
<b>Total Expenditures</b>	<b>\$350,000</b>

### Electric Fund

#### Section 5. Revenues:

Appropriate Fund Balance	\$1,215,259
<b>Total Revenues</b>	<b>\$1,215,259</b>

#### Section 6. Expenditures:

Electric Utility	\$1,215,259
------------------	-------------

**Total Expenditures**

**\$1,215,259**

**Water & Sewer Fund**

**Section 7. Revenues:**

Appropriated Fund Balance	\$1,448,121
<b>Total Revenues</b>	<b>\$1,448,121</b>

**Section 8. Expenditures:**

Water/Sewer Administration	\$133,052
Water Maintenance	\$230,637
Sewer Treatment	\$67,366
Sewer Maintenance	\$1,017,066
<b>Total Expenditures</b>	<b>\$1,448,121</b>

**Stormwater Fund**

**Section 9. Revenues:**

Appropriate Fund Balance	\$125,976
<b>Total Revenues</b>	<b>\$125,976</b>

**Section 10. Expenditures:**

Stormwater Utility	\$125,976
<b>Total Expenditures</b>	<b>\$125,976</b>

**Section 11.** Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 22nd day of August, 2023.

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: August 22, 2023

## Item Details

Presenter(s): Adam Stephenson, Transportation Engineering Manager

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to adopt Budget Ordinance Amendment No. 7 appropriating funds to construct a gravel parking lot and pedestrian improvements on Moore Street.

### Approval Recommended?

Yes

### Item Details

Project involves minor grading and installation of gravel and curb stops for 73 parking spaces on Moore Street adjacent to, Owner: Trustees of the Holland Family Trust, PIN#0741396899, in CSX Transportation right of way. Curb ramps, pavement markings, and delineators will be added to establish an accessible pedestrian access route to Salem St.

The lease agreement was approved by Council on May 23, 2023.

### Attachments

- CN6-A1: Budget Ordinance Amendment No. 7 - Moore Street Parking
- CN6-A2: Project Map - Budget Ordinance Amendment No. 7 - Moore Street Parking
- CN6-A3: Lease Agreement (CONT-2023-134 - Approved May 23, 2023) - Budget Ordinance Amendment No. 7 - Moore Street Parking







---

# Town of Apex

## Budget Ordinance Amendment No. 7

---

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2023-2024 Budget Ordinance be adopted:

### **General Fund**

#### **Section 1. Revenues:**

10-0000-39902: Fund Balance Appropriated - Amended	\$100,000
<b>Total Revenues</b>	<b>\$100,000</b>

#### **Section 2. Expenditures:**

10-5400-47300: Capital Outlay - Improvements	\$100,000
<b>Total Expenditures</b>	<b>\$100,000</b>

**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 22nd day of August, 2023.

Attest:

---

Jacques K. Gilbert, Mayor

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Allen L. Coleman, CMC, NCCCC  
Town Clerk





CONT-2023-134

**AMENDMENT AGREEMENT**

THIS AMEDMENT AGREEMENT, made and this 14th day of June, 2023, by and between CSX TRANSPORTATION, a corporation of the state of Virginia, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Lessor" and TOWN OF APEX, NORTH CAROLINA, whose mailing address is P.O. Box 250, Apex, North Carolina 27502 hereinafter called "Lessee" WITNESSETH:

Vsqurd

WHEREAS, Lessor and Lessee entered into a Land Lease (the "Lease"), dated January 1, 2010 to lease 0.46 acres of land at Apex, Wake County, North Carolina for the purpose of paved parking and curbing and providing public parking and no other purpose.

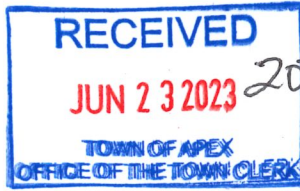
WHEREAS, Lessee desires and Lessor agrees to supplement, modify and amend the Lease as provided hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein contained, the parties agree this Amendment Agreement, effective the date first written above will serve to amend the Lease as follows:

1. Exhibit A dated 12/07/2016 as referenced in the Lease shall be deleted in its entirety and replaced with Exhibit A dated 1/12/2023, revised 2/21/2023, attached hereto and made a part hereof.
2. The Premises shall be increased to now include four (4) parcels of land described as follows:  
Four (4) irregularly shaped parcels of land, containing a total of 1.45 acres, more or less, situation on each side of Lessor's tracks, beginning at Mile Post 17.23 and ending at Milepost 17.54, at or near Apex, Wake County, North Carolina.
3. The annual Base Rental shall increase from \$10,000 per year to \$20,000 per year.

Except as provided in this Amendment Agreement, all other terms and conditions of the Lease shall remain in effect.

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PS - FORM 300356SNA  
REVISED APRIL 3, 2008  
AGREEMENT NO. CSX869918  
SITE ID: NC-183-1108086

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly signed, sealed and delivered in duplicate.

Witness for Lessor:

CSX TRANSPORTATION, INC.

Hansen P. Clarke

By: [Signature]

Print/Type Name: Daniel D'Amico

Print/Type Title: Director

Witness for Lessee :

TOWN OF APEX, NORTH CAROLINA

[Signature]

By: [Signature]

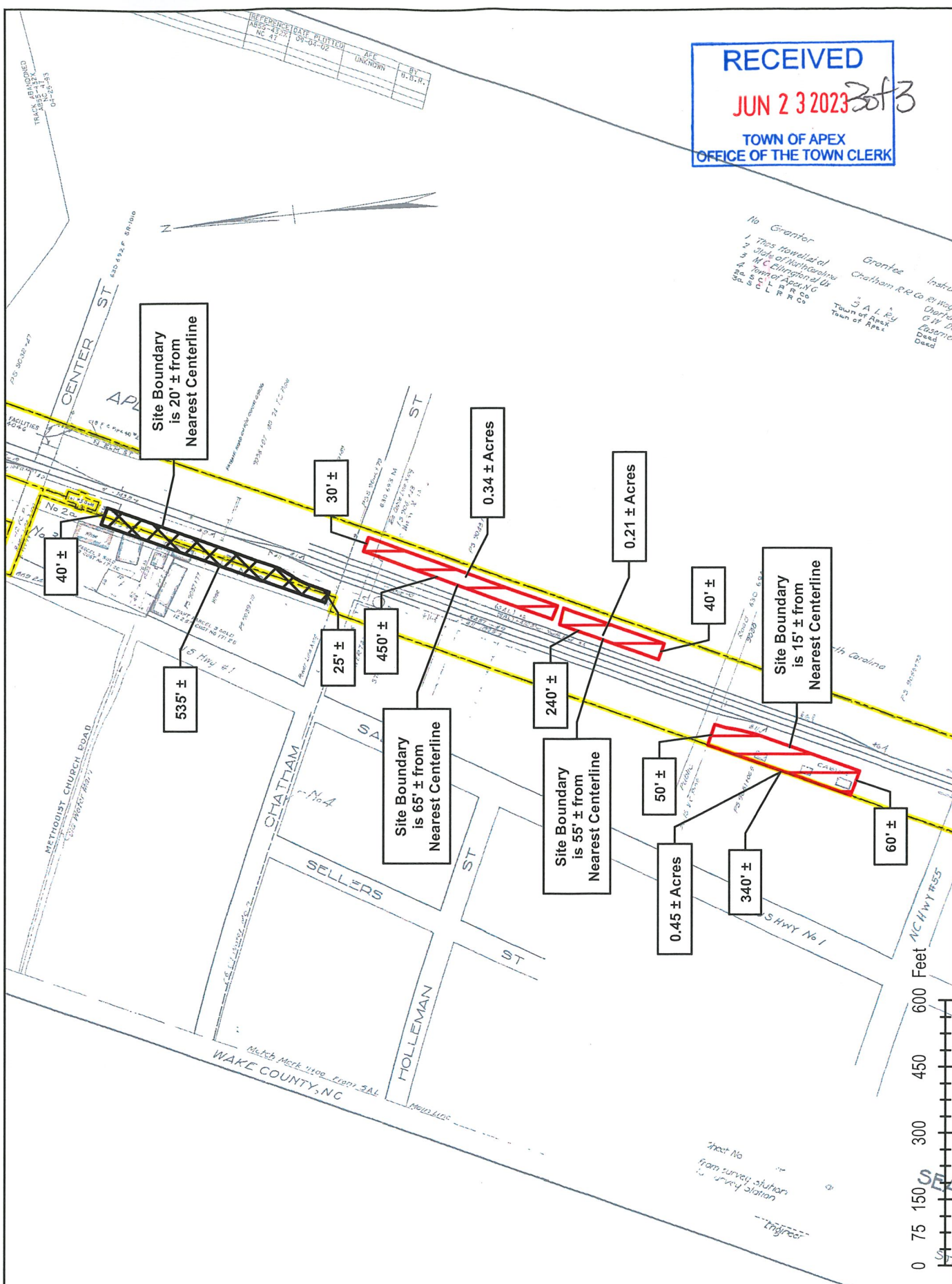
Print/Type Name: Catherine Crosby

Print/Type Title: Town Manager








1" = 300'



RECEIVED  
JUN 23 2023 303  
TOWN OF APEX  
OFFICE OF THE TOWN CLERK

THIS RAILROAD MAP EXHIBIT GRAPHICALLY REPRESENTS A PROPOSED REAL ESTATE TRANSACTION. IT MAY NOT REFLECT CURRENT "ON THE GROUND" CONDITIONS AND/OR ACTUAL LOCATIONS OF FEATURES. ALL DIMENSIONS, OFFSET DISTANCES, AREA CALCULATIONS AND MEASUREMENT NOTATIONS SHOWN ON THIS EXHIBIT ARE APPROXIMATE.

-  Leased Premises - 0.45 ± Acres
-  Additional Leased Parcels - 1.00 ± Acres
-  CSX Ownership / Rights

REGION: S ZONE: CAROLINAS  
SUBDIVISION: ABERDEEN  
DATE: 01/12/2023  
REVISED: 02/21/2023  
DRAWN BY: o7525

CSX TRANSPORTATION, INC.  
W. MOORE STREET  
SITE: NC-183-1108086  
WAKE COUNTY - APEX, NC  
MILEPOST: S 171.23 - S 171.54

TRUCK ABANDONED  
APR 1981 - 172  
01-25-83

REFERENCE	DATE	PROJECT	APP	BY
NC 47	09-04-02	APX	UNKNOWN	D. B. H.

No Grantor

1. The Honorable
2. State of North Carolina
3. M. C. Ellington, Jr. Gov.
4. Town of Apex, N.C.
5. S. C. L. R. Co.
6. S. C. L. R. Co.

Grantee

Chatham R.R. Co. et al

Instr.

J. A. L. Key

Town of Apex

Chatham R.R. Co.

0.11.02

2002

Dead

WAKE COUNTY GIS DEPARTMENT



Real Estate & Facilities Management  
 500 Water Street J180  
 Jacksonville, FL 32202

FIRST-CLASS  
 COMM NONAUTO  
 PRSRT LTR



US POSTAGE<sup>TM</sup> PITNEY BOWES



ZIP 32202 \$ 000.54<sup>6</sup>  
 02 7W  
 0008027351 JUN 20 2023

OFFICE OF THE TOWN CLERK  
 Town of Apex, North Carolina  
 C/O Allen Coleman, Town Clerk  
 P.O. Box 250  
 Apex, NC 27502



182 ERCUNMP 27502



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Marty Stone, P.E., Assistant Town Manager

Department(s): Town Managers Office

### Requested Motion

Motion to adopt Budget Ordinance Amendment No. 8 that appropriates funds to pay amounts due under the second amendment to the Utility Infrastructure Reimbursement Agreement with Meritage Homes of Carolinas, Inc. and authorizes a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment.

### Approval Recommended?

Yes

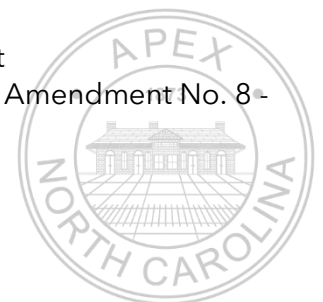
### Item Details

The Town of Apex and Meritage Homes of Carolinas, Inc. executed an amendment to the original Utility Infrastructure Agreement on August 21, 2018. Under the terms of that agreement, Meritage Homes of Carolinas, Inc. is ultimately due either 20% of the new Capital Reimbursement Fees or the old acreage fees that were in the original Developer's Agreement, whichever is greater, up to the final approved actual construction cost of \$5,559,960.25. In this case, the acreage fees are the basis for reimbursement. The calculated reimbursement due is \$45,489.40 as shown on the attached spreadsheet. After this payment, the balance of eligible reimbursement is \$4,617,871.09, which may be paid in the future as benefited lands develop.

Funds for the reimbursement will be covered by a transfer from the Water Sewer HB 463 Capital Reserve Fund.

### Attachments

- CN7-A1: Budget Ordinance Amendment No. 8 - Deer Creek Reimbursement
- CN7-A2: Credits & Fees for Deer Creek Reimbursement - Budget Ordinance Amendment No. 8 - Deer Creek Reimbursement





# Town of Apex

## Budget Ordinance Amendment No. 8

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2023-2024 Budget Ordinance be adopted:

### Water Sewer HB 463 Capital Reserve Fund

#### Section 1. Revenues:

Appropriated Fund Balance	\$45,490
<b>Total Revenues</b>	<b>\$45,490</b>

#### Section 2. Expenditures:

Transfer to Water Sewer Fund	\$45,490
<b>Total Expenditures</b>	<b>\$45,490</b>

### Water Sewer Fund

#### Section 3. Revenues:

Transfer from Water Sewer HB 463 Capital Reserve Fund	\$45,490
<b>Total Revenues</b>	<b>\$45,490</b>

#### Section 4. Expenditures:

Water Maintenance Capital Improvements	\$22,745
Sewer Maintenance Capital Improvements	\$22,745
<b>Total Expenditures</b>	<b>\$45,490</b>

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

Adopted this the 22nd day of August, 2023.

Attest:

\_\_\_\_\_  
Jacques K. Gilbert, Mayor

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk



**Credits and Fees for Deer Creek Reimbursement through June 30, 2023**

**Deer Creek - 100% CO'd**

Plat	Total Acreage	# Units	Water CRF Paid	Potential Water Acreage Fees	Sewer CRF Paid	Potential Sewer Acreage Fees	Date Paid	Date Plat Recorded	Applicable Acreage Fee for Each Water & Sewer (\$/ac)
Ph 1	26.84	62	\$ 202,616.00	\$ 59,853.20	\$ 218,054.00	\$ 59,853.20	11/13/2017	2/23/2018	\$ 2,230.00
Ph 2	8.23	47	\$ 153,596.00	\$ 18,352.90	\$ 165,299.00	\$ 18,352.90	11/13/2017	6/7/2018	\$ 2,230.00
Ph 3	18.21	58	\$ 103,414.00	\$ 40,608.30	\$ 213,150.00	\$ 40,608.30	11/5/2018	6/19/2020	\$ 2,230.00
Ph 4	4.85	23	\$ 75,164.00	\$ 10,815.50	\$ 80,891.00	\$ 10,815.50	5/8/2018	1/17/2019	\$ 2,230.00
Ph 5	6.74	42	\$ 137,256.00	\$ 15,030.20	\$ 147,714.00	\$ 15,030.20	5/8/2018	1/17/2019	\$ 2,230.00
Ph 6	16.69	22	\$ 39,226.00	\$ 37,218.70	\$ 80,850.00	\$ 37,218.70	7/9/2018	7/10/2018	\$ 2,230.00
<b>Totals</b>	<b>81.56</b>	<b>254</b>	<b>\$ 711,272.00</b>	<b>\$ 181,878.80</b>	<b>\$ 905,958.00</b>	<b>\$ 181,878.80</b>			
20%			\$ 142,254.40		\$ 181,191.60				

\*Acreage fees in effect at the time of approval FY 2015/2016 Fee Schedule

**Benefited Land- Retreat at Cedar Crossing**

Plat	Total Acreage	# Units	Water CRF Paid thru 6/30/23	Potential Water Acreage Fees	Sewer CRF Paid thru 6/30/23	Potential Sewer Acreage Fees	Date Paid	Date Plat Recorded	Applicable Acreage Fee for Each Water & Sewer (\$/ac)
Ph 1	7.394	24	\$ 41,009.00	\$ 18,078.33	\$ 84,525.00	\$ 18,078.33	At Permit	4/20/2021	\$ 2,445.00
Ph 2	7.097	22	\$ 39,226.00	\$ 17,352.17	\$ 80,850.00	\$ 17,352.17	At Permit	8/3/2021	\$ 2,445.00
Ph 3	22.051	42	\$ 74,886.00	\$ 55,789.03	\$ 154,350.00	\$ 55,789.03	At Permit	1/12/2022	\$ 2,530.00
<b>Totals</b>	<b>36.542</b>	<b>88</b>	<b>\$ 155,121.00</b>	<b>\$ 91,219.53</b>	<b>\$ 319,725.00</b>	<b>\$ 91,219.53</b>			
20%			\$ 31,024.20		\$ 63,945.00				

**Benefited Land- Willow Hills**

Plat	Total Acreage	# Units	Water CRF Paid thru 6/30/23	Potential Water Acreage Fees	Sewer CRF Paid thru 6/30/23	Potential Sewer Acreage Fees	Date Paid	Date Plat Recorded	Applicable Acreage Fee for Each Water & Sewer (\$/ac)
Ph 1	19.59	17	\$ 30,311.00	\$ 47,897.55	\$ 62,475.00	\$ 47,897.55	At Permit	5/5/2021	\$ 2,445.00
Ph 2	26.11	27	\$ 46,358.00	\$ 63,838.95	\$ 95,550.00	\$ 63,838.95	At Permit	10/1/2021	\$ 2,445.00
Ph 3	25.085	26	\$ 46,358.00	\$ 63,465.05	\$ 95,550.00	\$ 63,465.05	At Permit	2/8/2022	\$ 2,530.00
<b>Totals</b>	<b>70.785</b>	<b>70</b>	<b>\$ 123,027.00</b>	<b>\$ 175,201.55</b>	<b>\$ 253,575.00</b>	<b>\$ 175,201.55</b>			
20%			\$ 24,605.40		\$ 50,715.00				

**Benefited Land- Triangle Math & Science**

Plat	Total Acreage	# Units	Water CRF Paid thru 6/30/23	Potential Water Acreage Fees	Sewer CRF Paid thru 6/30/23	Potential Sewer Acreage Fees	Date Paid	Date Plat Recorded	Applicable Acreage Fee for Each Water & Sewer (\$/ac)
Elementary	8.99	1	\$ 19,019.00	\$ 22,744.70	\$ 39,195.00	\$ 22,744.70	At Permit	2/8/2022	\$ 2,530.00
High School	17.54	1							
<b>Totals</b>	<b>26.53</b>	<b>1</b>	<b>\$ 19,019.00</b>	<b>\$ 22,744.70</b>	<b>\$ 39,195.00</b>	<b>\$ 22,744.70</b>			
20%			\$ 3,803.80		\$ 7,839.00				

**CREDITS TO DATE SUMMARY:**

DESCRIPTION	WATER	SEWER	TOTAL
Deer Creek Maximum Potential Credit	\$ 1,404,997.48	\$ 4,154,962.77	\$ 5,559,960.25
20% CRFs Value	\$ 201,687.80	\$ 303,690.60	\$ 505,378.40
Potential Acreage Fees	\$ 471,044.58	\$ 471,044.58	\$ 942,089.16
Total Reimbursement Eligible as of 6/30/23	\$ 471,044.58	\$ 471,044.58	\$ 942,089.16
Less 1st Reimbursement Payment on 11/14/18 (Ck# 232828)	\$ (134,921.69)	\$ (134,921.69)	\$ (269,843.38)
Less 2nd Reimbursement Payment on 12/03/21 (EFT)	\$ (194,124.11)	\$ (194,124.10)	\$ (388,248.21)
Less 3rd Reimbursement Payment on 8/22/22 (Ck# 257287)	\$ (119,254.08)	\$ (119,254.09)	\$ (238,508.17)
			\$ -
<b>Reimbursement Due through 6/30/23</b>		\$ 22,744.70	\$ 45,489.40
BALANCE OF REMAINING POTENTIAL CREDITS AFTER THIS REIMBURSEMENT		\$ 3,683,918.19	\$ 4,617,871.09

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Russell Dalton, P.E., Traffic Engineering Manager

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to adopt Capital Project Ordinance Amendment No. 2024-4 for up to \$1,075,200 in federal funds reimbursement toward a total estimate cost of \$1,344.00 for utility relocation and construction of South Saunders Street and Hinton Street Sidewalk, requiring a minimum 20% local cost match of \$268,800.

### Approval Recommended?

Yes

### Item Details

The Agreement between North Carolina Department of Transportation (NCDOT) and Town of Apex was approved at the Regular Town Council Meeting on August 8, 2023. However, the Capital Project Ordinance Amendment No. 2024-4 was not made part of the motion that goes with the Agreement. Therefore, this action is to clarify and correct the intended action of consent item no. 11 from the August 8<sup>th</sup> meeting. Additional background is included below:

This agreement is required to receive federal funds reimbursement at an 80% federal/20% local cost match for up to \$1,344,000 in total expenses toward utility relocation and construction of approximately 2,065 linear feet of 5-foot concrete sidewalk along Saunders Street and Hinton Street as well as a short segment of sidewalk along W Chatham Street. Construction of sidewalk will include installation of approximately 1,285 feet of curb and gutter along the sidewalk. As typical for this type of agreement, if the total cost exceeds the estimated cost then additional local funds would be needed to cover that shortfall at 100%, unless supplemental federal funds can be allocated to the project subject to approval by the Executive Board of the Capital Area Metropolitan Planning Organization and NCDOT, in which case a minimum 50% local cost match would be required for supplemental funds.

Although an estimate of NCDOT staff review and inspections time has been factored into the overall cost estimate, and NCDOT will set aside \$134,400 (10% of estimated total budget) toward that expense, if

NCDOT internal charges exceed available funds then Apex is responsible for reimbursement of 100% of those charges in excess of available funds. Additionally, per the Agreement: *The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.*

#### Attachments

- CN8-A1: Capital Project Ordinance Amendment No. 2024-4 - Saunders Street and Hinton Street Sidewalk Project
- CN8-A2: Agreement w-North Carolina Department of Transportation - Saunders Street and Hinton Street Sidewalk Project - (approved August 8, 2023)
- CN8-A3: Project Map Saunders Street and Hinton Street Sidewalk Project





# Town of Apex

## CAPITAL PROJECT ORDINANCE AMENDMENT 2024-4

### 63 - Street Improvements Capital Project Fund

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

**Section 1. The revenues anticipated for the projects are:**

9250-1125-33250 - Federal Grants	1,075,200
<b>Total Revenues</b>	<b>\$1,075,200</b>

**Section 2. The expenditures anticipated are:**

9250-1125-33250: Saunders & Hinton Sidwalk	1,075,200
<b>Total Expenditures</b>	<b>\$1,075,200</b>

**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 22nd day of August, 2023.

Attest:

\_\_\_\_\_  
Jacques K. Gilbert, Mayor

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

# Executive Summary

The Executive Summary is a summation of this agreement and is not intended to be used as the agreement between the Department (North Carolina Department of Transportation) and the Party (Entity).

**Entity:** Town of Apex

**County:** Wake

**TIP:** BL-0095

**Project:** Saunders Street and Hinton Street Sidewalk

**Scope:** the construction of approximately 2,065 linear feet of 5-foot, concrete sidewalk along Saunders Street and Hinton Street as well as a short segment along W Chatham Street. Construction of sidewalk will include installation of approximately 1,285 feet of curb and gutter along the sidewalk.

**Eligible Activities:**

<b>PE</b>	_____	Design
		Environmental
<b>ROW/UTIL</b>	_____	ROW Acquisition
	50783.2.2	Utility Relocation
<b>CON</b>	50783.3.1	Construction
<b>OTHER</b>	_____	
<b>FEDERAL-AID</b>	5078311	

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
STP-DA	\$1,075,200	80 %	\$268,800	20 %
<b>Total Available Funding</b>		<b>\$1,344,000</b>		

**Responsibility:** The Town of Apex shall be responsible for all aspects of the project.

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -  
FEDERAL**

WAKE COUNTY

DATE: 7/27/2023

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: BL-0095

AND

WBS Elements: PE \_\_\_\_\_

ROW \_\_\_\_\_

UTIL 50783.2.2

CON 50783.3.1

TOWN OF APEX

OTHER FUNDING: \_\_\_\_\_

FEDERAL-AID NUMBER: 5078311

CFDA #: 20.205

Total Funds [NCDOT Participation] \$1,075,200

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Apex, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, the Infrastructure Investment and Jobs Act (IIJA) allows for the allocation of federal funds to be available for certain specified transportation activities; and,

WHEREAS, the Municipality has requested federal funding for Saunders Street and Hinton Street Sidewalk, hereinafter referred to as the Project, in Wake County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$1,075,200 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

## **1. GENERAL PROVISIONS**

### **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

### **AGREEMENT MODIFICATIONS**

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a Supplemental Agreement.

### **LOCAL PUBLIC AGENCY TO PERFORM ALL WORK**

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

### **PERSON IN RESPONSIBLE CHARGE**

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day-to-day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

#### **COMPLIANCE WITH STATE/FEDERAL POLICY**

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

#### **FAILURE TO COMPLY - CONSEQUENCES**

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

## **2. SCOPE OF PROJECT**

The Project consists of the construction of approximately 2,065 linear feet of 5-foot, concrete sidewalk along Saunders Street and Hinton Street as well as a short segment along W Chatham Street. Construction of sidewalk will include installation of approximately 1,285 feet of curb and gutter along the sidewalk.



The Department's funding participation in the Project shall be restricted to the following eligible items:

- Utility Relocation
- Construction

as further set forth in this Agreement.

### 3. FUNDING

#### PROGRAMMING AND AUTHORIZATION OF FEDERAL FUNDS

The funding currently programmed for the project in the State Transportation Improvement Program (STIP) is STBG-DA. The funding source may be modified with the coordination and approval of the respective Metropolitan Planning Organization (MPO) and/or the Department prior to authorization of funds. The Department will authorize and reimburse federal funding based on the type of federal funding that is programmed in the STIP at the time of the authorization request. The Department will notify the Municipality of the type of federal funds authorized by issuing a Technical Amendment – Funds Authorization letter. A modification in the source of funds will have no effect on project responsibilities outlined in this agreement.

#### REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse (80%) of eligible expenses incurred by the Municipality up to a maximum amount of One Million Seventy-Five Thousand Two Hundred Dollars (\$1,075,200), as detailed below. The Municipality shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total available funding.

#### FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
STP-DA	\$1,075,200	80%	\$268,800	20%
<b>Total Available Funding</b>		<b>\$1,344,000</b>		

## **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the Municipality under this Agreement. The Department will set aside, but is not limited to, ten percent (10%) of the total available funding, or \$134,400, to use towards the costs related to review and oversight of this Project. These costs may include but are not limited to: review and approval of plans, environmental documents, contract proposals, and engineering estimates; performance of any phase of work, for example, contract administration or construction engineering and inspection; oversight of any phases; or any other items as needed to ensure the Municipality's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the Municipality at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the Municipality or by the Department, the Municipality shall provide the non-federal match. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

## **4. PERIOD OF PERFORMANCE**

The Municipality has five (5) years to complete all work outlined in the Agreement from the date of authorization of Federal funds for the initial phase of work. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

If additional time is needed to complete the Project, then a supplemental agreement must be executed. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

## **5. PRELIMINARY ENGINEERING AUTHORIZATION**

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

## 6. PROFESSIONAL AND ENGINEERING SERVICES

The Municipality shall comply with the policies and procedures of this provision if the Municipality is requesting reimbursement for the Preliminary Engineering contract or the Construction Contract Administration / Construction Engineering and Inspection contract.

### PROCUREMENT POLICY

When procuring professional services, the Municipality must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64.31; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at [www.fhwa.dot.gov/legsregs/legislat.html](http://www.fhwa.dot.gov/legsregs/legislat.html) and [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department in the Work Codes advertised.
- A pre-negotiation audit will be conducted by the Department's External Audit Branch. The Municipality shall not execute a consultant contract until the Department's review has been completed.

### SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## **WORK BY ENTITY**

If the Design, Planning, Contract Administration and/or Construction Engineering and Inspection required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

## **7. PLANNING / ENVIRONMENTAL DOCUMENTATION**

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at [www.ncleg.net/gascripts/Statues/Statutes.asp](http://www.ncleg.net/gascripts/Statues/Statutes.asp) and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

## **8. DESIGN**

### **CONTENT OF PLAN PACKAGE**

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

## **9. RIGHT OF WAY / UTILITY AUTHORIZATION**

If the costs of right of way acquisition or utility relocation are an eligible expense, the Municipality shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

## **10. PROJECT LIMITS AND RIGHT OF WAY (ROW)**

The Municipality shall comply with the policies and procedures of this provision regardless of whether the Municipality is requesting reimbursement for the Right of Way phase of the Project.

### **SPONSOR PROVIDES ROW**

The Municipality, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

### **ROW GUIDANCE**

The Municipality shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm); NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp); and the North Carolina Department of Transportation Right of Way Manual.

## **APPRAISAL**

The Municipality shall submit the appraisal to the Department for review and approval in accordance with Departmental policies and procedures.

## **CLEARANCE OF PROJECT LIMITS / ROW**

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within the Department's ROW, or follow other applicable approval process, for utilities within the Municipality's ROW. The Municipality shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The Municipality shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

## **RELOCATION ASSISTANCE**

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

## **11. UTILITIES**

The Municipality, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to Municipality beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

## **12. RIGHT OF WAY / UTILITY / RAILROAD CERTIFICATION**

The Municipality, upon acquisition of all right of way/property necessary for the Project, relocation of utilities, and coordination with the railroad shall provide the Department all required documentation (deeds/leases/easement/plans/agreements) to secure certification. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document; utilities in conflict with the project are relocated, or a plan for their relocation during construction has been approved; and coordination with the railroad (if applicable) has occurred and been documented.

## **13. CONTRACT PROPOSAL AND ENGINEER'S ESTIMATE**

### **CONTRACT PROPOSAL**

The Municipality shall develop a contract proposal that will be advertised for bids. The proposal shall comply with NCDOT Specifications and Standard Drawings as applicable to the Project. The proposal shall also contain provisions, as applicable, per Title 23 Code of Federal Regulations 633 and 635 to include, but not be limited to: FHWA 1273, Buy America, Davis-Bacon Wage Rates, Non-discrimination, DBE Assurances, Contractor Certification regarding suspension and debarment, and other provisions as required by the Department.

### **ENGINEER'S ESTIMATE**

The Municipality shall develop an itemized engineer's estimate to show items referenced to the NCDOT Standard Specifications, if applicable, along with units and unit price. The engineer's estimate will be used as the basis for comparing bids received.

## **14. CONSTRUCTION AUTHORIZATION**

The Municipality shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The Municipality shall not advertise for bids prior to receiving written construction authorization from the Department.

## 15. CONTRACTOR PROCUREMENT

### ADVERTISE FOR BIDS

Upon receipt of written construction authorization from the Department, the Municipality may advertise the Project. The Municipality shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 2 of the Code of Federal Regulations, Part 200 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm); and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

### CONSTRUCTION CONTRACTOR REQUIREMENTS

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

### CONSTRUCTION SUBCONTRACTOR REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

### AWARDING CONTRACT

After the advertisement of the Project for construction bids, the Municipality shall request concurrence from the Department to award the construction contract by submitting a letter along



with tabulated bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the Municipality prior to the contract being awarded by the Municipality.

### **DELAY IN PROCUREMENT**

In the event the Project has not been let to contract within six (6) months after receiving construction authorization from the Department, the Municipality shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

### **FORCE ACCOUNT**

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference [www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm](http://www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm). North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

## **16. CONSTRUCTION**

The Municipality, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

### **CONSTRUCTION CONTRACT ADMINISTRATION**

The Municipality shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities,

project diaries, and pay records. The Municipality, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The Municipality shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

#### **RETAINAGE**

The Municipality shall not retain any portion of a payment due the contractor.

#### **SIGNAGE**

The Municipality shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

#### **SITE LAYOUT**

The Municipality shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design ([www.usdoj.gov/crt/ada/stdspdf.htm](http://www.usdoj.gov/crt/ada/stdspdf.htm)).

#### **RIGHT TO INSPECT**

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

## **CONTRACTOR COMPLIANCE**

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

## **CHANGE ORDERS**

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

## **SHOP DRAWINGS**

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

## **17. CLOSE-OUT**

Upon completion of the Project, the Municipality shall be responsible for the following:

### **FINAL INSPECTION**

The Municipality shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the Municipality. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The Municipality shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

### **FINAL PROJECT CERTIFICATION**

The Municipality will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

## **18. MAINTENANCE**

The Municipality, at no expense or liability to the Department, shall assume all maintenance responsibilities for the Saunders Street and Hinton Street Sidewalk, or as required by an executed encroachment agreement.

## 19. REIMBURSEMENT

### SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- Utility Relocation
- Construction

### REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 ([www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm)) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at [www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm). Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

### REIMBURSEMENT LIMITS

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

- **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the Municipality costs that exceed the total funding per this Agreement and any Supplemental Agreements.

- **UNSUBSTANTIATED COSTS**

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

- **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$1,075,200 available to the Municipality under this Agreement. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the agreed upon just compensation for the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the

Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

## **BILLING THE DEPARTMENT**

### **▪ PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

### **▪ INTERNAL APPROVALS**

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

### **▪ TIMELY SUBMITTAL OF INVOICES**

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

### **▪ FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

## **20. REPORTING REQUIREMENTS AND RECORDS RETENTION**

### **PROJECT EVALUATION REPORTS**

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

### **PROJECT RECORDS**

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

## **21. OTHER PROVISIONS**

### **REFERENCES**

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

### **INDEMNIFICATION OF DEPARTMENT**

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

## **DEBARMENT POLICY**

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

## **TITLE VI - CIVIL RIGHTS ACT OF 1964**

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

## **OTHER AGREEMENTS**

The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

## **AVAILABILITY OF FUNDS**

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

## **IMPROPER USE OF FUNDS**

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department will bill the Municipality.



## **TERMINATION OF PROJECT**

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

## **AUDITS**

In accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F – Audit Requirements, and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

## **REIMBURSEMENT BY MUNICIPALITY**

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

## **USE OF POWELL BILL FUNDS**

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

## **ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.

## **AUTHORIZATION TO EXECUTE**

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

## **FACSIMILE SIGNATURES**

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

## **GIFT BAN**

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

## **22. SUNSET PROVISION**

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF APEX

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

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

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Town of Apex

Remittance Address:

\_\_\_\_\_

\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_




(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: August 3, 2023 (Date)

# Saunders Street and Hinton Street Sidewalk



-  Proposed Crosswalk
-  Proposed Sidewalk
-  Existing Sidewalk



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Russell Dalton, P.E., Traffic Engineering Manager

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to adopt Capital Project Ordinance Amendment No. 2024-5 appropriating \$10M in supplemental grant funds for Apex Peakway construction at South Salem Street and CSX railroad tracks.

### Approval Recommended?

Yes

### Item Details

The \$10M is a supplemental grant to the original \$2.5M (total of \$12.5M) for the Southwest Peakway project awarded in 2022. The grant is for the construction of a grade separated interchange for the Apex Peakway at South Salem Street and the CSX railroad tracks, programmed under NCDOT Project No. U-5928. The funds are from two separate federal funding sources as outlined in the supplemental agreement and are granted as a reimbursement of 50% of the eligible expenses up to the maximum amount of \$12.5M. The amendment reflects the additional grant allocated to the project.

### Attachments

- CN9-A1: Capital Project Ordinance Amendment No. 2024-5 - Southwest Peakway Project
- CN9-A2: Supplemental Agreement with NCDOT (Approved April 26, 2022) - Capital Project Ordinance Amendment No. 2024-5 - Southwest Peakway Project





# Town of Apex

## CAPITAL PROJECT ORDINANCE AMENDMENT 2024-5

### 63 - Street Improvements Capital Project Fund

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

**Section 1. The revenues anticipated for the projects are:**

9250-1006-33250 - Federal Grants	10,000,000
<b>Total Revenues</b>	<b>\$10,000,000</b>

**Section 2. The expenditures anticipated are:**

9250-1006-47300: Peakway Southwest Connector	10,000,000
<b>Total Expenditures</b>	<b>\$10,000,000</b>

**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 22nd day of August, 2023.

Attest:

\_\_\_\_\_  
Jacques K. Gilbert, Mayor

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

NORTH CAROLINA  
WAKE COUNTY

**SUPPLEMENTAL AGREEMENT**

DATE: 4/11/2022

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: U-5928

AND

WBS ELEMENTS: PE \_\_\_\_\_

ROW \_\_\_\_\_

TOWN OF APEX

CON 44822.3.1

OTHER FUNDING:

FEDERAL-AID #: STBGDA-0501(041)

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$10,000,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the Town of Apex, hereinafter referred to as the "Municipality."

**WITNESSETH:**

WHEREAS, the Department and the Municipality on 8/22/2016, entered into a certain Project Agreement for the original scope: construction of a grade separated interchange for the Apex Peakway at South Salem Street and the CSX railroad tracks, programmed under Project U-5928; and,

WHEREAS, the Capital Area Metropolitan Planning Organization (CAMPO) has allocated additional funding to this Project;

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

**3. FUNDING**

**REIMBURSEMENT FOR ELIGIBLE ACTIVITIES**

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse 50% of eligible expenses incurred by the Municipality up to a maximum amount of Twelve Million Five Hundred Thousand Dollars (\$12,500,000), as detailed below. The Municipality shall provide a minimum 50% non-federal match, or \$12,500,000, as per the REVISED FUNDING TABLE below. The sum of these dollar amounts represents the **Total Project Funding**. If the Funding provided through this Agreement changes, a supplemental agreement will be generated.

**REVISED FUNDING TABLE**

<b>Fund Source</b>	<b>Federal Funds Amount</b>	<b>Reimbursement Rate</b>	<b>Non-Federal Match \$</b>	<b>Non-Federal Match Rate</b>
STP-DA (#6569)	\$2,500,000	50%	\$2,500,000	50%
STBGDA (#11173)	\$10,000,000	50%	\$10,000,000	50%
<b>Total Project Funding</b>		<b>\$25,000,000</b>		

Except as hereinabove provided, the Agreement heretofore executed by the Department and the Municipality on 8/22/2016, is ratified and affirmed as therein provided.



IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF APEX

BY: \_\_\_\_\_

DocuSigned by:  
*Chris*  
C2037E33C2CC4B3...

TITLE: \_\_\_\_\_

TITLE: Town Manager

DATE: \_\_\_\_\_

DATE: 04/27/2022

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

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

(SEAL)

DocuSigned by:  
*Vance Holloman*  
D6B80595EB10A4C  
(FINANCE OFFICER)

Federal Tax Identification Number

56-6001166

Remittance Address:

Town of Apex

PO Box 250

Apex, NC 27502

DEPARTMENT OF TRANSPORTATION

DocuSigned by:  
*R. L. Kuter*  
F03CBB5C6D2D4C6...  
(CHIEF ENGINEER)

DS  
GB

DATE: 05/10/2022

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 5/5/2022 (Date)

DS  
*AGS*

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## 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 meeting:

- August 8, 2023 - Regular 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

- CN10-A1: **DRAFT** Minutes - August 8, 2023 - Regular Town Council Meeting Minutes



**DRAFT MINUTES**

**TOWN OF APEX  
REGULAR TOWN COUNCIL MEETING  
TUESDAY, AUGUST 8, 2023  
6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, August 8, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town’s YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=6CLFPpjuJPw>

**[ATTENDANCE]**

Elected Body

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

Town Staff

- Interim Town Manager Shawn Purvis
  - Assistant Town Manager Demetria John
  - Assistant Town Manager Marty Stone
  - Town Attorney Laurie Hohe
  - Town Clerk Allen Coleman
  - Deputy Town Clerk Ashley Gentry
  - Finance Director Antwan Morrison
  - Planning Director Dianne Khin
- All other staff members will be identified appropriately below

**[COMMENCEMENT]**

**Mayor Gilbert** opened the meeting, and asked all Town Employees to stand. He acknowledged their leadership and thanked them for their service. He invited the audience to join him in a round of applause. He additionally applauded the Electric Utilities staff, who helped get 4,000 power outages from the storm fixed the night before, and the first responders who assisted with emergencies caused by the storm.

## DRAFT MINUTES

1 Mayor Gilbert then acknowledged a group of Wake County Educators, and asked the  
2 audience to join him in applauding them as well. He also recognized the members of the Mayor's  
3 Internship Program who were also in attendance.

4 Mayor Gilbert then asked the audience to join him in observing a moment of silence. He then  
5 led everyone in a recitation of the Pledge of Allegiance.

6  
7 [SLIDE 1]



8  
9 [SLIDE 2]

### Public Participation

- Please sign in with the Town Clerk prior to the start of the meeting for all Public Hearings and Public Forum
- Public Forum speakers are requested to address only items that **do not** appear in the 'Public Hearings' section on tonight's 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 and are limited to 9 minutes
- Individual comments must be limited to 3 minutes to allow others the opportunity to speak

The Apex logo is located at the bottom center of the slide, featuring a green circle with a white 'A' inside, above the word 'APEX' in bold green letters and 'NORTH CAROLINA' in smaller green letters below it.

10  
11  
12 [CONSENT AGENDA]

13  
14 Mayor Gilbert asked if there were any proposed changes to the Consent Agenda. Hearing  
15 none, he asked for a motion.

16  
17 A motion was made by Councilmember Gray, seconded by Councilmember Gantt, to  
18 approve the Consent Agenda as presented.

19  
20 VOTE: UNANIMOUS (5-0)

## DRAFT MINUTES

1 **CN1 Annexation No. 756 - Yellowbridge Capital - 52.375 acres (REF: RES-2023-042, RES-2023-**  
2 **043, and OTHER-2023-069)**

3 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to  
4 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of  
5 a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to  
6 annex 52.375 acres Yellowbridge Capital, Annexation No. 756 into the Town Corporate limits.

7 **CN2 Annexation No. 758 - Estates at White Oak - 9.186 acres (REF: RES-2023-044, RES-2023-045,**  
8 **and OTHER-2023-070)**

9 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to  
10 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of  
11 a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to  
12 annex 9.186 acres, Estates at White Oak, Annexation No. 758 into the Town Corporate limits.

13 **CN3 Annexation No. 759 - 5925 Farmpond Road - 2.747 acres (REF: RES-2023-046, RES-2023-**  
14 **047, and OTHER-2023-071)**

15 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to  
16 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of  
17 a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to  
18 annex 2.747 acres, located at 5925 Farmpond Road, Satellite Annexation No. 759 into the Town  
19 Corporate limits.

20 **CN4 Annexation No. 760 - 2633 Whistling Quail Run - 3.806 acres (REF: RES-2023-048, RES-2023-**  
21 **049, and OTHER-2023-072)**

22 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to  
23 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of  
24 a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to  
25 annex 3.806 acres, located at 2633 Whistling Quail Run, Annexation No. 760 into the Town  
26 Corporate limits.

27 **CN5 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Board- Chair/Vice-Chair**

28 Council voted to confirm the following leadership positions on the Parks, Recreation, and Cultural  
29 Resources (PRCR) Advisory Board for fiscal year 23-24.

30 Darryl Lanier, Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board

31 Matt Carusona, Vice-Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board

32 **CN6 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Board**

33 Council voted to reappoint Ms. Mary Lee Blatchford to the Parks, Recreation, and Cultural Resources  
34 (PRCR) Advisory Board for a three-year (3) term expiring June 28, 2026.

35 Council voted to reappoint Mr. Thomas Colwell to the Parks, Recreation, and Cultural Resources  
36 (PRCR) Advisory Board for a three-year (3) term expiring June 28, 2026.

37 Council voted to appoint Jeremy Croom to the Parks, Recreation, and Cultural Resources (PRCR)  
38 Advisory Board for a three-year (3) term expiring June 28, 2026.

39 **CN7 Appointment(s) - Public Art Committee - Vice-Chair**

40 Council voted to confirm the following leadership position(s) on the Public Art Committee (PAC) for  
41 fiscal year 2023-2024:

42 Bethany Bryant, Vice-Chair of the Public Art Committee (PAC).

43

44 **CN8 Appointment(s) - Public Art Committee**

## DRAFT MINUTES

1 Council voted to reappoint Mr. Sean Durham to the Public Art Committee (PAC) for a three-year (3)  
2 term expiring June 30, 2026.

3 Motion to reappoint Mr. Lafayette Trawick to the Public Art Committee (PAC) for a three-year (3)  
4 term expiring June 30, 2026.

5 Motion to appoint Kim Elliott as an alternate, non-voting, member to the Public Art Committee for a  
6 three-year (3) term expiring June 30, 2026 (see details).

7 **CN9 Agreement - Construction Agreement - CSX Transportation, Inc - Apex Peakway Bridge -**  
8 **South Salem Street and Closure of Tingen Road (REF: CONT-2023-213)**

9 Council voted to approve a Construction Agreement with CSX Transportation, Inc., requiring  
10 payment in the amount of \$763,056.00 for contracted and administrative engineering services and  
11 flagging services for construction of the Apex Peakway bridge over South Salem Street and closure  
12 of the Tingen Road grade crossing, and to authorize the Interim Town Manager, or their designee, to  
13 execute on behalf of the Town.

14 **CN10 Agreement - North Carolina Department of Transportation (NCDOT) - Tingen Road**  
15 **Bicycle and Pedestrian Bridge Design and Capital Project Ordinance Amendment No.**  
16 **2024-1 (REF: ORD-2023-068 and CONT-2023-214)**

17 Council voted to approve an Agreement between the North Carolina Department of Transportation  
18 (NCDOT) and the Town of Apex to be eligible for up to \$550,000 in federal funds reimbursement  
19 toward a total estimated cost of \$687,500 in design, environmental documentation and right-of-way  
20 (ROW) acquisition for project BO-2416, SR 1153 (Tingen Road) Bicycle and Pedestrian Bridge,  
21 requiring a minimum 20% local cost match of \$137,500, and to adopt Capital Project Ordinance  
22 Amendment 2024-1, and to authorize the Interim Town Manager , or their designee, to execute the  
23 Agreement on behalf of the Town.

24 **CN11 Agreement - North Carolina Department of Transportation (NCDOT) - Saunders Street and**  
25 **Hinton Street Sidewalk Project - Capital Project Ordinance Amendment No. 2024-4 (REF:**  
26 **CONT-2023-215) (Clerk Note: Capital Project Ordinance Amendment No. 2024-4 was not**  
27 **included in the motion; therefore, it was placed on Consent for approval 08.22.2023)**

28 Council voted to approve an Agreement between the North Carolina Department of Transportation  
29 (NCDOT) and the Town of Apex to be eligible for up to \$1,075,200 in federal funds reimbursement  
30 toward a total estimated cost of \$1,344,000 in utility relocation and construction of BL-0095,  
31 Saunders Street and Hinton Street Sidewalk project, requiring a minimum 20% local cost match of  
32 \$268,800, and to authorize the Interim Town Manager, or their designee, to execute the Agreement  
33 on behalf of the Town.

34 **CN12 Agreement - P&A Administrative Services Inc. - Peak Lifestyle Account Management (REF:**  
35 **CONT-2023-216)**

36 Council voted to approve an agreement between P&A Administrative Services, Inc, and the Town of  
37 Apex for administration of the Town's Lifestyle Reimbursement Account for Town employees,  
38 effective July 1, 2023, and to authorize the Interim Town Manager, or their designee, to execute the  
39 Agreement on behalf of the Town.

40 **CN13 Agreement - Town of Cary - Remix Transit Planning Software Cost Reimbursement (REF:**  
41 **CONT-2023-217)**

42 Council voted to approve an agreement between the Town of Cary and the Town of Apex for Remix  
43 Transit Planning software cost reimbursement, to assist with long range transit planning, not to

## DRAFT MINUTES

1 exceed \$11,250, effective for one (1) year ending July 31, 2024, and to authorize the Interim Town  
2 Manager, or their designee, to execute the agreement on behalf of the Town.

3 **CN14 Agreement Amendment - Wake County - Municipal Fire Protection (REF: CONT-2023-218)**

4 Council voted to approve an Agreement Amendment between Wake County Government and the  
5 Town of Apex, for municipal fire protection for the unincorporated areas of Apex Fire district (Hipex  
6 District) ending June 30, 2025, and to authorize the Interim Town Manager, or their designee, to  
7 execute the agreement on behalf of Town.

8 **CN15 Budget Ordinance Amendment No. 3 - Facilities Master Plan Study and Downtown Parking  
9 Lease Extension (REF: ORD-2023-069)**

10 Council voted to adopt Budget Ordinance Amendment No. 3 appropriating funds for Town Facilities  
11 Master Plan Study and lease extension for downtown parking.

12 **CN16 Budget Ordinance Amendment No. 4 - Debt Service Funds Transfer (ORD-2023-070)**

13 Council voted to adopt Budget Ordinance Amendment No. 4 transferring budgeted Debt Service  
14 payments from the operating fund to respective Debt Service Funds.

15 **CN17 Budget Ordinance Amendment No. 5 and Capital Project Ordinance Amendment 2024-3 -  
16 ARPA Capital Project Fund (REF: ORD-2023-071 and ORD-2023-072)**

17 Council voted to adopt Budget Ordinance Amendment No. 5 and Capital Project Ordinance  
18 Amendment 2024-3 allocating funds to the ARPA Capital Project Fund.

19 **CN18 Construction Contract - North Carolina Department of Transportation (NCDOT) - Beaver  
20 Creek Greenway (Phase 1, Phase 1A, and Phase 2) - Budget Ordinance Amendment No. 2  
21 and Capital Project Ordinance Amendment No. 2024-02 (REF: ORD-2023-073, ORD-2023-  
22 074 and CONT-2023-219)**

23 Council voted to award a construction contract with North Carolina Department of Transportation  
24 (NCDOT) for EB-6021 Beaver Creek Greenway (Phase I, Phase 1A and Phase 2) construction and  
25 adopt Budget Ordinance Amendment No. 2 and Capital Project Ordinance Amendment 2024-02,  
26 and to authorize the Interim Town Manager, or their designee, to execute the contract on behalf of  
27 the Town.

28 **CN19 Contract Multi-Year - J & D Tree Pros, Inc. - Tree Trimming and Stump Grinding Services -  
29 August 1, 2023 through June 30, 2026 (REF: CONT-2023-220)**

30 Council voted to approve a Master Services Agreement (MSA), effective August 1, 2023 through  
31 June 30, 2026, with J&D Tree Pros, Inc, for tree trimming, removal and stump grinding services, and  
32 to authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the  
33 Town.

34 **CN20 Council Meeting Minutes - Various**

35 Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:  
36 June 27, 2023 - Regular Town Council Meeting Minutes  
37 July 28, 2023 - Emergency Town Council Meeting Minutes

38 **CN21 Encroachment Agreement - 3588 Lovage Drive, Lot 41 (REF: CONT-2023-221)**

39 Council voted to approve an encroachment agreement between the Town of Apex and property  
40 owners Suresh Reddy Thati and spouse, Navya Beeravelli to install a fence that will encroach 66  
41 linear feet (LF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town  
42 Manager, or their designee, to execute the agreement on behalf of the Town.

43  
44 **CN22 Encroachment Agreement - 3592 Lovage Drive, Lot 40 (REF: CONT-2023-222)**

## DRAFT MINUTES

1 Council voted to approve an encroachment agreement between the Town of Apex and property  
2 owners Shabbir Shaik and spouse, Reshma Shaik to install a fence that will encroach 63 linear feet  
3 (LF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town Manager, or  
4 their designee, to execute on behalf of the Town.

5 **CN23 Encroachment Agreement - Regency at White Oak Creek (REF: CONT-2023-223)**

6 Council voted to approve an encroachment agreement between the Town of Apex and White Oak  
7 Creek Homeowners Association, Inc. to install a private retaining wall, of which forty-nine (49) Linear  
8 Feet will encroach into the Town's Right of Way (ROW) and authorize the Interim Town Manager, or  
9 their designee, to execute the agreement on behalf of the Town.

10 **CN24 Encroachment Agreement - 2941 Rise and Shine Road (REF: CONT-2023-224)**

11 Council voted to approve an encroachment agreement between the Town of Apex and property  
12 owner Lennar Carolinas, LLC, to install a driveway that will encroach 65 square feet (SF) onto the  
13 Public Drainage Easement and 1 square foot (SF) onto the Public Utility Easement and authorize the  
14 Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

15 **CN25 Hatcher Property - Fee-In-Lieu (FIL)**

16 Council voted to approve a payment of fee-in-lieu of dedication for the Hatcher Property.

17 **CN26 Ordinance Amendment - Chapter 14 - Section 14 - Alcohol Consumption (REF: ORD-2023-  
18 075)**

19 Council voted to approve an Ordinance Amendment amending Chapter 14 -Section 14 of the Code  
20 of Ordinances for the Town of Apex, as it pertains to alcohol at special events.

21 **CN27 Ordinance Amendment - Chapter 20 Traffic - Section 61(a) - Laura Duncan Road, No U-Turns  
22 (REF: ORD-2023-076)**

23 Council voted to approve an Ordinance Amendment to Chapter 20 Traffic - Section 61 subsection  
24 (a) with the addition of part (3) prohibiting U-turns along Laura Duncan Road from 300 feet south of  
25 the intersection at US 64 to the southernmost Apex High School driveway, both directions of travel.

26 **CN28 Ordinance Amendment - Chapter 20 Traffic - Section 164 - Homestead Park Drive and  
27 Evening Star Drive; No Parking (REF: ORD-2023-077)**

28 Council voted to approve Ordinance Amendment for Chapter 20 Traffic - Section 164 subsection  
29 (38) with the allowance of parking along the inside tangent curb lines of the landscaped medians of  
30 Sunny Creek Lane and Windy Creek Lane, addition of subsection (40) prohibiting parking along the  
31 east and south side of Evening Star Drive for its entire length, and addition of subsection (41)  
32 prohibiting parking along the west side of Homestead Park Drive from Olive Chapel Road to  
33 Evening Star Drive, along the north side of Homestead Park Drive from Evening Star Drive to the  
34 Homestead Park Drive loop, and along the inner curb line for the entire length of the Homestead  
35 Park Drive loop.

36 **CN29 Ordinance Amendment - Chapter 20 Traffic - Article V. Traffic Control Devices - Traffic  
37 Schedules I & II, Stop & Yield Updates (REF: ORD-2023-078)**

38 Council voted to approve an Ordinance Amendment to Traffic Schedule I and Traffic Schedule II of  
39 the Town of Apex Code of Ordinances in accordance with the provisions of Chapter 20 Traffic -  
40 Section(s) 60.1, 68, 69, -70.

41  
42  
43 **CN30 Real Property Acquisition - 215 Templeton Street and Budget Ordinance Amendment No. 1  
44 (REF: ORD-2023-079)**



## DRAFT MINUTES

1 Council voted to approve the purchase of real property located at, 215 Templeton Street in Apex,  
2 NC, and approve Budget Ordinance Amendment No. 1, and to authorize the Interim Town Manager,  
3 or their designee, to execute all necessary documents related to this property acquisition on behalf  
4 of the Town.

5 **CN31 Rezoning Case No. 23CZ07 - 940 Tingen Road - Statement and Ordinance (REF: ORD-2023-**  
6 **080)**

7 Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application  
8 No. 23CZ07, Peak Engineering and Design, PLLC, petitioner, for property located at 940 Tingen  
9 Road (PIN 0741266614).

10 **CN32 Rezoning Case No. 23CZ09 - Hatcher Property Revision - Statement and Ordinance (REF:**  
11 **ORD-2023-081)**

12 Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application  
13 No. 23CZ09 for Hatcher Property Revision. The applicant is Patrick Kiernan, from Jones & Cnossen  
14 Engineering, PLLC, for the properties located at: 0 Olive Chapel Rd; 1901 & 1911 Transit Trail.

15 **CN33 Rezoning Case No. 23CZ11 - Smith Farm Ph 5 PUD Amendment - Statement and Ordinance**  
16 **(REF: ORD-2023-082)**

17 Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application  
18 No. 23CZ11, Smith Farm Phase 5 PUD Amendment. The applicants are Andrew Clark TR & Staley  
19 Smith; and Staley Smith, Aaron Smith Jr. & Haley Hoffer for the properties located at: 3223 US 64  
20 Hwy West & 0 Air Park Dr.

21 **CN34 Tax Report - May 2023 (REF: OTHER-2023-067)**

22 Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex  
23 dated June 01, 2023.

24 **CN35 Town Council Meeting Calendar Amendment(s) - 2023 (REF: OTHER-2023-073)**

25 Council voted to amend the 2023 Town Council Meeting Calendar.

26  
27 **[PRESENTATIONS]**

28  
29 **PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards**

30 **Councilmember Mahaffey** introduce the quarterly Peak S.T.A.R award, explaining that it was  
31 given in partnership with the Apex Public School Foundation in honor of an educator or school staff  
32 member who has made a difference in student's lives.

33 **Jack Roloff**, Board Member of the Apex Public School Foundation, talked about the mission  
34 of the Foundation. He introduced the recipient of this quarter's award, Sue Kelly from Scott's Ridge  
35 Elementary, who has been an educator for 24 years. Mr. Roloff introduced Derrick Evans, Principal at  
36 Scott's Ridge Elementary School, to speak more about Ms. Kelly.

37 **Principal Evans** spoke about Ms. Kelly's career, and her belief that all students can achieve  
38 and learn a great deal if they are given support. She said they are excited to celebrate her tonight,  
39 and excited to celebrate her retirement with her as well.

40 **Ms. Kelly** said a thank you to everyone, and gave a shout out to the staff at Scott's Ridge. She  
41 then took a picture with Councilmember Mahaffey, Mayor Gilbert, and the rest of Council to receive  
42 her award.

## DRAFT MINUTES

### 1 [REGULAR MEETING AGENDA]

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

5  
6 VOTE: UNANIMOUS (5-0)

### 7 8 [PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign-up sheets, see OTHER- 9 2023-079)

10  
11 First to speak was Kurt Fletcher:

12  
13 "Good evening, thank you very much for the opportunity to speak. First of all, I'd like to thank  
14 Dianne and her staff for putting together what I hope to speak about tonight, and that's the  
15 workshop for the Friendship area community. If it wasn't for this, we probably wouldn't be having  
16 discussions, or things would just be placed in our laps. I'm sure you all have gotten emails about this  
17 event coming up, I'm extending an invitation. And I think it's imperative that you come and meet my  
18 neighbors. Come and talk to them. Don't just wait for the report. Don't just look at pie charts and  
19 graphs and read little paragraphs about what it all means. Come and listen to the people. Feel their  
20 emotion when they're telling you things. It's one thing to have a questionnaire on a table somewhere  
21 that says how do you feel about transportation 1 through 5. Well I may say 1, transportation is very  
22 important to me. But it's not because I want more roads, it's because I want the roads we got fixed.  
23 That doesn't get into those reports. You have to talk to the people. That's all I've got to say, I hope to  
24 see you. Thanks."

25  
26 Mayor Gilbert thanked Mr. Fletcher for his comments.

27  
28 Next to speak was Elizabeth Stitt of 3113 Friendship Road:

29  
30 "Good evening, Elizabeth Ray Stitt, 3113 Friendship Road. I want to talk about Consent Item  
31 Number 30 that's on tonight's agenda. I was really hoping with baited breath that somebody would  
32 pull that out. But I decided to sit back and just wait to kind of see what happens. That particular item  
33 is an appropriation of 675,000 dollars out of the budget that we just approved on June 28<sup>th</sup>. So, we  
34 haven't even gone one meeting where the budget has been intact. It's already been changed, there  
35 was no discussion, and 675,000, and over the last year with all the work I've seen the staff have and  
36 all the information given out to the public, an item that is 675,000 dollars deserves to have some  
37 type of conversation around it. It did come out of what I am going to call the "slush fund". I was not  
38 happy that the money in the fund balance wasn't better utilized. I've talked to you guys about  
39 Friendship Road turn lanes. It's on the forecast in the future for 250,000 dollars. So, every day I play  
40 chicken at that intersection, I know my safety, the price tag on it is 250,000. So, when I read through  
41 the 899 pages in the packet today, I understand there was a lot in there and it was easy to miss it, but  
42 my safety should not be a price tag of 250,000 dollars, and then I just see an appropriation of  
43 675,000 with no discussion. So, I bring this up because we're early. If you're amending the budget as  
44 you just did for 675,000, I'm going to ask you for 250,000, and I'm going to keep asking you for

## DRAFT MINUTES

1 250,000, but that's my safety, that's my neighbor's safety. You have the traffic studies, you know we  
2 have poor service with that intersection. So, I would like for you to please consider that, and just be  
3 prepared for me to keep asking. Thank you."  
4

5 **Mayor Gilbert** thanked Ms. Stitt for her comments.  
6

7 Next to speak was Michael Kolsar:  
8

9 "Good Evening Mr. Mayor, members of the Town Council, and Interim Town Manager, my  
10 name is Michael Kolsar, and I own and reside in a townhome at 106 Fanwood Court in the Bradley  
11 Terrace Development. A portion of this development abuts the town's green space, located over at  
12 Apex Peakway. Another border abuts properties along Shackleton Drive, and I believe property  
13 owned by the Mayor. First, I would like to thank you for this opportunity to address all of you. In my  
14 younger days, was an elected representative of the people, and served on the governing board of  
15 that municipality, albeit in a different state. On August 1, 2022, I hand delivered a letter to most of  
16 you on behalf of myself and my neighbor Mark Mohabir, who is here tonight, about the spread of  
17 kudzu in this green space, and the possibility of its impact on the viability and stability of trees that  
18 are near to our residences. Neither of us have had any response to that communication from  
19 anybody associated with the town. I resubmitted this letter prior to tonight to the designated email  
20 address public.forum@apexnc.org . Recently a tall tree on this property snapped and fell towards a  
21 building on Bradley Terrace. Fortunately, it missed, but not by much. The trees that we are  
22 concerned about are much closer to our property. I have submitted photographs of this as part of  
23 tonight's presentation. I also alerted the town, through the online form, about this fallen tree. With  
24 any property or issue we believe we should propose a solution. The town may not agree, but at least  
25 you understand our thinking. Number 1, we request an immediate evaluation and inspection of the  
26 trees in this area. The results will no doubt indicate next steps. Number 2, we request the town take  
27 steps to at least cut back the existing kudzu, especially as it impacts surrounding properties. I would  
28 note that Section 10-1 of the Town Code states, in part, it shall be unlawful for any person to allow  
29 the uncontrolled growth of noxious weeds and grass. And, section 10.5 indicates that all weeds and  
30 noxious growth should be cut at least twice a year. Number 3, we believe that there are federal grant  
31 funds available for remediation efforts to control kudzu, and we recommend that the town pursue  
32 this approach in coordination with our elected members of Congress in both the Senate and House  
33 of Representatives. I am available to meet with any individual regarding these concerns, and being  
34 retired I am very flexible in that regard. That initial meeting shouldn't take as much as 5 minutes for  
35 someone to grasp the situation. Over 50 years ago our country called and drafted me to serve in the  
36 United States Army, at the height of the Vietnam Conflict. I answered that call, and went where the  
37 Army sent me, and did what was asked. I only ask the town to now remove the uncertainty that hangs  
38 over my head, and my property. Thank you for listening, and while we may not engage in dialogue  
39 tonight, I understand the rules, I welcome the opportunity to do so in the future."  
40

41 **Mayor Gilbert** thanked Mr. Kolsar for his comments, and for his service. Additionally, he  
42 asked Town Clerk Coleman and Interim Town Manager Purvis ensure that the town follows up with  
43 Mr. Kolsar's concerns.  
44

## DRAFT MINUTES

1 Next to speak was **Mark Mohabir**:

2

3 "Good evening, my name is Mark Mohabir, Michael's neighbor, 108 Fenwood Drive in the  
4 Bradley Terrace area. There isn't much that I have to add, but I am just coming up here to, it is  
5 important for me to support what Michael has just said. We got together, him and me, and we wrote  
6 this letter that was sent to you guys, every single member of the Council and the Mayor, got a copy  
7 of it. Last year. I would've expected, at least, a response. So, all I am asking is that everything that  
8 Michael just mentioned, and Mr. Mayor I know you have indicated that the Council should follow up  
9 on this, I hope this happens in short order, and I thank you all, that we'll see a solution that will put  
10 down what has happened here. I'd also like to thank Michael. Michael was retired, he did a lot of the  
11 lifting, right, and I am just here to support him. Thank you very much."

12

13 **Mayor Gilbert** thanks Mr. Mohabir for his comments.

14

15 Next to speak was **Russia Naranjo**:

16

17 "Good evening everyone, I've never been to a Town Council meeting before, so I just wanted  
18 to introduce myself, and I wanted to talk a little bit more about the Mayor's Internship Program, it's  
19 these first couple rows up here. I'm sure you're all familiar with this. I forgot to introduce myself, my  
20 name is Russia Naranjo, and I'm the Senior Ambassador/Founder for the Mayor's Internship  
21 Program. And I remember, I think it was in the middle of my sophomore year at Apex Friendship  
22 where I attend, I'll be a rising senior this fall, called the Student Political Awareness Club. I attended  
23 that club because politics and government has always been my passion, and there was this one  
24 meeting where Mayor Gilbert was going to be attending and pretty much give his whole spiel about  
25 how passionate he is about being Mayor and how he got to where he is today. Throughout his whole  
26 speech, I remember how in awe I was about his whole story, and how he said there would be two  
27 things he would never do in his life when he was younger, that he would never go into politics or go  
28 down the line of being a police officer, and he ended up being both. And it was super inspiring,  
29 hearing everything about him, and I talked to him after that meeting, and I pretty much gave him my  
30 whole spiel after that about how I've always been so passionate about politics, and how everyone  
31 has the opportunity to make a change that they want to. And so, I told him that, I told him about how  
32 I wanted to become a lawyer and down the line become a politician, and he told me about his idea  
33 for the Mayor's Internship Program. And this was about January of 2022, and I thought that idea was  
34 amazing, and we followed up with it, and we had a team of what are now called Senior  
35 Ambassadors, and we were able to found this program. And this year we were able to put it all  
36 together and coordinate interviews and have people who were interested in that, and so I guess the  
37 purpose of me coming up here for this public forum, is expressing my gratitude for that program,  
38 and I'd just like to thank anyone who has ever crossed paths with the Mayor's Internship Program,  
39 put anything into it, I just really wanted to express my gratitude, because I feel like it's just so  
40 inspiring to see this huge group of people who have the same passion I do, and I know we're on the  
41 road to make this next upcoming term, because we all have about 2 years on our term for the  
42 internship program, so I just really wanted to express my gratitude, so thank you to everyone, thank  
43 you all very much."

44

## DRAFT MINUTES

[PUBLIC HEARINGS] (NOTE: To view public forum and public hearing sign up sheets, please see OTHER-2023-079)

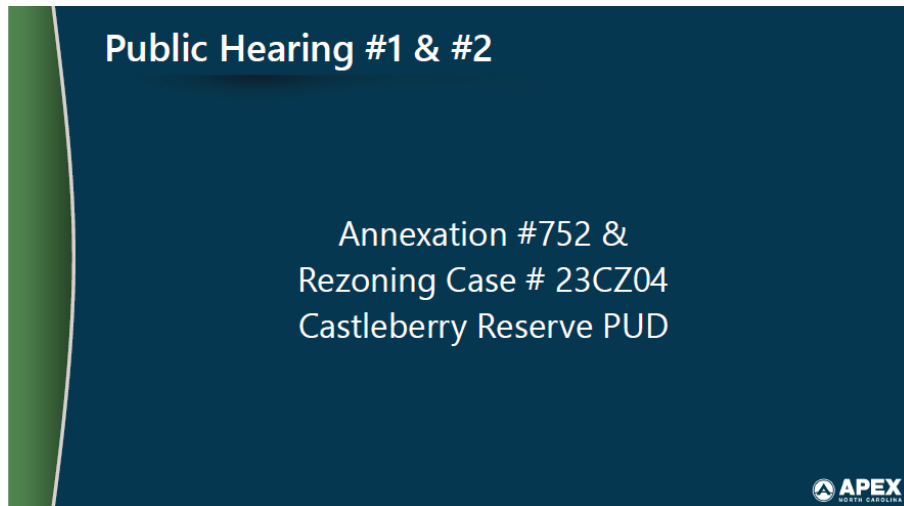
PH1 Annexation No. 752 - Castleberry Assemblage - 90.24 acres

AND

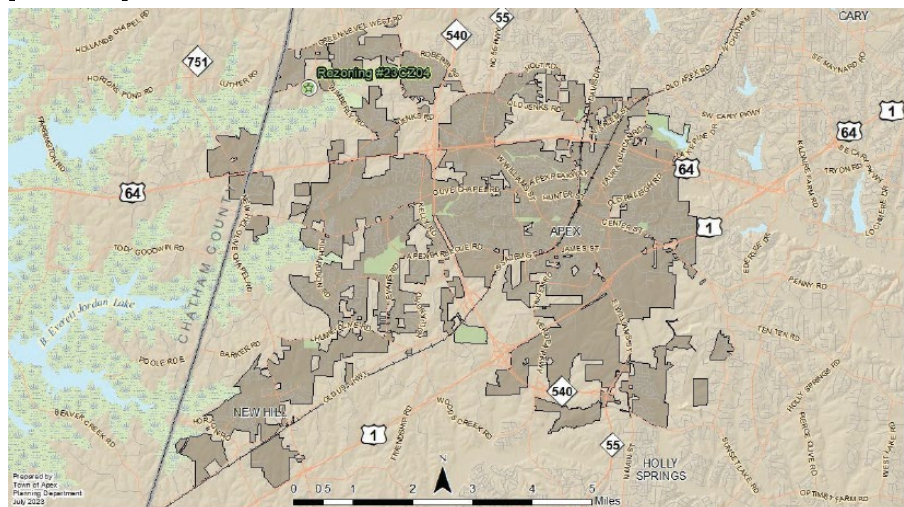
PH2 Rezoning Case No. 23CZ04 - Castleberry Reserve PUD

June Cowles, Senior Planner, gave the following presentation regarding Annexation No. 752 - Castleberry Assemblage, and Rezoning No. 23CZ04 - Castleberry Reserve PUD

[SLIDE 3]

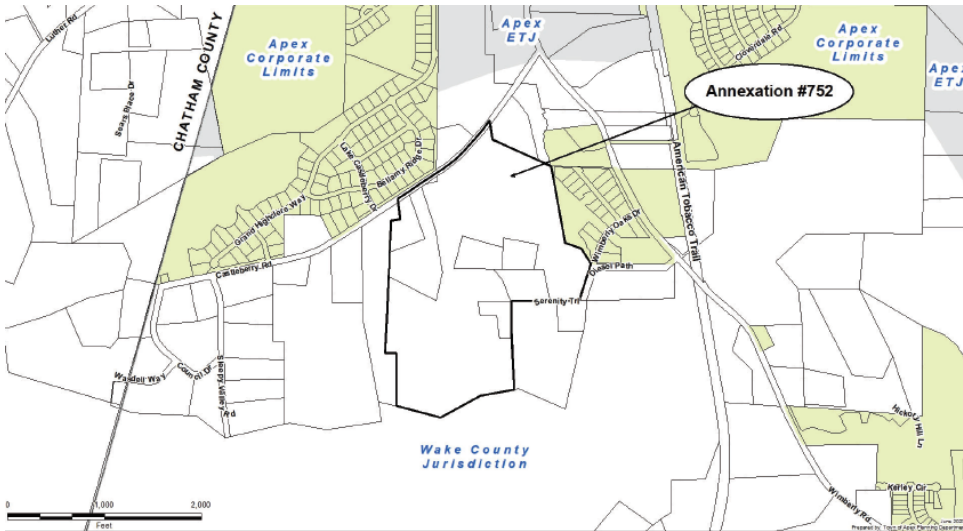


[SLIDE 4]

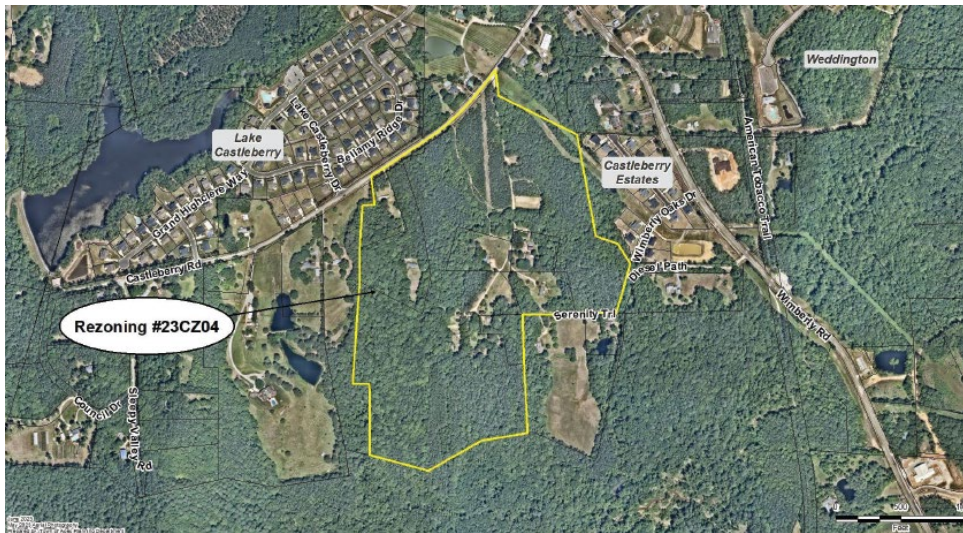


[SLIDE 5]

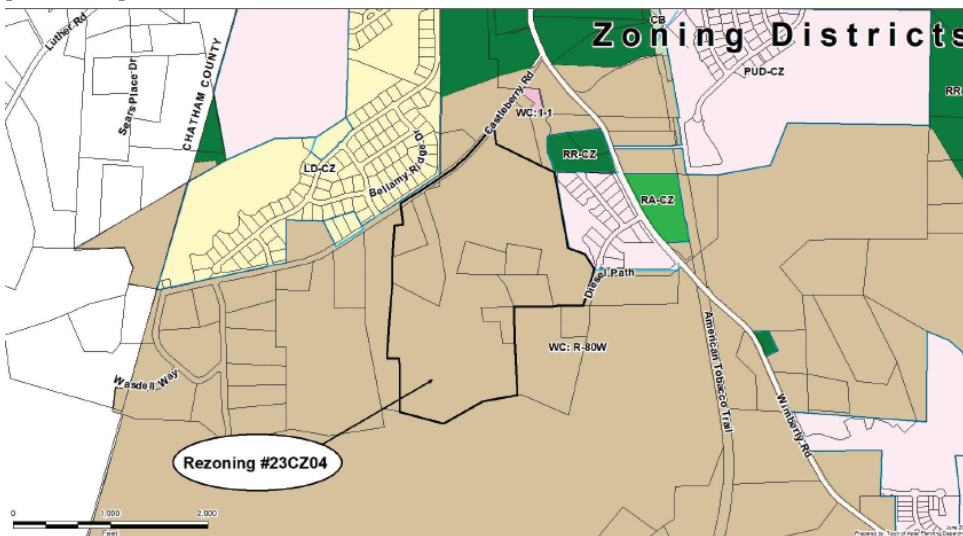
DRAFT MINUTES



1  
2 [SLIDE 6]

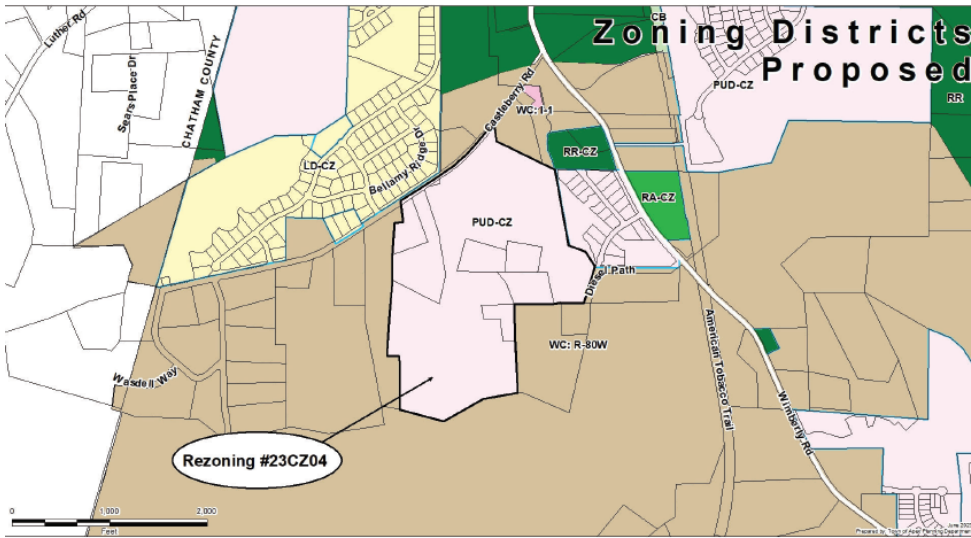


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4 [SLIDE 7]



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8 [SLIDE 8]

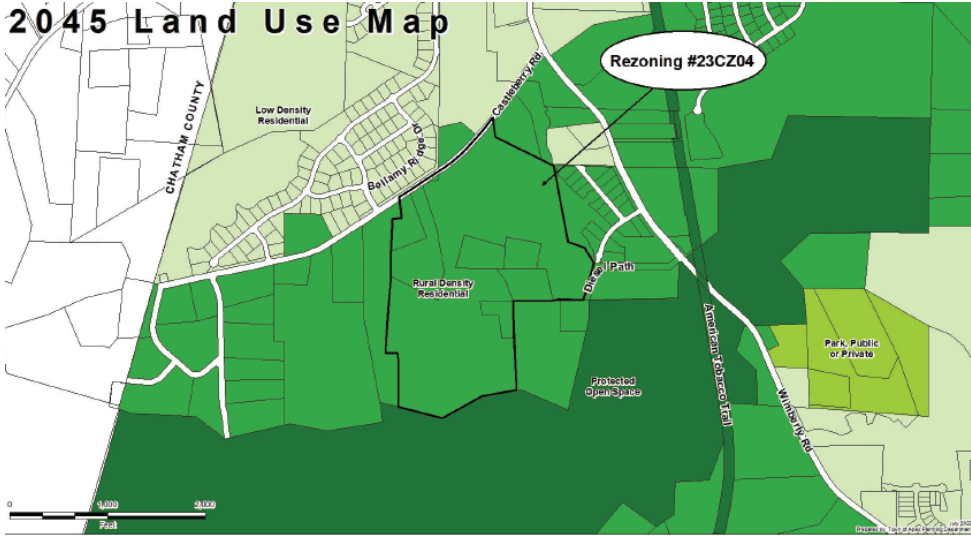
DRAFT MINUTES



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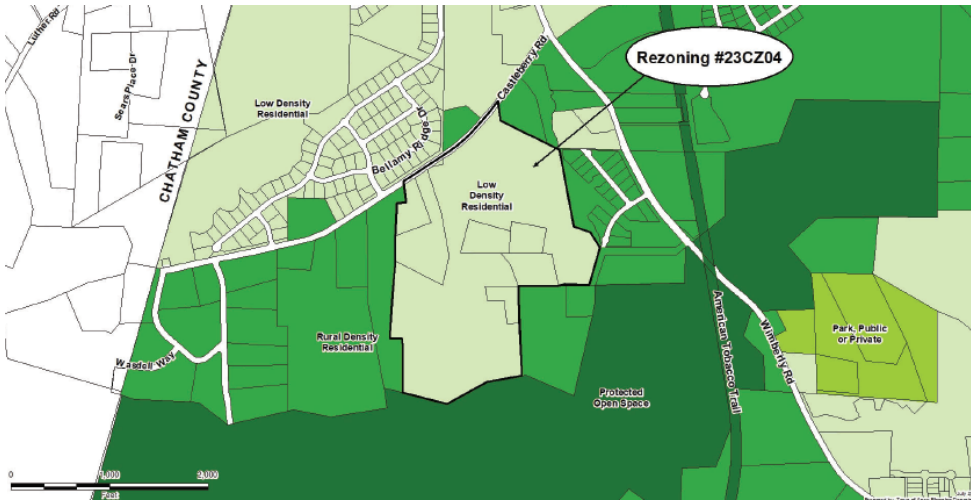
[SLIDE 9]

2045 Land Use Map



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[SLIDE 10]

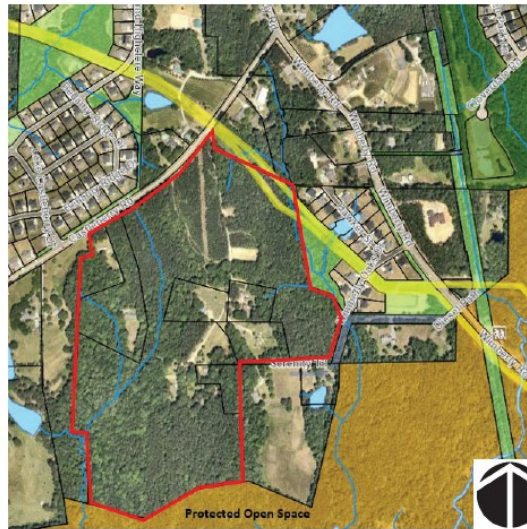


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[SLIDE 11]

# DRAFT MINUTES

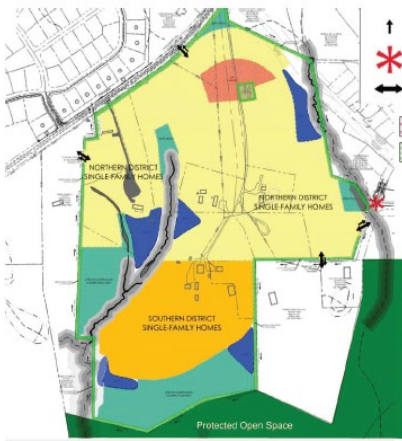
## Existing Conditions



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[SLIDE 12]

## Proposed PUD Plan Site Layout



- ↑ PROPOSED WATER CONNECTIONS
- ✖ PROPOSED SEWER CONNECTIONS
- ↔ POTENTIAL ACCESS POINTS

- POSSIBLE SITE AMENITY
- BUFFERS/ RCA
- SINGLE FAMILY HOME (BY APPLICANT)
- SINGLE FAMILY HOME (BY APPLICANT)
- EX-CEMETERY



### Lot Dimensions:

Section	Minimum Lot Width	Minimum Lot Size
Northern	50 ft	6,000 sf
Southern	75 ft	10,000 sf

### Setbacks:

	Proposed Minimum Setbacks	
Northern District Single-family Detached	Front	10'
	Front (garage)	20'
	Side	5'
	Rear	10'
	Corner Side	8'
Minimum from Buffer/RCA		10' for buildings 5' for parking areas
Southern District Single-family Detached	Front	10'
	Front (garage)	20'
	Side	5'
	Rear	10'
	Corner Side	8'
Minimum from buffer/RCA		10' for buildings 5' for parking areas
Recreation Facility, Private	Front	10'
	Side	10'
	Rear	10'
	Minimum from Buffer/RCA	

3  
4

[SLIDE 13]

## Environmental Advisory Suggested Conditions

EAB Suggested Condition	Applicant's Response
To the greatest extent practicable, include a 150-yard (450-foot) NC Game Land safety buffer along the exterior of the property adjacent to the US Army Corps lands.	Not Added
Implement low impact development (LID) techniques as defined by the NC Department of Environmental Quality.	Not Added
Stormwater reuse application <ul style="list-style-type: none"> <li>Integrate irrigation from the SCM (wet pond) on site.</li> </ul>	Not Added
Preserve tree canopy and prioritize medium to large, healthy, desirable species: <ul style="list-style-type: none"> <li>Existing hardwood trees of 18" diameter or larger which are removed by development shall be replaced by 1.5" caliper native trees, either on site or at an alternate location. Tree species shall be chosen from the DDM or in conjunction with Planning Staff.</li> </ul>	Not Added
Implement green infrastructure: <ul style="list-style-type: none"> <li>Provide diverse and abundant pollinator and bird food sources (e.g. nectar, pollen, and berries from blooming plants) that bloom in succession from spring to fall, which should be 100% native for birds and 75% for pollinators.</li> <li>Provide and allow for undisturbed spaces (e.g. leaf piles, unown fields, fallen trees) for nesting and overwintering for native pollinators and wildlife.</li> </ul>	Not Added
Install community gardens and native pollinator demonstration gardens.	Not Added

EAB Suggested Condition	Applicant's Response
Plant warm season grasses for drought-resistance.	Added
Install a minimum of four (4) pet waste stations in neighborhoods.	Added
Include solar conduit in building design.	Added
Include International Dark Sky Association compliance standards. <ul style="list-style-type: none"> <li>Outdoor lighting shall be shielded in a way that focuses lighting to the ground.</li> <li>Lighting that minimizes the emission of blue light to reduce glare shall be used.</li> <li>Lighting with a color temperature of 3000K or less shall be used for outside installations.</li> </ul>	Added
Install a minimum of 4-kW solar PV system to a minimum of 20 homes, including 5 homes with solar before 40% of building permits are approved, 10 homes before 65% of building permits are approved, and 20 homes before 90% of building permits are approved.	Added with 4-kw and shall be installed on a minimum of 5 homes
Stormwater control devices shall be designed and constructed so that post-development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1-year, 10-year, and 25-year storm events.	Added
Landscaping shall include at least four (4) native hardwood tree species throughout the development.	Added
No clearing or land disturbance shall be permitted within the riparian buffer, except 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. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.	Added
Install signage near environmentally sensitive areas in order to: <ul style="list-style-type: none"> <li>Reduce pet waste near SCM drainage areas</li> <li>Eliminate fertilizer near SCM drainage areas</li> </ul>	Added
Increase biodiversity: <ul style="list-style-type: none"> <li>Plant pollinator-friendly flora.</li> <li>Plant 75% native flora (Refer to the Apex Design &amp; Development Manual (DDM) for approved native species).</li> </ul>	Added
Include landscaping that requires less irrigation and chemical use.	Added

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[SLIDE 14]



Conceptual Building Elevations



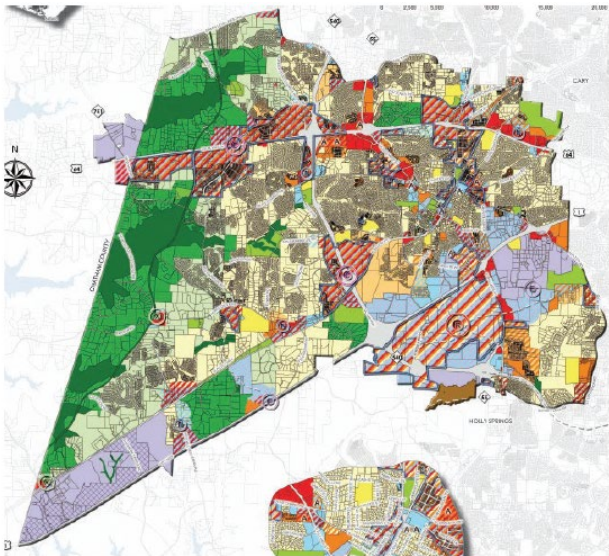
1  
2 [SLIDE 15]

**Recommendation for Denial of  
Rezoning Castleberry Reserve PUD**

- 1. The Rezoning is not consistent with the current 2045 Land Use Map Classification.**
- 2. The Rezoning is not consistent with the NC Wildlife Resource Commission Protected Open Space and TOA Environmental Advisory Board Buffer recommendation.**
- 3. The Rezoning is not Consistent with the surrounding neighborhood character.**

**APEX**  
SOUTH CAROLINA

3  
4 [SLIDE 16]

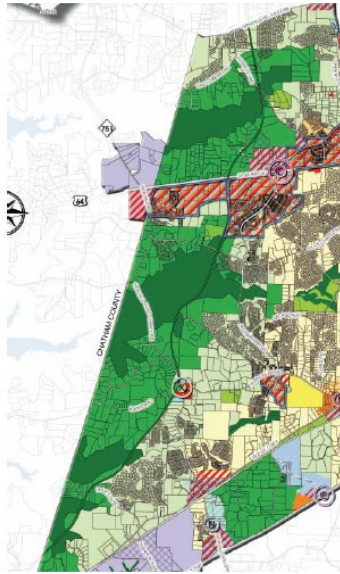


2045 Land Use Map

5  
6 [SLIDE 17]

**Protected Open Space**

- Water Quality
- Animal Habitat Protection
- Game Land Hunting Safety



1  
2 [SLIDE 18]

**Protected Open Space Buffer**

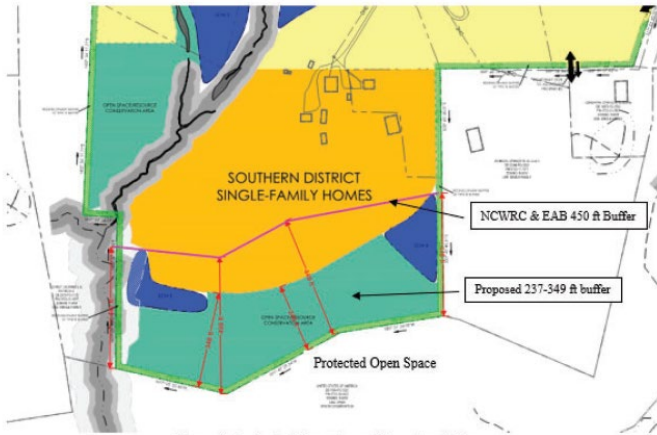
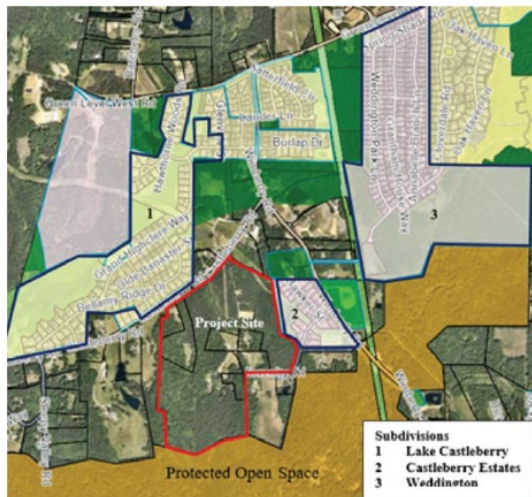


Figure 1: Protected Open Space/Game Land Map

3  
4 [SLIDE 19]

**Surrounding Neighborhoods**



5  
6 [SLIDE 20]

# DRAFT MINUTES

## Castleberry Reserves Project Comparison to Adjacent Neighborhoods

Castleberry Reserves:

- The highest density;
- The smallest lot size;
- The smallest rear (10 ft), front (10 ft), side (5 ft), and corner (8 ft) yard setbacks; and
- The narrowest buffer area to the Protected Open Space at 237 feet.

Subdivision	Density	Min Lot Size	Setbacks		Minimum Distance to Protected Open Space
Proposed Castleberry Reserves	2.0	6,000 (northern area) 10,000 (southern area)	Front: Garage: Side: Corner: Rear:	10 ft 20 ft 5 ft 8 ft 10 ft	237 ft
Lake Castleberry (1)	1.28	10,000	Front: Side: Corner: Rear:	25 ft 10 ft 15 ft 20 ft	1,471 ft
Castleberry Estates (2)	0.98	12,000	Front: Garage: Side: Corner: Rear:	15 ft 20 ft 8 ft 15 ft 15 ft	386 ft
Weddington (3)	1.48	8,000	Front: Side: Corner: Rear:	20 ft 5 ft, aggregate 15 ft 10 ft 15 ft	650 ft

1  
2

[SLIDE 21]

**Recommendation for Denial of Rezoning Castleberry Reserve PUD**

- 1. The Rezoning is not consistent with the current 2045 Land Use Map Classification.**
- 2. The Rezoning is not consistent with the NC Wildlife Resource Commission Protected Open Space and TOA Environmental Advisory Board Land Buffer recommendation.**
- 3. The Rezoning is not consistent with the surrounding neighborhood character.**

**APEX SOUTH CAROLINA**

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**Councilmember Zegerman** asked if the off-site sidewalk improvement along Wimberly Road was 270 feet of sidewalk.

**Ms. Cowles** said that was correct.

**Councilmember Gantt** asked what density staff was willing to recommend approval, if not 1 per 5 acres.

**Ms. Cowles** said staff was wanting something closer to the density of Lake Castleberry.

**Councilmember Gantt** said he feels the Lake Castleberry subdivision looks suburban rather than rural. He asked when it was worth saving the rural character versus doing a more normal development. He said in his opinion, the seal has broken in this area as far as rural character, and how staff feels about that.

**Director Khin** said the Lake Castleberry lots are twice as large as what is being proposed here.

**Councilmember Gantt** said there were minimal trees on the Lake Castleberry lots, which goes against the idea of the rural character to him.

**Director Khin** said that Lake Castleberry was not on the rural density district, and that it was on the other side of the road. She said staff would support a rezoning from rural density to rural transition, rather than a full transition to rural residential.

# DRAFT MINUTES

- 1 **Matthew Carpenter**, of Parker Poe, 301 Fayetteville Street, on behalf of the applicant, gave
- 2 the following presentation.
- 3 **[APPLICANT PRESENTATION - SLIDE 1]**

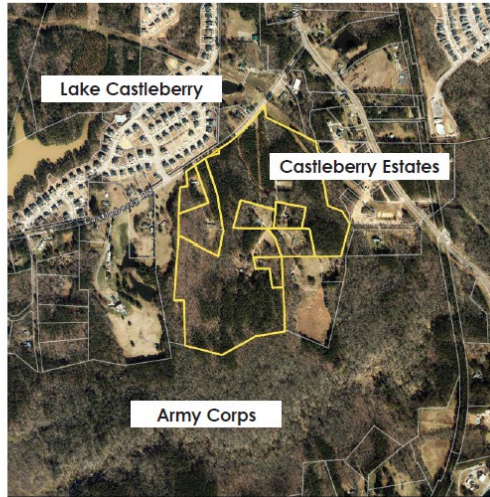
## Castleberry Reserve

PUD-CZ

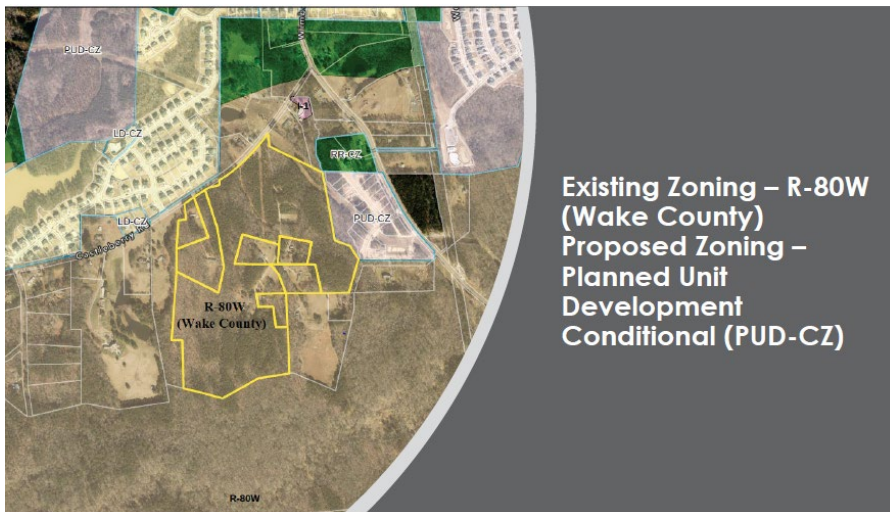


- 4
- 5 **[APPLICANT PRESENTATION - SLIDE 2]**

- 8 Parcels
- 89.90 total acres
- Frontage on Castleberry Road
- Army Corps property adjacent to south



- 6
- 7 **[APPLICANT PRESENTATION - SLIDE 3]**

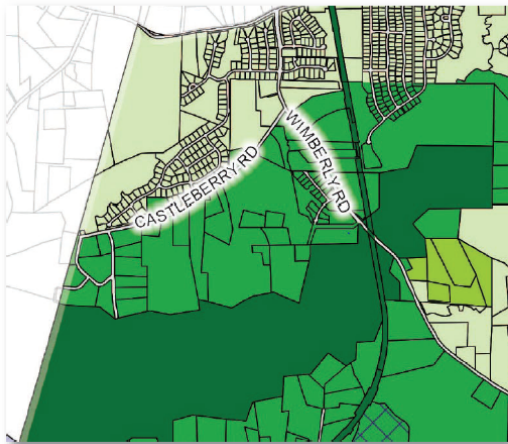


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# DRAFT MINUTES

## 1 [APPLICANT PRESENTATION - SLIDE 4]

Land Use Map (LUM)



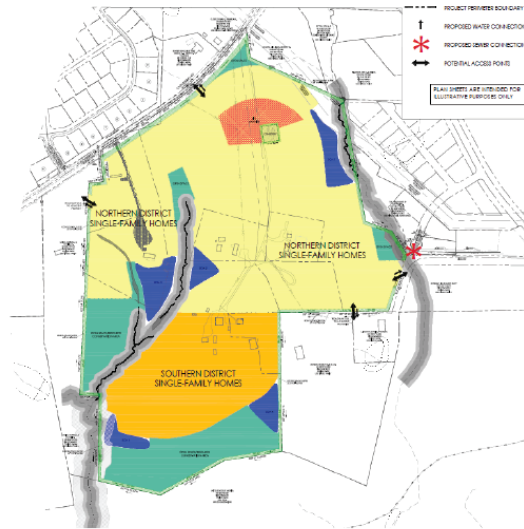
### RURAL RESIDENTIAL

- Rural Residential is intended to protect and enhance the rural character of the western-most and southwestern portions of the study area. The land is to remain minimally developed with single-family residential uses at very low densities.
- The area is characterized by homestead properties, defined as one home on more than ten acres, and large tracts of agricultural lands.
- Rural Residential provides a transition from the Protected Open Spaces around Jordan Lake and Shearon Harris Reservoir to Low Density Residential.

## 2 3 [APPLICANT PRESENTATION - SLIDE 5]

### Concept Plan

- Single-Family Detached
- Max of 2 units/acre
- Max built-upon area of 45% (UDO maximum of 70%)
- Cemetery Preserved in Place
- Connection to American Tobacco Trail
- Close Castleberry Road sidewalk gap
- Southern District – lower density adjacent to Corps property



## 4 5 [APPLICANT PRESENTATION - SLIDE 6]

### American Tobacco Trail Connection



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# DRAFT MINUTES

1 [APPLICANT PRESENTATION – SLIDE 7]



2  
3 [APPLICANT PRESENTATION – SLIDE 8]

## Affordable Housing

- 2 for sale affordable housing units at 135% AMI
- Affordability period of 30 years

100% AMI at 2022 Interest Rates Est. 4 Bedroom Affordable Initial Sales Prices	135% AMI at 2023 Interest Rates Est. 4 Bedroom Affordable Initial Sales Prices
\$413,000 3.5% Int. Rate	\$418,000 7.2% Int. Rate (Current 30-year fixed rate)

4  
5 [APPLICANT PRESENTATION – SLIDE 9]



### INTRODUCTION AND SUMMARY

Welcome to The Green Growth Toolbox, a cooperative, non-regulatory effort led by the Habitat Conservation Division of the North Carolina Wildlife Resources Commission. The Toolbox provides North Carolina towns, cities, and counties with tools, land use planning methods, and case studies to conserve wildlife and natural resources as they grow.

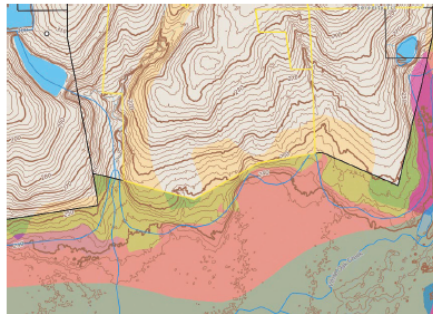
#### Game Land Hunting Safety Buffers

- Conflicts can arise between Game Land users and residents who live close to Game Lands, such as disturbance to homeowners and limits to hunting on Game Lands. To minimize such conflicts, we recommend establishing a 150 yard hunting safety buffer\* around Game Lands in your jurisdiction, especially in areas where Game Lands are narrow.
- The hunting safety buffer map layer displays this recommended 150 yard buffer.

• GIS Shapefile: gml\_buffer  
• Original Source: NCWRC

#### Game Lands Regulations

- Unlawful to discharge any weapon within 150 yards (450 feet) of any residence located on or adjacent to game lands.
- In accordance with Code of Federal Regulations, Title 36, Chapter III, Part 327, Section 327.13; the possession of firearms is prohibited on Jordan game lands, unless:
  - In the possession of a law enforcement officer;
  - Being used for hunting or fishing, with devices being unloaded when transported to, from or between hunting and fishing sites;
  - Being used at authorized shooting ranges; or
  - With written permission from the District Commander.

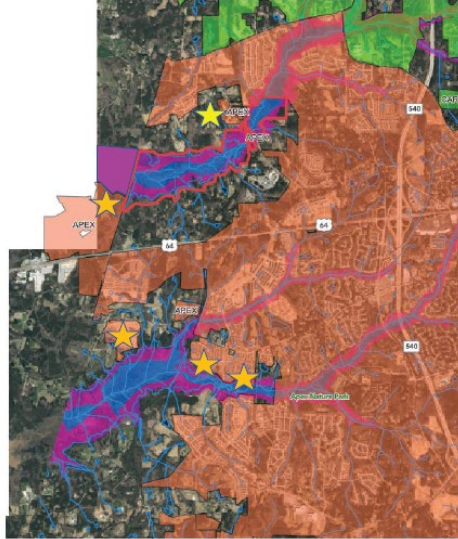


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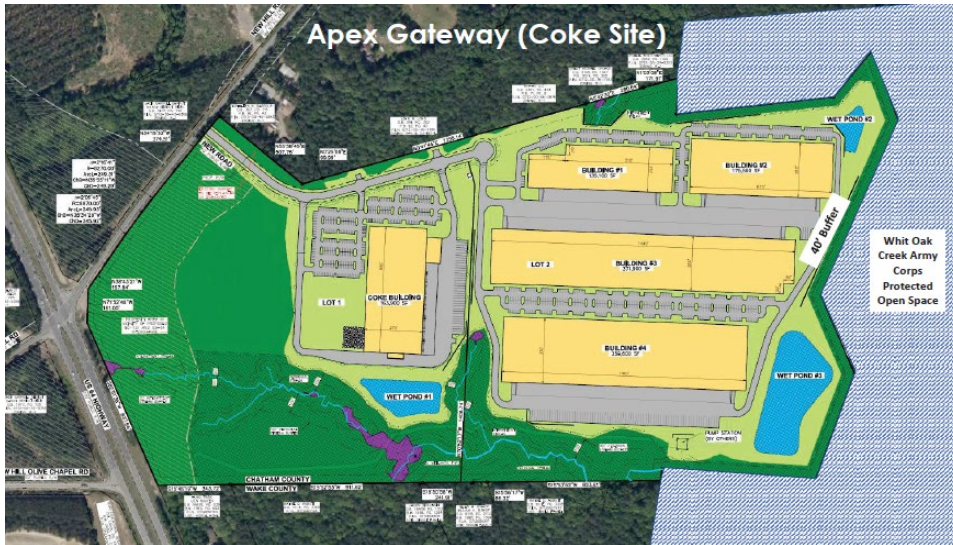
# DRAFT MINUTES

## 1 [APPLICANT PRESENTATION - SLIDE 10]

- Two large permanently protected Open Space areas in western Wake County – White Oak Creek (North) and Beaver Creek (South)
- Existing and approved projects adjacent to both



## 2 3 [APPLICANT PRESENTATION - SLIDE 11]



## 4 5 [APPLICANT PRESENTATION - SLIDE 12]

**Army Corps Property Buffer Comparisons**

Project/Subdivision	Year Zoning Approved	Max Density Permitted	Max Built Upon Area	Buffer/RCA Adjacent to Army Corps Property (Narrowest Point)
Apex Gateway Phase 1	2023	1,000,000+ sf Industrial	70%	40' Type A Buffer
Willow Mills Subdivision	2018	1 unit/acre	50%	75'
Saddlebrook Subdivision	2015	1.63 units/acre	70%	25'
Arcadia Subdivision	2015	3 units/acre	70%	150' (Utility Easements run through RCA)
Buckhorn Preserve Subdivision	2016	2.83 units/acre	70%	0'
Weddington Pool	2015			100'
Weston Subdivision	2023	1 unit/acre	60%	0' (utility easements adjacent to Open Space)
Castleberry Reserve	TBD	2 units/acre	45%	237' – 349'

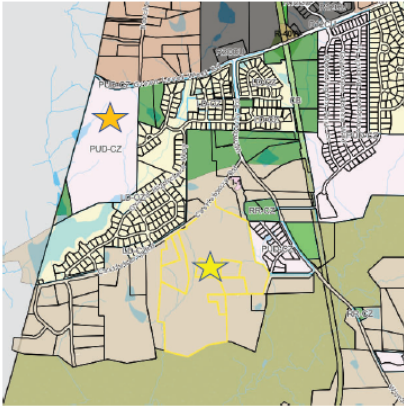


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# DRAFT MINUTES

1 [APPLICANT PRESENTATION - SLIDE 13]

**Williams Farm PUD**  
Approved June 2021



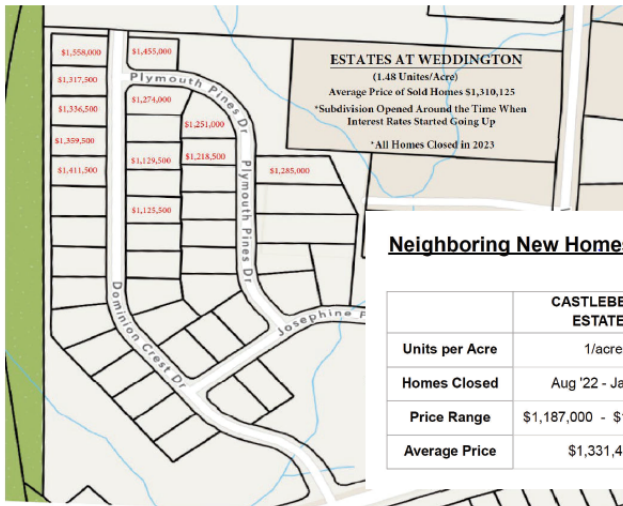
PUD Commitment	Williams Farm	Castleberry Reserve
Acreage	62	90
Max Density	2.89 units/acre; 179 units	2 units/acre; 179 units
Minimum Lot Size	5,000 SF	6,000 SF (northern area) 10,000 SF (southern area)
Affordable Housing	Donation of \$50,000	2 for Sale Affordable Units at estimated cost of \$800,000 + to developer/builder
Pedestrian Connectivity	5' Sidewalks Throughout and Along Frontage	2 off-site sidewalk commitments to improve pedestrian circulation and connect to American Tobacco Trail
Stormwater	25- year storm; treatment for 1 inch of rainfall will provide 85% removal of Total Suspended Solids	25- year storm; nitrogen export shall be reduced to less than 10 lbs/ac/yr
Max Built-Up Area	70% (per UDO)	45% (PUD Condition)

2  
3 [APPLICANT PRESENTATION - SLIDE 14]

**PUD Elevations**



4  
5 [APPLICANT PRESENTATION - SLIDE 15]



**Neighboring New Homes Sold (Aug '22 - May '23)**

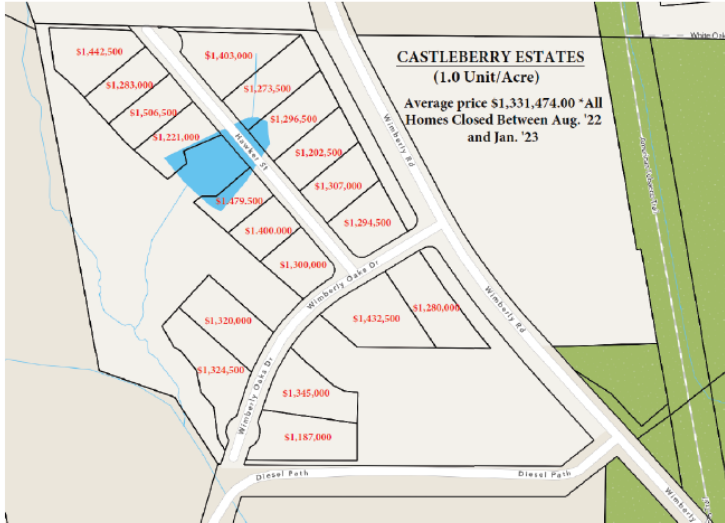
	CASTLEBERRY ESTATES	ESTATES AT WEDDINGTON
Units per Acre	1/acre	1.48/acre
Homes Closed	Aug '22 - Jan '23	Jan '23 - Present
Price Range	\$1,187,000 - \$1,506,500	\$1,129,500 - \$1,558,000
Average Price	\$1,331,474	\$1,310,125

6  
7



# DRAFT MINUTES

1 [APPLICANT PRESENTATION - SLIDE 16]

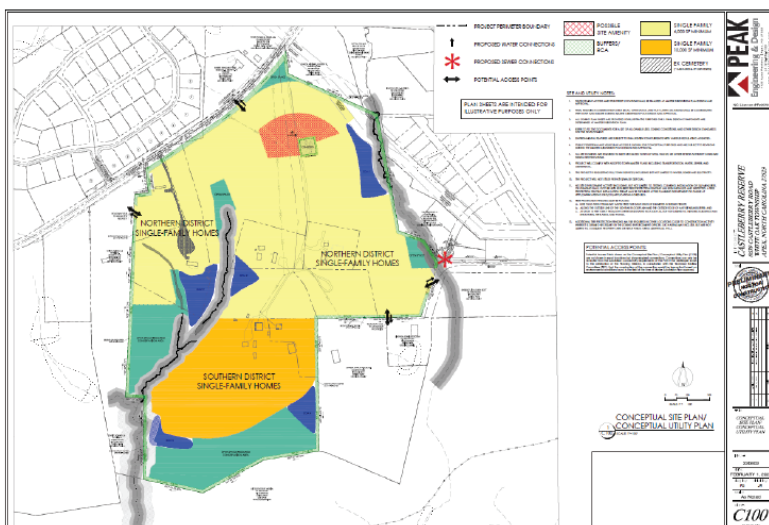


2  
3 [APPLICANT PRESENTATION - SLIDE 17]

Consistent w/ Peak Plan 2030

Peak Plan Policy	Case Commitment
"Protection of environmental and natural resources"	<ul style="list-style-type: none"> <li>• Large RCA to buffer Corps property</li> <li>• Treat stormwater quality to reduce nitrogen</li> <li>• 5 homes constructed with solar panels</li> <li>• Max built upon area of 45% (70% required)</li> <li>• Max density of 2 units/acre</li> <li>• Lower density and larger lot sizes adjacent to Corps land</li> </ul>
"A variety of housing types available to a range of incomes"	<ul style="list-style-type: none"> <li>• 2 affordable housing units</li> <li>• Additional homes add to housing supply</li> </ul>
"A well-connected pedestrian and bicycle network"	<ul style="list-style-type: none"> <li>• Fill a gap in pedestrian connectivity by construction off-site sidewalk to connect to American Tobacco Trail and to connect sidewalk gap left by Lake Castleberry</li> <li>• Castleberry Road speed limit reduction</li> </ul>
"Preservation of historic places and cultural resources"	<ul style="list-style-type: none"> <li>• Preservation of the historic cemetery in its current location</li> </ul>

4  
5 [APPLICANT PRESENTATION - SLIDE 18]



## DRAFT MINUTES

1           **Councilmember Zegerman** asked Mr. Carpenter how many Apex residents were involved in  
2 designing this plan.

3           **Mr. Carpenter** said they held 2 neighborhood meetings where 20-35 people were at each  
4 meeting. He said there were changes made based on neighbor input, such as the moving of a  
5 proposed driveway that would have been directly across from an existing home. He said the main  
6 design of the plan has been from Jeff Roach.

7  
8           With no further questions for Mr. Carpenter, **Mayor Gilbert** opened up Public Hearing for  
9 these two items. With no one wishing to speak, he closed public hearing and brought it back to  
10 Council for discussion.

11  
12           **Councilmember Zegerman** said he found it frustrating that there was a developer telling  
13 them what was good for the Town of Apex, without much input for residents. He said the land use  
14 map was there for a reason, and was the result of months of effort by staff, workshops with residents,  
15 and reflects what the town wants to look like in the future. He said some of the comparisons made  
16 are from different zoning districts, and so they are null and void to him. He said he appreciates the  
17 improvement the applicant is offering, but that it was not enough to approve this plan. He said there  
18 were some proposals that were so much different from the requirements that they were frankly  
19 laughable. He said he doesn't see much about this plan that he likes.

20           **Councilmember Gray** said he agreed that the Lake Castleberry really does not look rural/ He  
21 said it does not fit the tone of what the Land Use Plan was trying to do. He said this is a situation of  
22 finding balancing, where the developer is giving them a lot of what they are asking for, some  
23 affordable housing, though adding he has questions on whether a half million-dollar home could  
24 really be considered affordable housing, and whether 2 units are sufficient to meet the goals Council  
25 has identified in their affordable housing plan. He said there was a value of the land use map, where  
26 land closer to Jordan Lake was meant to be less occupied. He wondered if what the developer is  
27 offering is enough to justify the tradeoff of encroaching upon the land and diminishing the looks.

28           **Councilmember Zegerman** said if they gave a pass for this property, all the neighboring  
29 properties would come in wanting the same thing. He said Council would have nothing to stand on  
30 in order to deny those requests in that case.

31           **Councilmember Gray** said there would still be ground to deny, but it would be harder to do  
32 so. He said he understood his point. He added he likes the idea that driving in from Jordan Lake  
33 looks much more rural, and then progressively becomes more compact and suburban. He said he's  
34 wondering if the tradeoff is worth losing some of that wooded land and changing the intent of the  
35 land use plan. He said he's not sure if he is ready to do that. He does appreciate the effort in the  
36 developer trying to give them things they are looking for, however.

37           **Councilmember Gantt** said he wanted to speak about the Land Use Map. He said he was  
38 proud of the rural residential designation when it was passed. He said he does not see a lot of value  
39 for Apex in having expensive houses on large lots with just grass and no trees. He said it does  
40 nothing ecologically. He's wondering if the prices of the homes and lack of trees is good for Apex,  
41 even with the low density of the development. He said the middle ground approach staff is  
42 recommending may not be the best thing for the community. He said he may want to do with the  
43 Land Use Map moving forward is have very little development on the deep green areas and increase  
44 density in other places.

## DRAFT MINUTES

1 Councilmember Mahaffey mentioned Councilmember Gray's comment about not quite  
2 being convinced about this project. He said was not at that point either, and for him is was not close.  
3 He added he thinks people do want trees in their yard, and there is a demand for existing trees to be  
4 kept. He said it speaks to potentially eliminating mass grading entirely. He thinks lots with trees  
5 would be in strong demand if they ever came back.

6 Councilmember Gantt said eliminating mass grading wouldn't prevent them from cutting  
7 down all the trees, it would just prevent them from doing so all once.

8 Councilmember Mahaffey said yes, they could still cut them down individually, but there are  
9 more options there and people may choose to let some trees remain.

10 Councilmember Gray said the Council will need to have a bigger conversation on whether a  
11 \$500,000 home is filling the goal of what they want to do with affordable housing.

12 Councilmember Zegerman said he also wasn't sure basing it on 135% AMI is something that  
13 is affordable.

14 Councilmember Gray said that was exactly what he was trying to get at.

15 Councilmember Mahaffey said the developer's offer of homes at 135% AMI corresponds to a  
16 donation of \$800,000. He wondered if gaining these two units would be the best use of \$800,000.  
17 He said money like that could be used to provide 10 affordable homes in a project somewhere else.

18 Mr. Carpenter said they would be more than happy to look at what the options were for what  
19 they could do with affordable housing and other commitments to help address some of Council's  
20 concerns.

21 Councilmember Zegerman said the \$800,000 dollars was not an actual cost to the developer,  
22 it was just money "left on the table" from the potential future sales price.

23 Councilmember Gray asked if Mr. Carpenter wanted Council to consider a motion to  
24 continue this item.

25 Mr. Carpenter said yes.

26 Mayor Pro Tempore Killingsworth said she was concerned about this project getting close to  
27 game land, and about the difference in offer for the buffer size and what is recommended. She said  
28 safety is a big concern of hers in regards to hunters in the area and how close they are able to be to  
29 residential areas. She said there could be conversation about the value of 2 affordable units out of  
30 180 homes. She did appreciate the offer to have some homes pre-installed with solar panels. She  
31 said they could discuss the density, but she agrees with Councilmember Zegerman that allowing a  
32 departure from requirement here could compromise their intent moving forward.

33 Councilmember Zegerman said he understands the argument about previously approved  
34 plans. He said they can't change those, but they can listen to the feedback from residents, and how  
35 they want to be careful about density and expanding the town. He said they are here to talk about  
36 the future, and not about things that happened in the past.

37 Councilmember Gantt said he wanted to talk about Castleberry Road. He said residents  
38 would want to be able to drive through a rural road, but in this case, nobody would be driving  
39 through this road. He said preserving a rural thoroughfare should be something that connects to  
40 something else. He said there isn't much west of this property.

41  
42 A motion was made by Councilmember Gray, seconded by Mayor Pro Tempore  
43 Killingsworth, to continue Public Hearing Number 1 and Public Hearing Number 2 to the September  
44 12, 2023 Regular Town Council Meeting.

# DRAFT MINUTES

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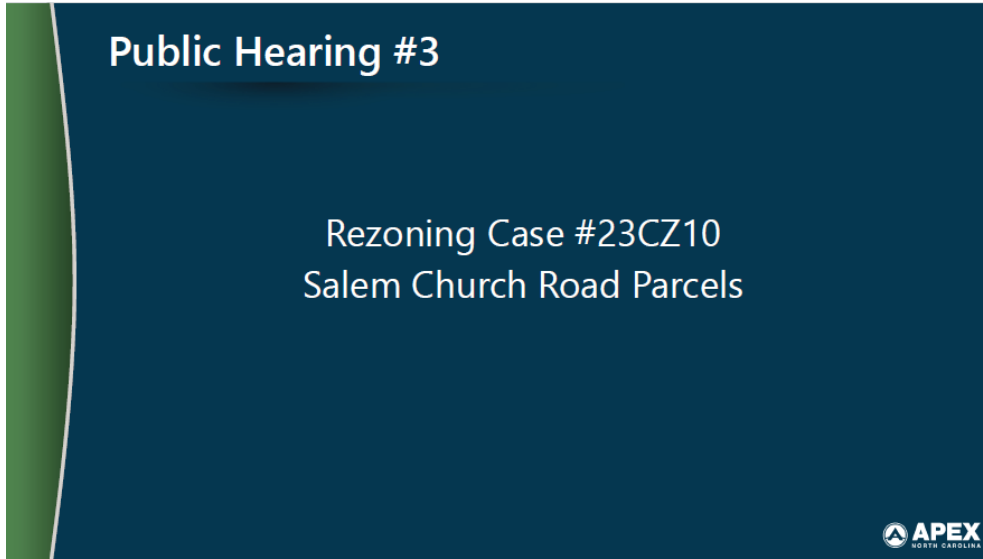
VOTE: 4-1, Councilmember Zegerman dissenting

## PH3 Rezoning Case No. 23CZ10 - Salem Church Road Parcels

Ms. Cowles gave the following presentation regarding Rezoning Case No. 23CZ10 - Salem Church Road Parcels.

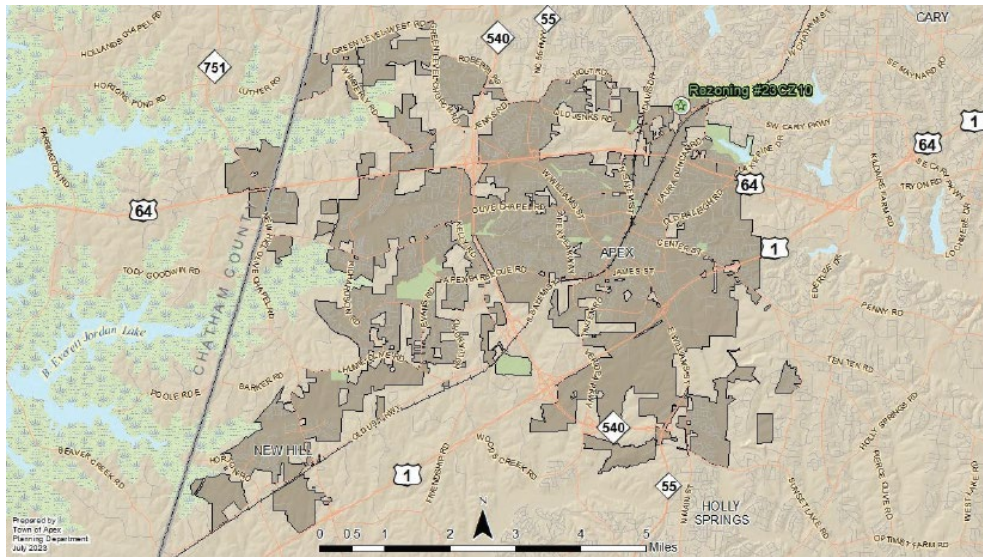
Russell Dalton, Traffic Engineering Manager, also gave some remarks.

[SLIDE 22]



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[SLIDE 23]



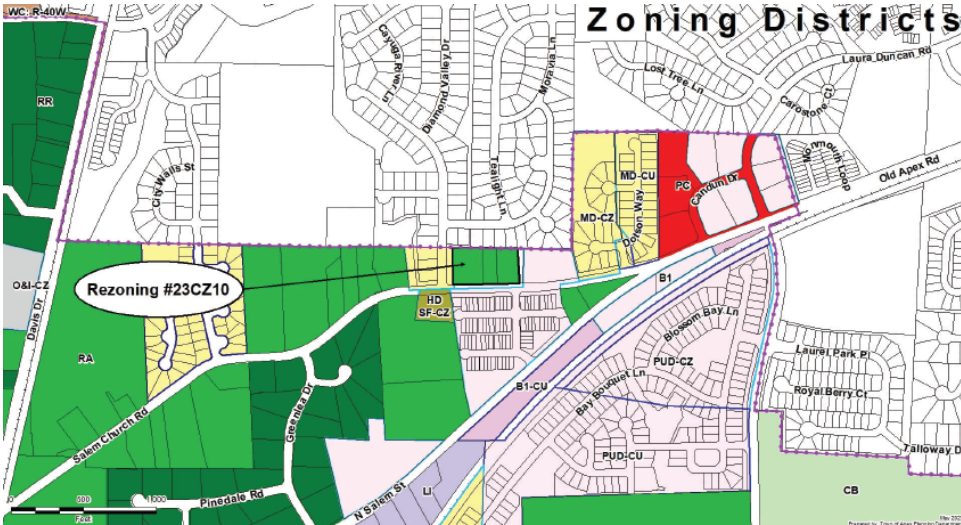
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DRAFT MINUTES

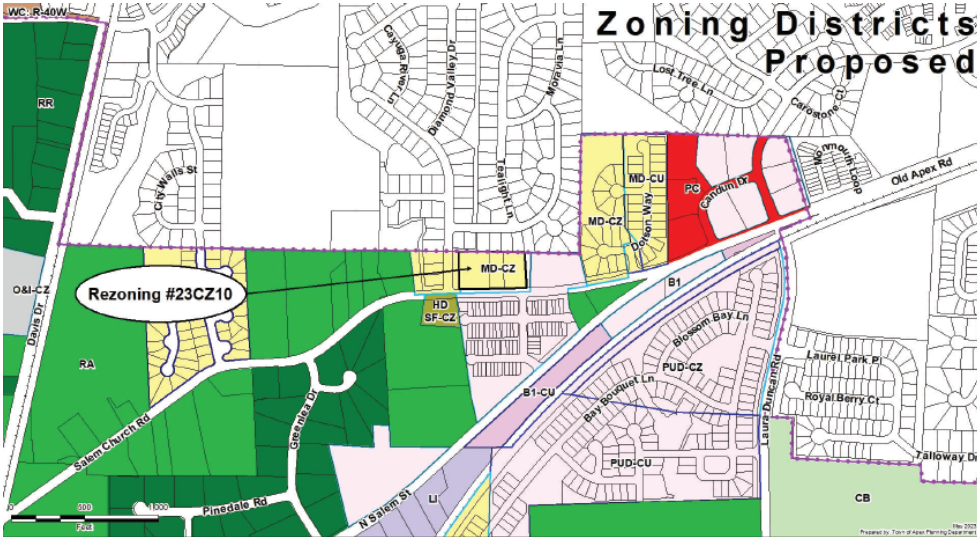
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3 [SLIDE 25]



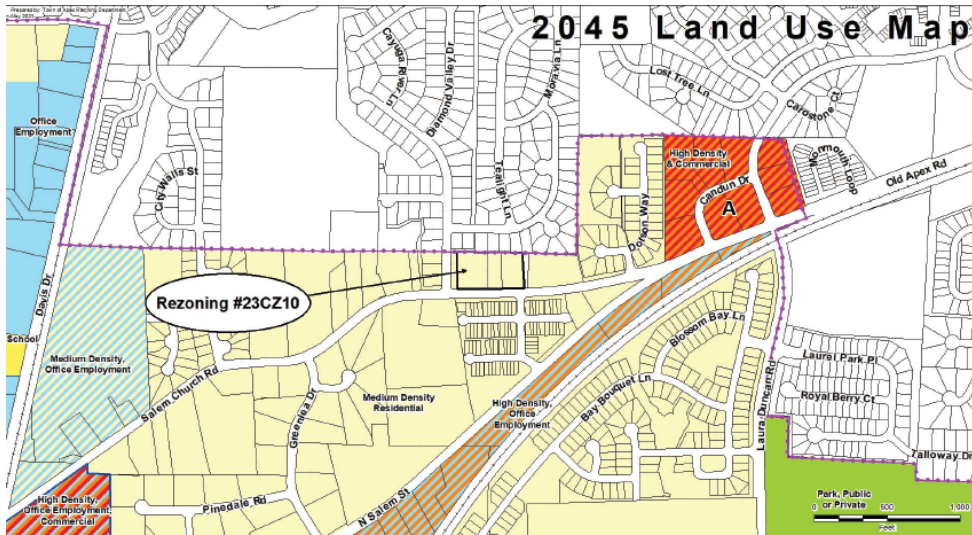
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5 [SLIDE 26]



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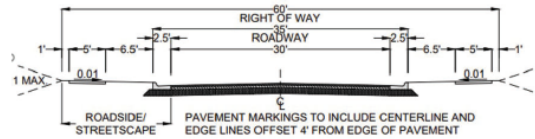
[SLIDE 27]



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[SLIDE 28]

Figure 1: 2-Lane Urban Thoroughfare



\*The orange lines represent the Salem Pointe Townhome PUD portion that paid a fee in lieu in May 2017 for road widening, curb & gutter, and sidewalk.

Figure 2: Salem Church Road Aerial

Location	Sidewalk	Curb and Gutter
West of the project site	Yes	At Tahoe Glen Place intersection
East of the project site	Sidewalk installed 400 feet from project site	At Dotson Way intersection
South side of Salem Church Rd	No	At Olde Salem Way intersection

5  
6

[SLIDE 29]

Salem Church Road Parcels Rezone #23CZ10

In order to provide continuous infrastructure consistent with the Apex Transportation Plan along Salem Church Road, staff recommended that the applicant add a condition to install sidewalk, curb and gutter as follows:

- Developer shall provide roadway frontage improvements along Salem Church Road consistent with a 35-foot back-to-back typical section with 5-foot sidewalk on a 60-foot right-of-way.

7

1  
2 [SLIDE 30]

\*Yellow bold line represents existing continuous direct sidewalk location to destinations.  
\*Yellow minor lines represent existing sidewalk within the Town of Apex.



3  
4 [SLIDE 31]

\*Yellow bold line represents existing continuous direct sidewalk location to destinations.  
\*Yellow minor lines represent existing sidewalk within the Town of Apex.



Transportation Infrastructure Fee in Lieu:

- The fee is usually lower than the actual cost of construction;
- Residents will be disrupted when the Town makes future improvements;
- Residents will not benefit from the infrastructure until an unknown time with the Town moves the road frontage improvement project forward;
- Construction as a municipal project will be more costly and have a higher staff burden than construction with development.

5  
6 [SLIDE 32]



7  
8

## DRAFT MINUTES

1 Councilmember Mahaffey asked what the rule was for certain cases to be exempt like this  
2 one is.

3 Amanda Bunce, Current Planning Manager, said State Law allows lots that are two acres or  
4 less to make no more than 3 lots with the exempt plat process, if the projects meet the standards of  
5 the ordinance. She said there could be a recombination first, then a subdivision of lots, so there is a  
6 way to create 8 lots and avoid the Master Subdivision Plan process.

7 Councilmember Gantt asked if this applied to stormwater as well.

8 Ms. Bunce said stormwater would still be regulated if they disturbed more than an acre. She  
9 said the lots would be individually permitted. She said they need a rezoning to lower the minimum  
10 lot width and area.

11 Councilmember Mahaffey wanted to clarify if it was the size of the lots, rather than the size of  
12 the property, that could determine exempt status.

13 Director Khin said Tunstall Square is an example of this. The project did not have to do curb  
14 and gutter or make road improvements or right of way dedication because they used creative  
15 platting. She said once the lots are two acres each they can be divided again.

16 Ms. Bunce added that the lot size requirements of the district still needed to be met, so a  
17 rezoning was still necessary in this case.

18 Councilmember Gantt asked if the driveways seemed undesirable to be connected to the  
19 main portion of the road, especially if the traffic in this area increases as other road connections are  
20 made.

21 Mr. Dalton said they are undesirable, but since they are existing driveways, part of the  
22 conditions for the rezoning was that there would be 8 units using 4 driveways, rather than the 4 units  
23 that are using them now.

24 Peter Cossen, of Jones and Cossen engineering, 221 North Salem Street, on behalf of the  
25 applicant, gave some remarks.

26 Councilmember Gantt asked how they should think about the impact of exempting this site  
27 plan, since the land would be rezoned, and theoretically a different developer could purchase it  
28 afterwards and build expensive homes with increased profit since there would be no improvement  
29 requirements on this site.

30 Mr. Cossen said the Mr. Helton has been in Apex for a long time, and has worked and built  
31 here and is a good person. He said he trusts him in his vision for these lots and what he wants to  
32 bring to Apex.

33 Councilmember Gantt said there was no guarantee that he would be the one to actually  
34 develop the land.

35 Mr. Cossen said that if Mr. Helton tells you it will be him, it will be him.

36 Mr. Helton spoke about his vision for the property, and how we wanted to try to keep it  
37 similar to the other properties in that area and keep costs down as well. He said he couldn't promise  
38 that he would build all 8 homes himself, since he was 79 years old. He said all he can stand on is his  
39 word and reputation, and he thinks he has proven that.

40 Councilmember Gray said construction easements were mentioned earlier, and asked if Mr.  
41 Helton was okay with allowing the town those easements on the frontage in the case they wanted to  
42 add in improvements in the future to road and curb and gutter.

43 Mr. Helton asked if there could be limitations. He said he could give a 10-foot easement for  
44 that future construction.



## DRAFT MINUTES

1 Councilmember Mahaffey asked if he was offering for curb and gutter as well, or just the  
2 sidewalk.

3 Mr. Helton said just for the sidewalk.

4 Mr. Crossen said the curb and gutter will be built along the right of way.

5  
6 Mayor Gilbert opened up public hearing for this item. With no one signed up, he closed  
7 public hearing and moved it back to Council for discussion.

8  
9 A motion was made by Councilmember Gray, to approve the Rezoning without the proposed  
10 additional conditions.

11  
12 Councilmember Gray said he felt the conditions would essentially make it so a sidewalk  
13 would pop out of nowhere. He said he knows they usually ask for them, but it isn't a great fit in this  
14 case.

15 Mayor Gilbert asked if Tunstall Square was allowed to proceed without the conditions.

16 Director Khin said without the proposed conditions by staff, the road frontage would likely  
17 look similar to Tunstall Square.

18  
19 Mayor Pro Tempore Killingsworth seconded the Councilmember Gray's motion, listed above.

20  
21 Councilmember Mahaffey said he was not quite there for no additional conditions, he said he  
22 would be okay with it if there was a condition added to give the town construction easements in case  
23 they want to add in sidewalks or curb and gutter in the future. He said he was struggling with how to  
24 treat sites that could qualify as exempt. He was wondering how Council should go about those  
25 projects, and if some rules should be changed, or if allowing construction easements would be  
26 sufficient.

27 Councilmember Zegerman asked if the town was still asking for a fee-in-lieu.

28 Councilmember Mahaffey said it didn't think so, and it was not being offered. He said they  
29 need to be consistent with exempt site plans moving forward, and he thinks getting a construction  
30 easement would be a good deal. He asked what staff would need for this condition, and if it would  
31 be something that would need to be done now or in the future. He said he wants the town to be able  
32 to have everything it needs in order to build infrastructure on these sites in the future and not have  
33 to go through another process.

34 Chris Johnson, Director of Transportation and Infrastructure Development, said that giving a  
35 flat number would be difficult without knowing all of the information. He said he didn't think the grade  
36 difference in the lots was much different. He said he assumes 15 feet of construction easement along  
37 the frontage would probably cover it.

38 Councilmember Gantt said he respects Mr. Helton and what he has done for the town and the  
39 county, but said if the developer proposing this was out-of-state, they wouldn't even consider it. He  
40 said it's important to separate the person from the project. He thinks they have passed some things  
41 where emotion got the best of them. He said the word "affordable" does not appear in the application,  
42 even though it was said by the applicant. He said he bases his decision based on what is on paper. He  
43 said he doesn't think this is a good project, and he doesn't like the four driveways. He said he believes  
44 they will need a sidewalk in this area, as it will be growing and there is a greenway to the north. He

## DRAFT MINUTES

1 said he cares about sidewalks so much because they are for everybody. He said he believes there is  
2 emotion getting involved based on the people that are part of the project.

3 **Councilmember Mahaffey** said he disagrees. He said his perspectives are based on the size of  
4 the project and the fact that it could be exempt, and what would be fair for a plan like that. He said he  
5 would say the same thing if it was an out-of-state developer. He said he is trying to craft a fair policy  
6 for these kinds of projects, and he thinks having the ability to build that infrastructure if they want is  
7 good. He said he thinks there should be a sidewalk there, especially because of its proximity to the  
8 school. He said he thinks there needs to be some sidewalk built in the areas close by first, but hopefully  
9 they are able to get all of that done at once when it becomes more of a priority.

10 **Councilmember Gray** said he feels it makes no sense to build a portion of sidewalk in an area  
11 where people would have to walk a quarter or a half of a mile through dirt to get to the next portion  
12 of sidewalk. He said he understands that the town is going to have to pay for them, but he doesn't  
13 think the residents are opposed to that being a use of public money. He said in these smaller lots that  
14 can qualify for the exemptions, the typical requirement of building sidewalks and other things causes  
15 much more strain on them. He said the question for him was of fairness. He was wondering how they  
16 could ask a developer on one side of the street to pay for a sidewalk, but not the developer on the  
17 other side of the street.

18 **Councilmember Gantt** said they paid a fee-in-lieu.

19 **Councilmember Gray** said yes, but that was because of the size.

20 **Councilmember Gantt** said the fee-in-lieu would cover sidewalk connection to the east, so they  
21 have money available to build a connecting sidewalk.

22 **Councilmember Gray** said yes, but it was paid because of the size.

23 **Councilmember Zegerman** said there was nothing they could do about that, since it was  
24 approved before any of them were on the Council. He said he was worried in this case that if they don't  
25 approve this, the developer will go for the exempt status and the town would get nothing.

26 **Councilmember Mahaffey** said they would still need to rezone the property either way, he said  
27 it's important to be consistent based on what they are supposed to do.

28 **Councilmember Zegerman** said he agrees, and that he is good with not including the sidewalk  
29 condition if they get the construction easement.

30 **Councilmember Gantt** said there was a lot of need for sidewalks, and there were a lot of  
31 sidewalk gaps. He said it may be longer than they think before they would go back and put in these  
32 sidewalks, as there are 25 or so projects worthier of taxpayer investment right now.

33 **Mr. Roach** said they would add a condition that stated "A 20-foot construction easement shall  
34 be provided along Salem Church Road for future sidewalk connection."

35 **Councilmember Gray** said he agrees with the added condition and withdrew his previous  
36 motion.

37  
38 A motion was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**,  
39 to approve Rezoning No. 23CZ10 with the additional condition of, "A 20-foot construction easement  
40 shall be provided along Salem Church Road for future sidewalk connection".

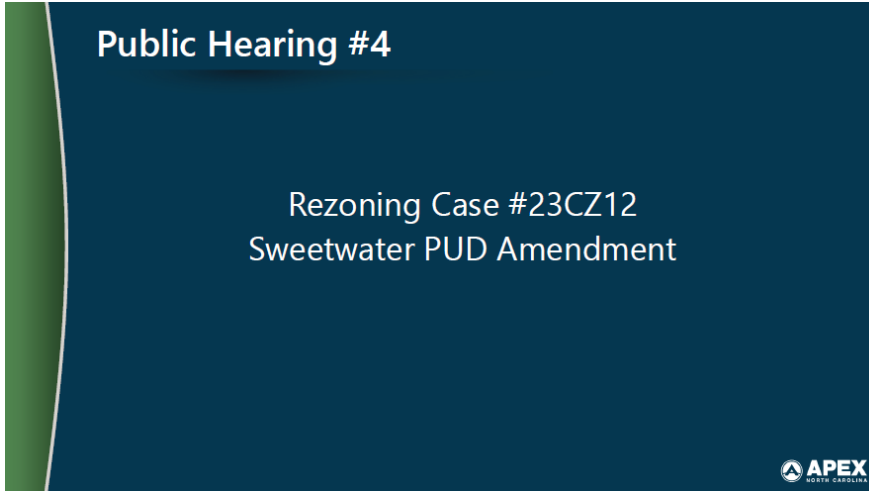
41  
42 **VOTE: 4-1, Councilmember Gantt dissenting**

43  
44 **NOTE: To view the additional zoning conditions documents, please see OTHER-2023-078.**

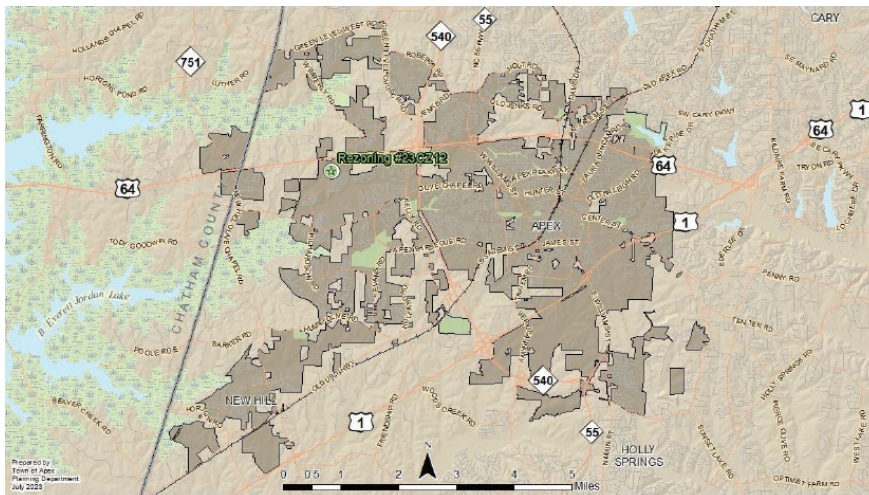
# DRAFT MINUTES

- 1
- 2 PH4 Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment
- 3 Ms. Bunce gave the following presentation regarding Rezoning No. 23CZ12 - Sweetwater
- 4 PUD Amendment.

5 [SLIDE 33]



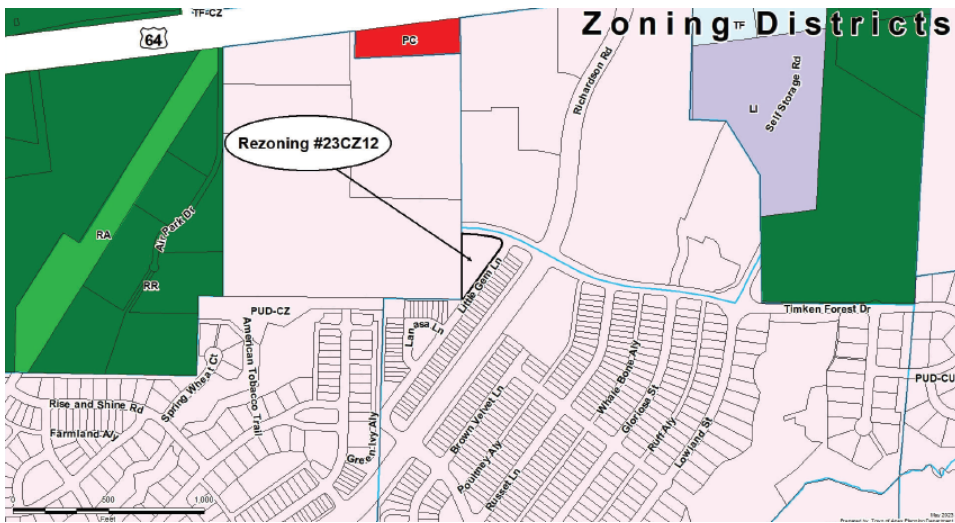
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7 [SLIDE 34]



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9 [SLIDE 35]

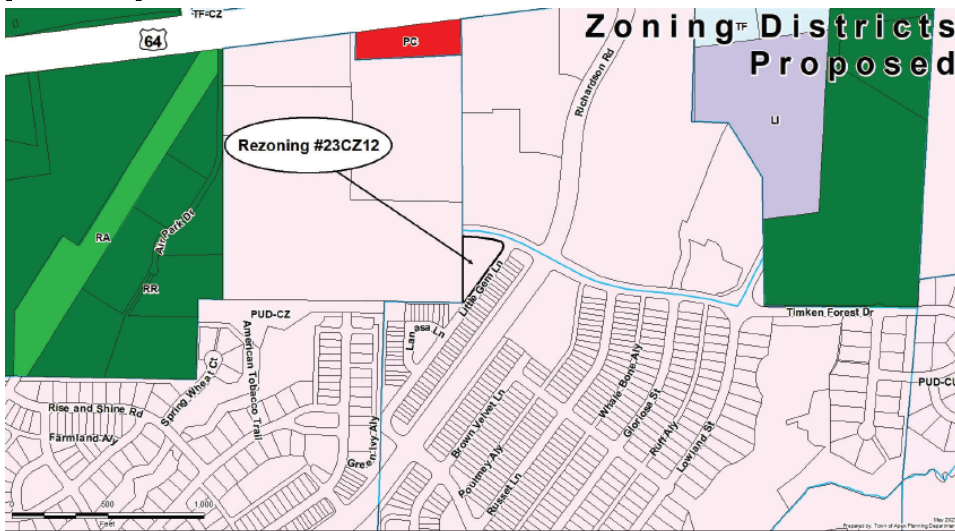


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11 [SLIDE 36]



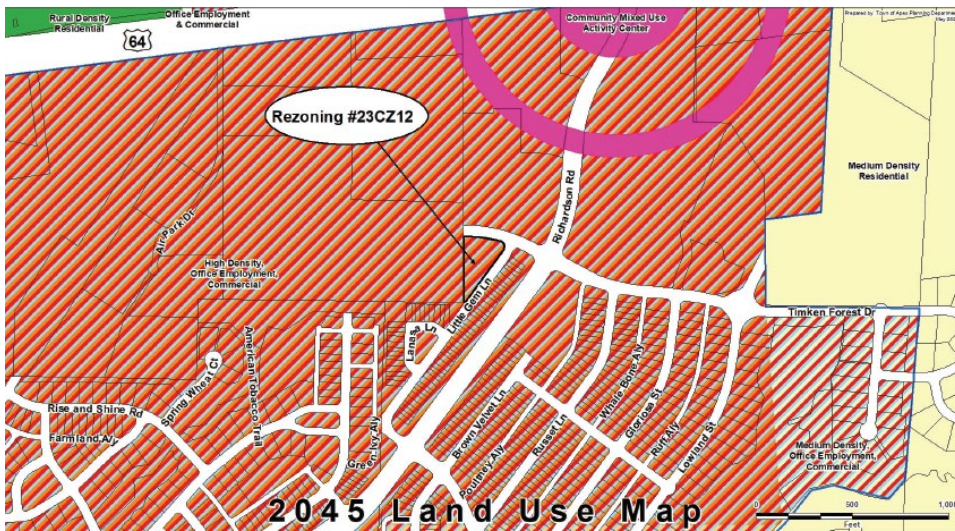
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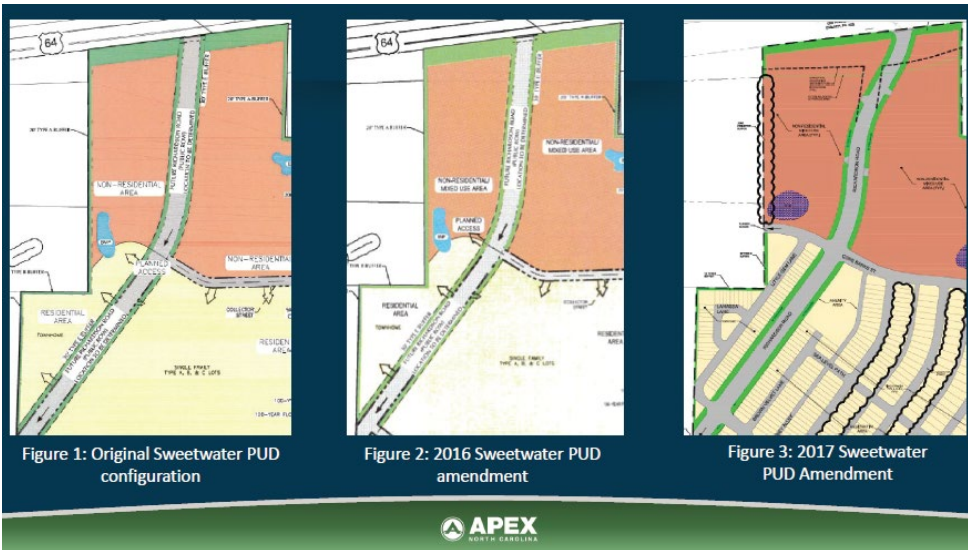


Figure 1: Original Sweetwater PUD configuration

Figure 2: 2016 Sweetwater PUD amendment

Figure 3: 2017 Sweetwater PUD Amendment



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[SLIDE 40]

### Proposed Changes #1 Changes to Section 5: Permitted Uses

Table 1	Residential	Non-residential/ Mixed Use	PINs 0722-44-1499 0722-44-1386	Table 1	Residential	Non-residential/ Mixed Use	PINs 0722-44-1499 0722-44-1386
<b>Residential Uses</b>				<b>Retail Sales &amp; Service</b>			
Accessory Apartment	P		P	Barber & beauty shop	P	P	
Single-Family	P			Bookstore	P	P	
Townhouse	P			Building supplies, retail	P		
Apartment (2nd Story and above only)		P		Convenience store	P		
<b>Public &amp; Civic Uses</b>				Convenience store with gas sales	P		
Assembly hall, non-profit		P		Dry cleaners & laundry service	P	P	
Church or place of worship		P/S		Farmer's market	P	P	
Daycare facility	P	P	P	Financial institution	P		
Drop-in or short-term daycare	P	P	P	Florist shop	P	P	
Government Service	P			Furniture home	P		
School, public or private	P			Gas & fuel, retail	P		
Veterinary clinic or hospital	P	P	P	Greenhouse or nursery, retail	P		
Vocational school	P			Grocery, retail	P		
<b>Utilities</b>				Grocery, specialty	P		
Utility, minor	P			Health/fitness center or spa	P		
<b>Recreational Uses</b>				Ice cream, indoor	P	P	
Entertainment, indoor		P		Laundromat	P		
Greenway	P	P	P	Remount or gift shop	P		
Park, active	P	P	P	Personal service	P	P	
Park, passive	P	P	P	Pharmacy	P		
Recreation facility, private	P	P	P	Printing & copying service	P	P	
<b>Food &amp; Beverage Services</b>				Real estate sales	P	P	
Restaurant, drive-through		P		Rapier service, limited	P		
Restaurant, general		P	P	Retail sales, bulky goods	P		
Office & Research				Retail sales, general	P	P	
Dispatching office		P	P	Studio for art	P	P	
Medical or dental office or clinic		P	P	Tailor shop	P	P	
Medical or dental laboratory		P	P	Trailer	P		
Office, business or professional		P	P	Pet services	P	P	
Publishing office		P	P	<b>Vehicle Repair or Service</b>			
Research facility		P	P	Automotive parts	P		
Public accommodations				Car wash or auto detailing	P		
Hotel or motel		P		Vehicle inspection center	P		
				Industrial/Trade/Professional Service			
				Laboratory, industrial research	P		
				Production			
				Microbrewery	P	P	



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4

[SLIDE 41]

### Proposed Changes to Section 6: Design Controls

The applicant is proposing a reduced height for these parcels from the height allowed in the nonresidential/mixed-use areas north of Core Banks Street. The applicant is also proposing to reduce the required buffer adjacent to vacant property from a 20' Type A to a 10' Type A. **Proposed changes are shown in bold below.**

**NONRESIDENTIAL/MIXED-USE AREAS:**

**Building Height:**

Maximum Height: 62 Feet (5 Story)

**39 Feet (2 Story) – PINs 0722-44-1499 & 0722-44-1386**

**Buffers (Refer to PUD Amendment Exhibit):**

Perimeter Buffers

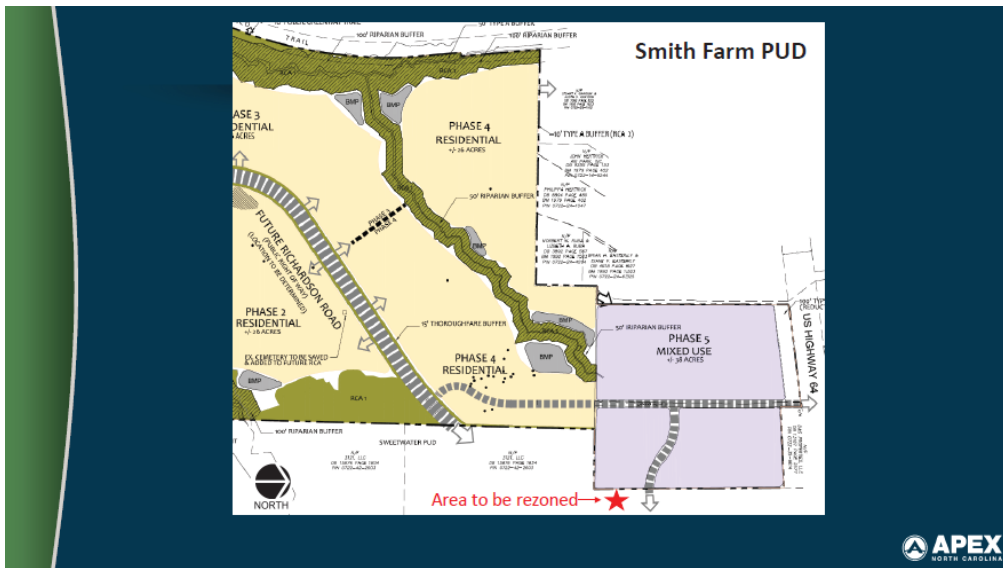
Adjacent to Vacant Property: **10-foot Type A buffer: If a buffer is required by UDO Section 8.2.6, it shall not exceed 10' in width.**



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[SLIDE 42]

DRAFT MINUTES



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[SLIDE 43]



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Mitch Craig, of the CE Group, 301 Glenwood Avenue, on behalf of the applicant, also provided information.

Councilmember Mahaffey asked if he had any idea on what the orientation of the buildings would be.

Mr. Craig said he did not know at this point.

Mayor Gilbert opened Public Hearing for this item. With no one signed up, he closed Public Hearing and moved discussion back to Council.

A motion was made by Mayor Pro Tempore Killingsworth, seconded by Councilmember Gray, to approve Rezoning No. 23CZ12.

Councilmember Mahaffey said he liked it. He was in favor of the height restriction and he thinks this is something that could of use to the neighbors, once things from the list of uses come in.

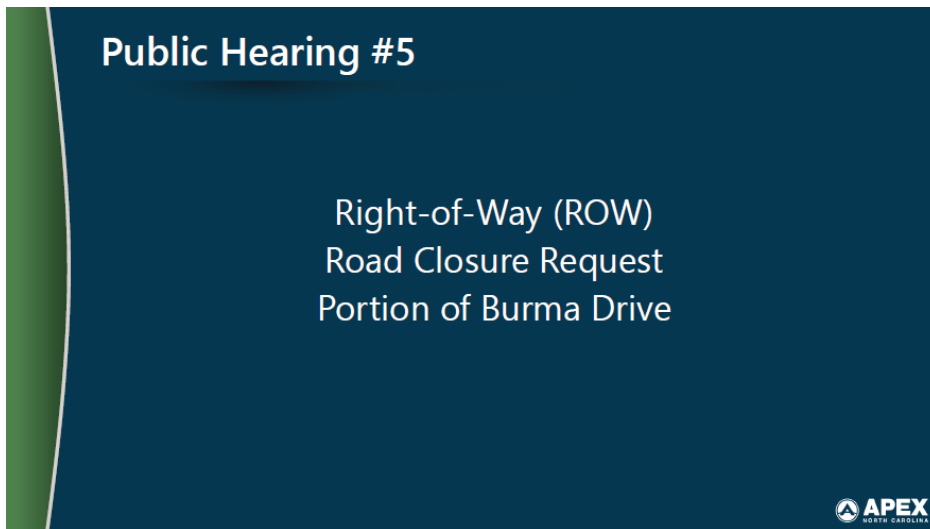
## DRAFT MINUTES

1 Councilmember Zegerman said it makes sense to him, he was just unsure about the asterisk  
2 around potentially removing the buffer. He said he would like to see that buffer remain in place,  
3 even if Smith Farm builds commercial there too. He said there may be a bit of timing issue on this  
4 one, but he sees no reason not to approve.

5  
6 VOTE: UNANIMOUS (5-0)

7  
8 PH5 Right-of-Way (ROW) Road Closure Request - Portion of Burma Drive (REF: OTHER-2023-061)  
9 Town Clerk Coleman gave a presentation regarding the Right-of-Way (ROW) Road Closure  
10 Request - Portion of Burma Drive.

11  
12 [SLIDE 44]



13  
14  
15 Mayor Gilbert opened Public Hearing for this item. With no one signed up, he closed Public  
16 Hearing and moved discussion back to Council.

17  
18 A motion was made by Councilmember Gantt, seconded by Councilmember Zegerman, to  
19 approve the Right-Of-Way Road Closure Request - Portion of Burma Drive.

20  
21 VOTE: UNANIMOUS (5-0)

22  
23 Mayor Gilbert called for a 15-minute recess at 8:01 p.m.

24  
25 Council returned to open session at 8:16 p.m.

26  
27  
28 PH6 Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64

29 Shannon Cox, Long Range Planning Manager, gave the following presentation regarding the  
30 Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64.

31  
32 [SLIDE 45]

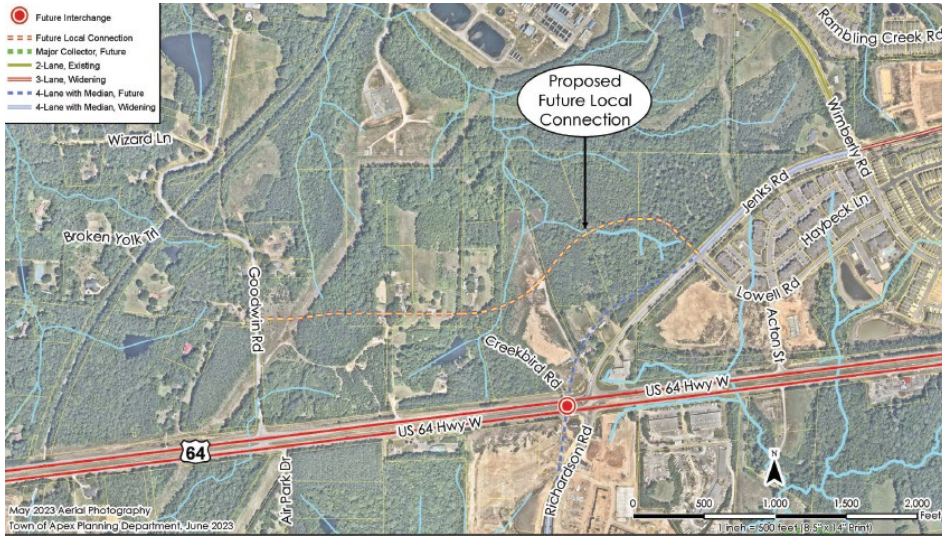
# Public Hearing #6

## Transportation Plan Amendments Jenks and Goodwin Road, US 64



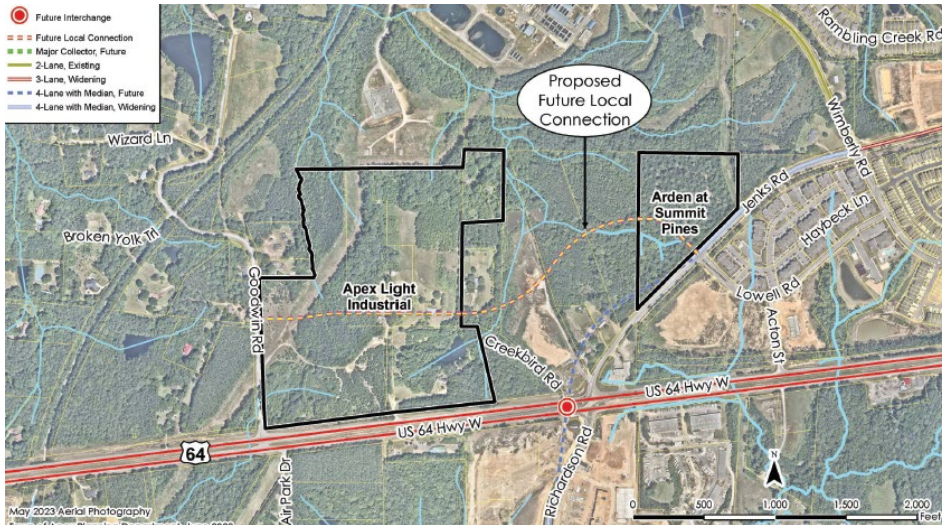
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2 [SLIDE 46]



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4 [SLIDE 47]



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[SLIDE 48]



# DRAFT MINUTES



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**Councilmember Mahaffey** asked if this was talked about during the rezoning for Apex Light Industrial.

**Ms. Cox** said a commitment was made to them to build this road. This would just officially add it to the plan.

**Councilmember Zegerman** asked if one the charts was our view or from NCDOT.

**Ms. Cox** said it was the US 64 corridor study from NCDOT. She said the town has added interchange sections on their plan to reflect this corridor study.

**Councilmember Zegerman** asked if the construction cost for this would be carried by the NCDOT or by the Town of Apex.

**Ms. Cox** said this plan is not necessarily something that would be constructed. She said if it was, it would be a joint effort through land use, local roadway planning, and NCDOT.

**Councilmember Zegerman** asked if this shifts the connector road to the north.

**Ms. Cox** said this doesn't change the commitment to Apex Light Industrial, and there is some flexibility on where connections actually end up compared to the transportation plan. She said these change a bit in design sometimes. She said the portion Councilmember Zegerman was referring to would be essentially taking the role of the road in the corridor study. She said the town would not necessarily need to do exactly what was in the corridor study, because it was from 2011, and is now being used as an example of how to build the infrastructure as the development occurs.

**Mayor Gilbert** opened Public Hearing for this item. With no one signed up, he closed Public Hearing and moved discussion back to Council.

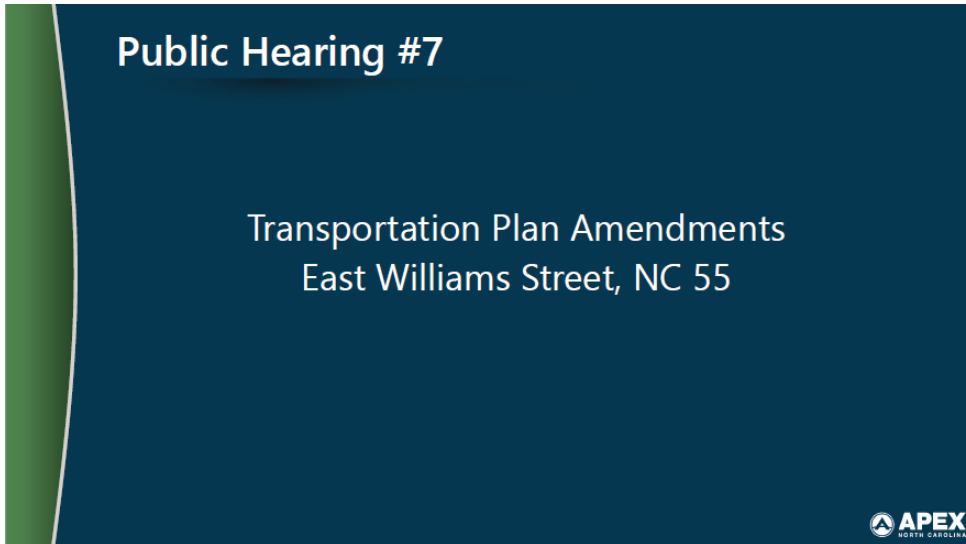
A motion was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gantt**, to approve the Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64.

VOTE: UNANIMOUS (5-0)

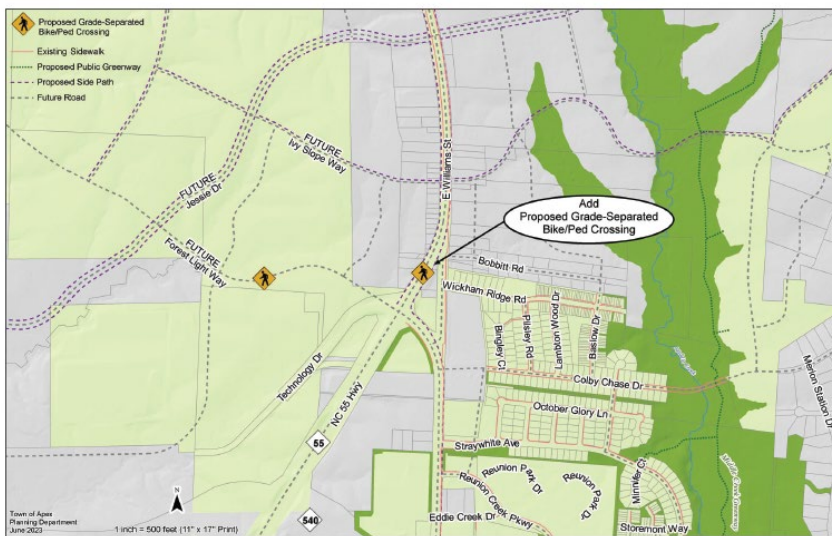
PH7 Transportation Plan Amendments - East Williams Street, NC 55

## DRAFT MINUTES

- 1 Ms. Cox gave the following presentation regarding the Transportation Plan Amendments -  
2 East Williams Street, NC 55  
3 [SLIDE 49]



- 4  
5 [SLIDE 50]



- 6  
7 Councilmember Gantt asked if there was an opportunity to add Bike/Ped crossing when it's being  
8 built.

9 Ms. Cox said not as part of the NCDOT project.

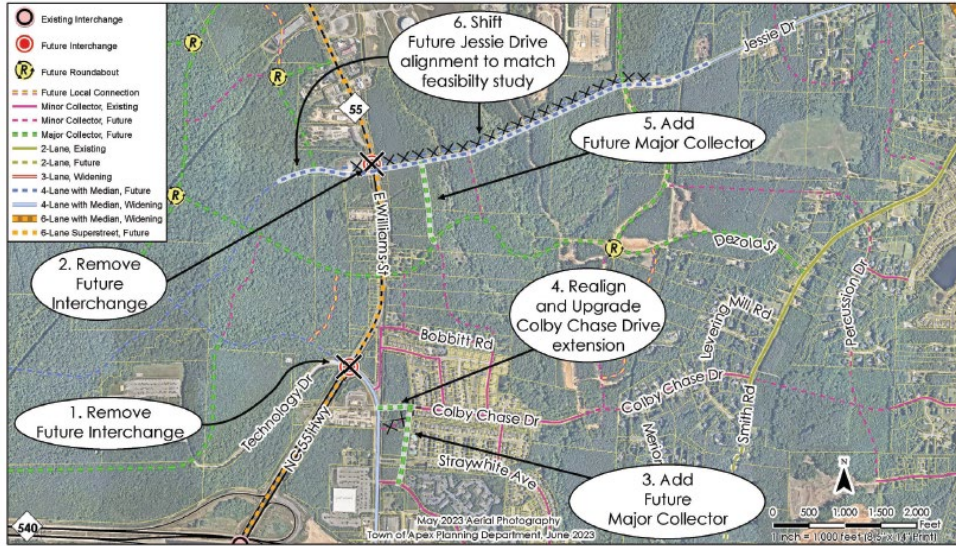
10 Councilmember Gantt said he thought they may have second thoughts about that.

11 Ms. Cox said they will try to accommodate pedestrians as much as possible, and they are  
12 currently reviewing the building plans. She said there would not be any grade-separated crossings.

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# DRAFT MINUTES


1 [SLIDE 51]



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3 [SLIDE 52]

## Updated Staff Recommendation

Updated Staff Recommendation:  
Continue the public hearing for the proposed removal of the future interchange at East Williams and Jessie Drive to September 12, 2023. Approve all other amendments.



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**Councilmember Gantt** asked if there was an opportunity to add Bike/Ped crossing when it's being built.

**Ms. Cox** said not as part of the NCDOT project.

**Councilmember Gantt** said he thought they may have second thoughts about that.

**Ms. Cox** said they will try to accommodate pedestrians as much as possible, and they are currently reviewing the building plans. She said there would not be any grade-separated crossings.

**Councilmember Zegerman** asked if they could approve all except Number 2, and continue that one.

**Ms. Cox** said yes, and that she has updated the staff recommendation to say that.

## DRAFT MINUTES

1 Councilmember Zegerman asked if Numbers 3 and 4 were because NCDOT limiting left  
2 turns onto certain streets. He asked if they would be funding any improvements so that residents  
3 would have a place to go.

4 Ms. Cox said those improvements would not come from NCDOT. She said they are using the  
5 whole budget for the project on the Technology Drive modification.

6 Councilmember Mahaffey asked if there had been any contacts with NCDOT since the last  
7 time they had spoke about this, and if they had any thoughts on the town wanting to get these  
8 improvements.

9 Ms. Cox said they had submitted comments in that regard, and NCDOT essentially  
10 responded that it would not be included because of the budget available for this project.

11 Councilmember Mahaffey asked if it would be feasible for this major collector to be built  
12 through development, or would it more likely be something the town has to build at some point.

13 Ms. Cox said she could not say for sure. She said it would be on the plan, but they would  
14 work with developers if they needed flexibility, and she isn't sure what developers would come to  
15 this area. She said it may be a future municipal project.

16 Councilmember Mahaffey asked if it lower-grade road would make it more likely to happen.

17 Ms. Cox said staff would not recommend that, as it would then open up the possibility to  
18 have single-family residential driveways on a road with significant traffic.

19 Councilmember Zegerman asked if Colby chase was a minor collector.

20 Ms. Cox said yes.

21 Councilmember Zegerman asked if they were adding that small section of major collector so  
22 that more driveways wouldn't be built.

23 Ms. Cox said that was correct.

24 Councilmember Zegerman said he was very frustrated with NCDOT for not giving people  
25 another option out.

26 Ms. Cox said the only full movement with a left-out would be at Reedy Creek Parkway.

27 Councilmember Gray asked if Amendment 6 was there because the money was already put  
28 aside for it.

29 Ms. Cox said yes, this one is mostly clean up.

30  
31 Mayor Gilbert opened up the Public Hearing for this item.

32  
33 First to speak was Jason Barron, of Morningstar Law Group, on behalf of ALA Commercial:

34  
35 "Good evening Mayor, Council, Jason Barron of Morningstar Law Group on behalf of ALA  
36 Commercial, they're the owners of property along the east side of Highway 55, essentially where  
37 Jessie Drive would plug in. We support the staff's recommendation in its entirety. Obviously, ALA  
38 Commercial is owners of property where the proposed interchange would go, with respect to  
39 amendment number 2, they're concerned about the developability of their site, especially given the  
40 financial impact we've learned with respect to other interchanges, or grade-separated interchanges  
41 that were examined along 55 have similar concerns as we've expressed, just about the financial  
42 feasibility. With that said, we understand the town has to make data-driven decisions with respect to  
43 traffic, and we appreciate the staff's willingness to work with our consultants as well as well as  
44 NCDOT to review this information. I'll come back to you all in September, hopefully with data that

## DRAFT MINUTES

1 supports our position, but be that as it may we recognize the data has to control, so thank you very  
2 much.”

3  
4 **Mayor Pro Tempore Killingsworth** asked if September 12<sup>th</sup> would be long enough to gather  
5 that information.

6 **Mr. Barron** said yes, and the process of doing so has already been started. He said they hope  
7 to have a draft to the town within a couple weeks. He said he believes that could then be turned  
8 around within 2 weeks, so they feel good about September 12<sup>th</sup>.

9 **Councilmember Zegerman** asked if there was a development in mind for that property.

10 **Mr. Barron** said not currently.

11 **Councilmember Zegerman** asked what the traffic study would be based on if there was no  
12 development plan there.

13 **Mr. Barron** said the growth in the area. He said it was looking at ensuring the traffic in the  
14 area could be handled independent of any individual development.

15 **Councilmember Gantt** asked how they are evaluating the factors of the development to a  
16 possible major intersection coming in there in the farther future, which may decrease the  
17 attractiveness of whatever goes in there.

18 **Mr. Barron** said he couldn't speak to any specifics, since there was no development plan, but  
19 commercial developers would be more concerned about that than residential developers. He said  
20 he thinks this property is zoned for commercial and will likely be developed as that. He said any  
21 developer would have concerns, and would want any transportation development to work in the  
22 near term as well as the long term.

23  
24 **Town Attorney Hohe** advised that the public hearing for Amendment 2 be continued, if the  
25 Council was planning on continuing that portion of the item.

26  
27 A motion was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**  
28 **Gray**, to continue the Public Hearing for Amendment 2 to September 12<sup>th</sup>, 2023.

29  
30 **VOTE: UNANIMOUS (5-0)**

31  
32 **Mayor Gilbert** closed the Public Hearing for the remaining Transportation Plan Amendments  
33 in this item.

34  
35 A motion was made by **Councilmember Mahaffey**, seconded by **Councilmember Zegerman**,  
36 to approve the Transportation Plan Amendments - East Williams Street, NC 55, except for  
37 Amendment 2.

38  
39 **VOTE: UNANIMOUS (5-0)**

40  
41 **[NEW BUSINESS]**

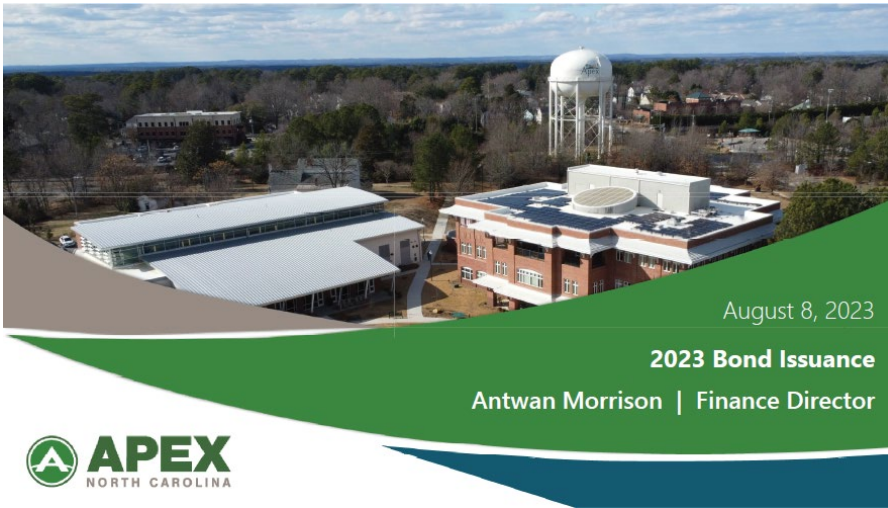
42  
43 **NB1 Resolution - Authorizing Public Improvement Bonds (REF: RES-2023-050, OTHER-2023-074,**  
44 **and OTHER-2023-075)**

# DRAFT MINUTES

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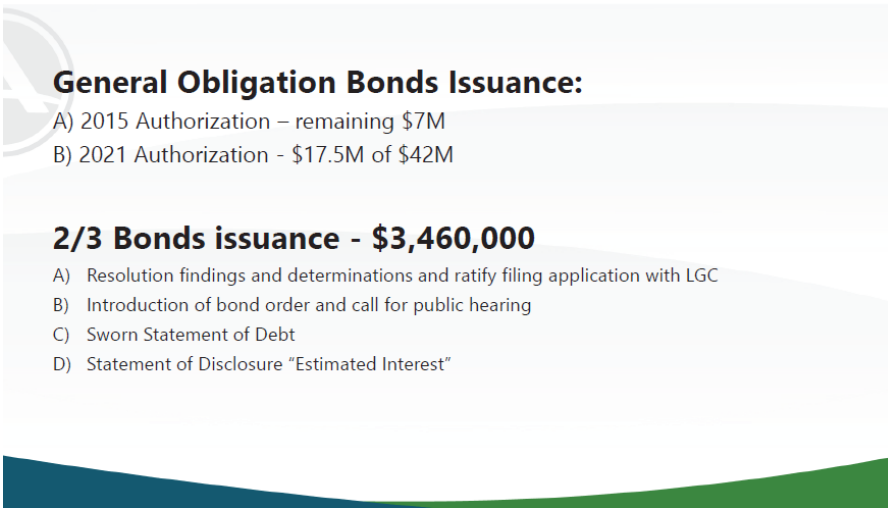
Director Morrison gave the following presentation regarding a Resolution Authorizing Public Improvement Bonds.

[BONDS - SLIDE 1]



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[BONDS - SLIDE 2]



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[BONDS - SLIDE 3]

# DRAFT MINUTES

## Calendar of Events

- August 8<sup>th</sup> – Introduce Bond Order and Call for Public Hearing
- August 11<sup>th</sup> – Notice of Public Hearing advertised
- August 15<sup>th</sup> – Rating Agency meetings
- August 16<sup>th</sup> – Local Government Commission due diligence meeting
- August 22<sup>nd</sup> – Public Hearing and Adoption of Bond Order
- September 12<sup>th</sup> – Approval of issuance of 2/3 bonds and General Obligation Bonds
- October 3<sup>rd</sup> – Bond Sell Date
- October 24<sup>th</sup> and 25<sup>th</sup> – Close on Bonds

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[BONDS - SLIDE 4]

## Requested Actions

1. Motion to approve resolution making certain findings and determinations and authorizing and ratifying the filing of an application with Local Government Commission (LGC) in connection with the proposed issuance of General Obligation (GO) Bonds
2. Motion to approve the introduction of the bond order
3. Motion to approve the call for the public hearing to be held on August 22, 2023

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**Councilmember Mahaffey** asked if it was typical for municipalities to take advantage of the 2/3 bonds every year.

**Director Morrison** said it is done when needed. He said they do not have to take it to a vote, and there would probably be a better bid environment for this.

**Councilmember Mahaffey** asked if this is accounted for in the prior information they have seen about debt the town issues, and if this puts the town above their stated limit of 12%.

**Interim Town Manager Purvis** said this was accounted for in the most recent information they have been given. He said they have been planning for this, and that the town is still within the targets that they were shown as part of the CIP.

**Councilmember Zegerman** wanted to clarify that 12% was the internal policy for debt service as a percentage of the budget.

**Director Morrison** said yes.

A motion was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman**, to approve the resolution making certain findings and determinations and authorizing

## DRAFT MINUTES

1 and ratifying the filing of an application with Local Government Commission (LGC) in connection  
2 with the proposed issuance of General Obligation (GO) bonds.

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

5  
6 A motion was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to  
7 approve the introduction of the bond order.

8  
9 **VOTE: UNANIMOUS (5-0)**

10  
11 A motion was made by **Councilmember Zegerman**, seconded by **Councilmember Mahaffey**,  
12 to approve the call for the public hearing to be held on August 22, 2023.

13  
14 **VOTE: UNANIMOUS (5-0)**

15  
16 **Jeff Hastings** of 3601 Friendship Road gave some comments to Council.

17  
18 "Jeff Hastings, 3601 Friendship Road, here tonight on behalf of the Wake County Historical  
19 Commission, I'm the vice-chair. Fortunately, today, I was the presiding chair where we authorized the  
20 Town of Apex a certificate of appropriateness for the rehabilitation, reconstruction of the Tunstall  
21 House. The moving of the two accessory buildings, the turn lane for the fire truck, it's been 12 years  
22 in my work. I am elated this Town Council saw fit to move forward, and I want to say from the  
23 Historical Society I appreciate it, from the Historical Commission, y'all did a bang-up job with  
24 clearscapes, and had all your ducks in a row. There were no questions, there were no objections,  
25 and it passed unanimously, so thank you very much, and we look forward to getting over the next  
26 hurdle with the Tunstall House in the next 8 months, thank y'all very much."

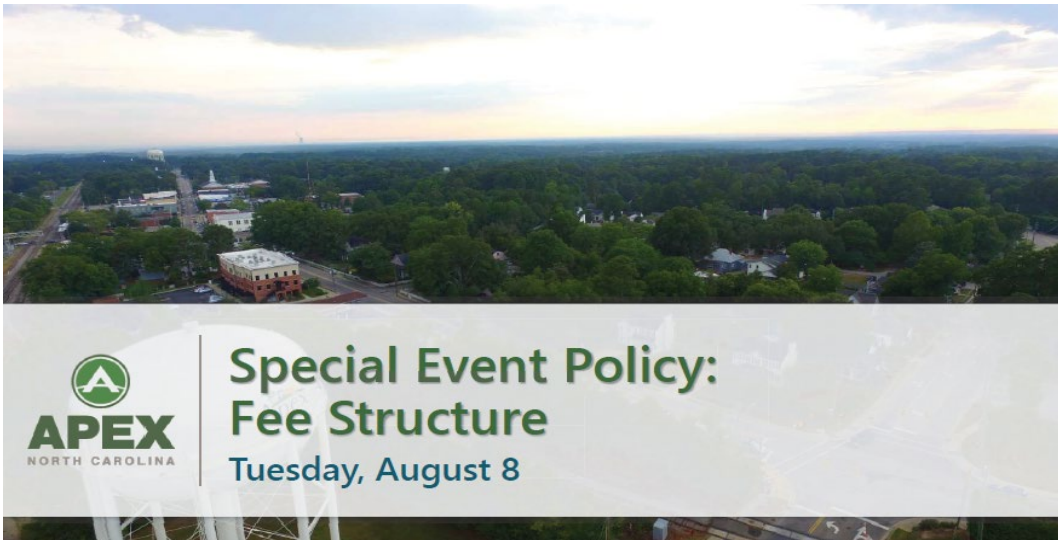
27  
28 **Councilmember Mahaffey** said he appreciated Mr. Hastings thanking him, but they have only  
29 been here for a few years, and Mr. Hastings has been fighting for this for the past 12 years, and he  
30 appreciated his diligence and advocacy in this matter.

31  
32 **NB2 Special Events Policy - Addendum A: Fee Structure**

33  
34 **Taylor Wray**, Special Events Coordinator, gave the following presentation regarding Special  
35 Events Policy - Addendum A: Fee Structure.

36  
37 **[EVENT FEES - SLIDE 1]**





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[EVENT FEES - SLIDE 2]

### Purpose

- Increase in Events
- Consistency
- Application Procedure

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[EVENT FEES - SLIDE 3]

### What are the Big Changes?

- Community Event & Town Event Language
  - Removing "Co-sponsorship" Language
- Tier System
- Due Dates
- Review Process

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# DRAFT MINUTES

1 [EVENT FEES - SLIDE 4]

### Fee Structure Breakdown

Public Safety	Event Services	Location Usage
<ul style="list-style-type: none"> <li>Large Blockade Vehicle or Police Vehicle</li> <li>Police Personnel</li> </ul>	<ul style="list-style-type: none"> <li>Application Fee</li> <li>Water Barricades</li> <li>A-Frame Barricades</li> <li>Electrical Power</li> <li>Water</li> <li>Trash Cans</li> <li>Utility Sinks</li> <li>Public Works Personnel</li> <li>Parks Operations Personnel</li> </ul>	<ul style="list-style-type: none"> <li>Saunders Street Lot</li> <li>Templeton Street Lot</li> <li>Town Hall Lot</li> <li>Community Center Gazebo Lot</li> <li>Community Center ATM Lot</li> <li>Senior Center Lot</li> <li>Town Arc Lot</li> <li>Park Parking Lots</li> <li>The Depot Lot and Plaza</li> <li>Town Campus Courtyard</li> </ul>

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[EVENT FEES - SLIDE 5]

### Payment Formula

NON-PROFIT	For-Profit
<p>Events after July 1, 2024: All event organizers are required to pay 50% of their net profit (but not to exceed 50% of the Town Fee cost). Eligible donations will be considered to reduce the total fees.</p>	<p>Events after July 1, 2024: All event organizers are required to pay 100% of their Town Fee cost.</p>
<p><i>Fees are to be collected within 120 days post event. The event may be subject to Off-Duty Police costs. Fee schedule is reviewed annually.</i></p>	
<p><b>ELIGIBLE DONATION</b> This is a charitable sum of money given to a non-profit organization that serves Apex.</p> <ul style="list-style-type: none"> <li>Donation documentation will be required to be submitted to the Special Event Coordinator within 90 days post event. This documentation will be reviewed by Town Administration for consideration for reduction of fees.</li> <li>An extension to this documentation can be requested beyond the 90 day period and will be considered by the Town in circumstances where non-profit awards grants beyond this timeframe.</li> </ul>	

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[EVENT FEES - SLIDE 6]

### Non-Profit Fee Examples

EXAMPLE #1		EXAMPLE #2	
Organizer Revenue	\$40,000	Organizer Revenue	\$0
Organizer Expenses	\$10,000	Organizer Expenses	\$1000
Organizer Profit	\$30,000	Organizer Profit	-\$1000
Town Fee	\$10,000	Town Fee	\$3,000
Organizer Donations to Community	\$20,000	Organizer Donations to Community	\$0
Organizer Profit (after donations)	\$10,000	Organizer Profit (after donations)	\$0
Town Fee	\$10,000	Town Fee	\$3,000
50% of town fee	\$5,000	50% of net profit	\$0
Total Fee for organizer to pay	\$5,000	Total Fee for organizer to pay	\$0
<p><b>EXAMPLE #1:</b> Organization who makes a profit from their event, Town fees match their profit, and their donations are significant in summation.</p>		<p><b>EXAMPLE #2:</b> Organization who makes no profit from their event, Town fees are minimal but existent, and no donations to the community.</p>	

7

# DRAFT MINUTES

1 [EVENT FEES - SLIDE 7]

Non-Profit Fee Examples	
<b>EXAMPLE #3</b>	<b>EXAMPLE #4</b>
Organizer Revenue	Organizer Revenue
Organizer Expenses	Organizer Expenses
Organizer Profit	Organizer Profit
Town Fee	Town Fee
Organizer Donations to Community	Organizer Donations to Community
Organizer Profit (after donations)	Organizer Profit (after donations)
Town Fee	Town Fee
50% of net profit	50% of net profit
Total Fee for organizer to pay	Total Fee for organizer to pay
<b>EXAMPLE #3:</b> Organization who donates 100% of their profits.	<b>EXAMPLE #4:</b> Organization who donates 60% of their profits.

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[EVENT FEES - SLIDE 8]

### Upcoming Dates

- Policy Public Release  
• August 9, 2023
- Next Event Organizer Meeting  
• August 16, 2023
- Fees Begin  
• July 1, 2024



**APEX**  
NORTH CAROLINA

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**Councilmember Gantt** asked if she was aware of any events in Apex that do not donate their entire profit.

**Ms. Wray** said there are events in town that do not donate their entire profit, but that for most of those events, the funds go back to the next event.

**Councilmember Gantt** asked if those groups would be the ones to pay the 50%.

**Ms. Wray** said yes, depending on the equation.

**Mayor Gilbert** wanted to note that for Juneteenth, there are volunteers that put in their own time for the event. He wanted to acknowledge the time and commitment of volunteers who help put on such great events. He said it's a great thing to bring the community together. He said he reached out to the Rotary Club to get an estimate of volunteer hours for their Christmas parade, and they said 1,000. He said if the Rotary Club was no longer willing to do this, it would be 1,000 hours that staff would have to take on in order to put on the event. He said many other organizations put in a lot of time and effort for other events such as Pig Fest and Peak Fest. He said he thinks putting the fee

## DRAFT MINUTES

1 back on non-profits in not productive, because they are already giving a lot to the community. He  
2 said there would also have to be more staff time dedicated into tracking and managing the new  
3 fees, which he feels would also be counterproductive. He said he wants to see non-profits continue  
4 to do well and pour into the community, and he sees this fee structure as an additional burden.

5 **Mayor Pro Tempore Killingsworth** said she agreed with the Mayor. She says she has seen how  
6 much effort non-profits put into these events, and that by adding a financial burden to them, it could  
7 place that effort back on the town. She said there would be a potential for the time having to put the  
8 event on, or the event not happening at all. She said this would add a lot more responsibility to town  
9 staff. She said her preference would be that non-profits do not have to participate in this formula.  
10 She said the rest of it was acceptable.

11 **Councilmember Zegerman** said the original intent of the fee structures was to offset the  
12 consumption of town resources in putting on the event. He said it doesn't make sense to have to  
13 increase payment enforcement, potentially having to hire new police officers to fulfill that. He said  
14 that it was also not reasonable to try to determine the amount of money made by a non-profit, and  
15 how much of that money goes back into the community, or to require them to adopt another layer of  
16 accounting. He agreed with Mayor Gilbert and Mayor Pro Tempore Killingsworth that non-profits  
17 should be exempt from the fee structure.

18 **Councilmember Mahaffey** said he understands the intent of the concerns, but he said it used  
19 to be that non-profits would submit the costs to the town before the event, and Council would  
20 approve it with an in-kind payment for town services. He said completely exempting them from this  
21 process would eliminate the other possible check on the kind of spending the town is approving. He  
22 said the incentive of the policy is for the event organizers to not spend above what is needed. He  
23 said since the town no longer approved the spending prior to the event like before, not having  
24 something like this in place would be like "cutting a blank check." He said this would provide  
25 incentives for organizers to look at potentially utilizing other options than town services for things  
26 like dumpsters and security.

27 **Councilmember Zegerman** asked if these two things were really mutually exclusive. He  
28 wondered if they could still have a review and approval process.

29 **Ms. Wray** said the events are approved by Town Administration, but the budget will remain  
30 with Town Council.

31 **Councilmember Mahaffey** said he wanted to be clear that he does not want to do anything  
32 that would endanger any of their current events. He said he's just trying to think about from a policy  
33 perspective, and what they are trying to do with it.

34 **Mayor Gilbert** said they were told several times that the original intent was about staff  
35 capacity. He said he doesn't understand how that capacity could be addressed with a fee. He said  
36 maybe there should be a workload study to determine what load staff would have to take on to then  
37 need to charge fees for things going beyond that. He said he appreciates the presentation and that  
38 staff has done a great job, but something like that would help him justify fees.

39 **Mayor Pro Tempore Killingsworth** said she feels like staff does a great job at managing these  
40 events, and working with organizers to plan things. She said if they want to go above what the town's  
41 recommendation would be, then it would be appropriate for them to need to contribute. She said as  
42 long as it falls within what is necessary, then non-profits should not have to be part of this fee  
43 schedule.

## DRAFT MINUTES

1 Councilmember Mahaffey said that works, but there is still no incentive to find a more  
2 efficient way of doing something.

3 Mayor Gilbert said there was no way they were going to bring in private security, and that has  
4 already been discussed.

5 Craig Setzer, Director of Parks, Recreation, and Cultural Resources, said the issue is physical  
6 capacity. He said the ability to provide staff is stretched thin, especially from April through July. He  
7 said this also impacts many other departments in the town. He said that this policy does not account  
8 for the staffing component as much. He said there should be a volunteer coordinator coming on  
9 board around January, and the hope is that person can assist with building a network for these  
10 special events. He said he has also discussed having different types of things to block off streets  
11 other than officers and blockades with Chief Armstrong. He said that could relieve some personnel  
12 burden. He added that the fees would potentially deter people from wanting to bring special events  
13 to Apex from a cost perspective if they were not allowed to bring back those funds into the  
14 community like they are proposing. He said nobody else in the area is proposing that in the fee  
15 structures. He asked if Council would like him to take the policy back and look at it, or how they  
16 would like them to move forward.

17 Councilmember Gray asked if the charges assisted with the staffing problem, or if the  
18 charges were only there to help pay the staff for the services provided.

19 Director Setzer said it speaks to personnel, police, bathrooms, and other things of that  
20 nature. He said it would essentially be getting the town's money back.

21 Councilmember Gray said this tells non-profits that the town now wants them to pay for  
22 things that the town has previously been doing.

23 Councilmember Gantt said it seems like the status quo is not working. He said exempting  
24 non-profits would be exempting most of the organizers for events and festivals, so the status quo  
25 would be maintained. He said the rotary club makes sure its donations stay in Apex, and he thinks  
26 that would be a good requirement. He said donating to the broader organization may do a lot of  
27 good, but it may not be in Apex. He said he supports the policy.

28 Mayor Gilbert went back to hours that put into it by community members. He reiterated that if  
29 organizers pulled out, staff would be required to fill that gap.

30 Mayor Pro Tempore Killingsworth said the cost estimate is priceless when there are so many  
31 hours going into putting on these events for the town. She said if the town was required to put in  
32 1,000 hours to put on the Christmas parade, it would not happen this year.

33 Councilmember Zegerman said the Councilmember Gantt's point, right now Council has no  
34 control over where the money gets donated, so they wouldn't be losing anything there.

35 Councilmember Gantt asked if the plan had a requirement for charitable contributions to be  
36 made toward Apex organizations.

37 Ms. Wray said a charitable donation is defined as a donation that is to a non-profit  
38 organization that serves Apex.

39 Councilmember Gantt said they have no control now, but they would with this, and that  
40 would be desirable.

41 Mayor Pro Tempore Killingsworth said they could remove the non-profits from this structure  
42 and still maintain that requirement to donate profits to an organization that serves Apex.

43 Councilmember Gantt asked what the lever would be if there were no fee structure.

## DRAFT MINUTES

1 Councilmember Zegerman said there could be a waiver system, where there is a process to  
2 have the fee waived, rather than a blanket exemption.

3 Councilmember Gantt said the policy would be the waiver, if they decided to donate to  
4 Apex.

5 Councilmember Zegerman said that added to the administrative requirement for the staff  
6 and non-profits to take on in order to track and enforce that.

7 Councilmember Gantt asked if the organization they were giving the donation to was  
8 information gathered as part of the application.

9 Ms. Wray said no, that information is provided 90 days after the event.

10 Councilmember Mahaffey said the reason they are version 21 is that there has been a lot of  
11 input from the same organizations they are talking about. He said he had heard they are in support  
12 of the current version of the plan.

13 Ms. Wray said that was correct.

14 Mayor Gilbert said they are likely in support of what he has presented tonight as well.

15 Councilmember Zegerman asked how much "profit" a non-profit would be taking away from  
16 an Apex event, realistically. He asked under what circumstances would a non-profit not either donate  
17 those proceeds or reinvest those funds into a future iteration of the event.

18 Mr. Hastings said the Festival Commission is on board with what has been presented. He said  
19 if a non-profit in the third or fourth year is not generating enough income to pay their own bills, then  
20 they need to re-examine what they are doing. He said they need to delve into what kind of non-profit  
21 is being discussed. He said some non-profits have no paid staff, while some have a lot of it. He said  
22 there is no cut and dry answer when looking at a non-profit putting on the event. He said some  
23 events in Apex may need to be grandfathered in, but that organizations coming in the future  
24 wanting to host events should know they need to qualify as a 501c3 or 4 to be truly non-profit. He  
25 said it wouldn't be inappropriate for the town to ask for them to show that they are giving money  
26 back to the town. He said the town needs to make sure the organizers are holding up their end of  
27 the bargain as far as the use of town resources. He said everything he has seen about this goes  
28 along with what the Festival Commission is trying to do for the Town of Apex.

29 Councilmember Mahaffey asked if it would be permissible for them to exempt certain  
30 festivals that are already standing and adopt this as a policy for new festivals and other festivals  
31 moving forward.

32 Mayor Gilbert said he was good with that.

33 Councilmember Gantt said he really hates that. He said that would be treating them  
34 differently.

35 Councilmember Mahaffey said they already do, since Town-sponsored events are different.

36 Councilmember Gantt asked if that was clarified as part of this new policy.

37 Councilmember Mahaffey said yes, but this could be a new category.

38 Town Attorney Hohe said generally people and groups have to be treated equally, unless  
39 there was some legal basis for there to be exceptions. She said she could not say anything about the  
40 legal specifics in this juncture.

41 Mayor Gilbert asked if there have been any issues with how organizations have presented  
42 events.

43 Director Setzer said not to his knowledge. He said one of the biggest issues has been having  
44 an inconsistent process for applications and working with organizations.

## DRAFT MINUTES

1           **Mayor Pro Tempore Killingsworth** asked if they could direct Town Attorney Hohe to  
2 investigate if the town could do “exempt events”, and then bring it back to them with a  
3 recommendation.

4           **Councilmember Gray** said he understands Mr. Hastings comments about not wanting to  
5 “bankrupt” the town for these events, and the fact that the Festival Commission was on board with  
6 this was very compelling. He said he was wondering about the concept of “grandfathering”, because  
7 there are a lot of newer events hosted now that would not have happened in Apex in the recent past,  
8 such as Juneteenth, Pride, and Latino Festival. He said a lot of the things they already had were  
9 things that were already going to be there. He said they recognize that bringing in a new festival can  
10 bring new things to Apex, and sometimes it works and sometimes it doesn’t. He said to him he thinks  
11 that profit-generating entities should pay for the use of town services. He said he doesn’t see a  
12 problem with giving an exemption to non-profits who primarily work to make the community better.  
13 He said he wanted to go on record to say he wanted to increase the budget for Parks, Recreation,  
14 and Cultural Resources. He said he wasn’t sure if he was willing to put that increased burden on non-  
15 profits right now, since they work to make the town better. He said he would support exempting  
16 them.

17           **Councilmember Gantt** wanted to clarify what Councilmember Gray meant by what part is  
18 making the community better.

19           **Councilmember Gray** said he assumed that non-profits in Apex put on these events in order  
20 to make Apex better. He said that’s different from putting their money into Apex, and that some  
21 organizations but the investment in through time. He said he wanted to encourage more non-profits  
22 to be in Apex to help make them better. He said there may be a time where a non-profit was not  
23 acting as one, and then they should have to reimburse the town.

24           **Councilmember Zegerman** asked how they would make that distinction under the policy. He  
25 wondered if it could be made part of the application process, and they could use that as their basis.

26           **Councilmember Gray** said he wasn’t worried about that. He said he doesn’t want to create  
27 problems that aren’t there. He said he just wants to exempt non-profits, and address issues in the  
28 future if necessary.

29           **Councilmember Mahaffey** said this goes back to his main concern of accountability, and if  
30 organizations were looking at being efficient. He said they may could add an option to appeal the  
31 decision of the Council.

32           **Councilmember Gray** argued that an efficient event is one where people show up.

33           **Mayor Gilbert** said he feels like this is about partnerships. He said their effort is bringing  
34 people together in Apex. He said it is not a difficult decision, as non-profits do so much for the Town.

35  
36           A motion was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**  
37 to approve the addendum, with the exemption of non-profits organizations from the fee schedule.

38  
39           **Interim Town Manager Purvis** wanted to confirm that the desire of Council was to still have  
40 non-profits pay for additional police presence for events with alcohol.

41           **Mayor Gilbert** indicated yes.

42  
43           **VOTE: 3-2, Councilmember Gantt and Councilmember Mahaffey dissenting**

## DRAFT MINUTES

1 [UPDATES BY INTERIM TOWN MANAGER]

2  
3 Interim Town Manager Purvis said the electric staff did a great job returning the power after a  
4 strong storm the night before. He said the town found out today the electric department would be  
5 receiving the strength in public power and customer service innovation awards by ElectriCities. He  
6 said this Sunday is the fitness festival, and that track out camps are coming, with the first coming in  
7 October. He said the Western Big Branch Area Plan has open houses coming up, and will be the  
8 outreach for the long-range area plan. He said the community police academy is open for  
9 registration and closes August 18<sup>th</sup>. He said Chief Armstrong has been chosen as a part of the  
10 inaugural class of the Obama Foundation's Leadership USA, as part of a class of 100 rising leaders in  
11 the Country, and congratulated him.

12  
13 A recess was called at 9:45p.m.

14  
15 Council returned from the recess at 9:50p.m.

16  
17 [CLOSED SESSION]

18  
19 Mayor Gilbert recognized Senior Pastor of Apex United Methodist Church (UMC), Laura  
20 Katherine Stern.

21  
22 Pastor Laura Katherine Stern said her appearance was in relation to the town's potential  
23 purchase of 206 and 210 South Hughes Street. Pastor Stern said two documents were being  
24 handed out by the Town Clerk which provided an overview of how Apex UMC supports the work of  
25 Fiesta Cristiana. To view the handouts provided by Pastor Stern, reference OTHER-2023-076 and  
26 OTHER-2023-077.

27  
28 A motion was made by Mayor Pro Tempore Killingsworth, seconded by Councilmember  
29 Zegerman to enter into Closed Session pursuant to NCGS §143-318.11(a)(5), NCGS §143-  
30 318.11(a)(3), and NCGS §143-318.11(a)(6) - see below.

31  
32 VOTE: UNANIMOUS (5-0)

33  
34 Council entered into Closed Session at 9:55p.m.

35  
36 CS1 Steve Adams, Utilities Acquisition and Real Estate Specialist

37 NCGS §143-318.11(a)(5):

38 *"To establish, or to instruct the public body's staff or negotiating agents concerning the position to*  
39 *be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a*  
40 *contract or proposed contract for the acquisition of real property by purchase, option, exchange, or*  
41 *lease; or (ii) the amount of compensation and other material terms of an employment contract or*  
42 *proposed employment contract."*

43  
44 CS2 Laurie Hohe, Town Attorney, Legal Department



**DRAFT MINUTES**

**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 Jacques K. Gilbert, Mayor**

**NCGS §143-318.11(a)(6):**

*"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."*

Council returned to open session at 11:20p.m.

**[ADJOURNMENT]**

**Mayor Gilbert** adjourned the meeting at 11:20p.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: August 22, 2023

## Item Details

Presenter(s): Russell Dalton, Traffic Engineering Manager

Department(s): Transportation & Infrastructure Development (for Public Works & Apex Fire Departments)

### Requested Motion

Motion to adopt an Ordinance amending Chapter 20 Traffic - Section 164 subsection (42) prohibiting parking around the perimeter of the median island at the terminus of Wirks Worth Circle, except within designated parking spaces.

### Approval Recommended?

Yes (for Public Works & Apex Fire Departments)

### Item Details

Apex has received multiple complaints from GFL Environmental (waste management company) concerning interruptions in trash pickup as well as concerns from residents about fire trucks gaining access to the end of Wirks Worth Circle. Unlike a typical cul-de-sac, that location has a median island where the road loops back around onto itself. There are five (5) designated parking spaces within the median island inside that loop, but the remainder of the median island has a curb line where vehicles routinely park. Vehicles will still be permitted to park on the opposite side of the street, the outside curb line of the loop, subject to the municipal ordinances regarding parking with respect to distance from driveways, intersections and hydrants.

### Attachments

- CN11-A1: Ordinance Amendment - Chapter 20 Traffic - Section 164(42) - Wirks Worth Circle, No Parking
- CN11-A2: Street Map - Chapter 20 Traffic - Section 164(42) - Wirks Worth Circle, No Parking



**ORDINANCE AMENDMENT NO.**

**AN ORDINANCE TO AMEND SECTION 20-164 OF THE CODE OF ORDINANCES OF THE TOWN OF APEX**

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Apex as follows:

**Section 1. Section 20-164 of the Code of Ordinances of the Town of Apex is hereby amended to read as follows, with additions shown as bold, underlined text:**

Sec. 20-164. – No parking zones.

**(42) Around the perimeter of the median island at the terminus of Wirks Worth Circle, except within designated parking spaces.**

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

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

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

Introduced by Council Member: \_\_\_\_\_

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

This the \_\_\_\_ day of \_\_\_\_\_, 2023.

Attest:

TOWN OF APEX, NORTH CAROLINA

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

**ORDINANCE AMENDMENT NO.**

**AN ORDINANCE TO AMEND SECTION 20-164 OF THE CODE OF ORDINANCES OF  
THE TOWN OF APEX**

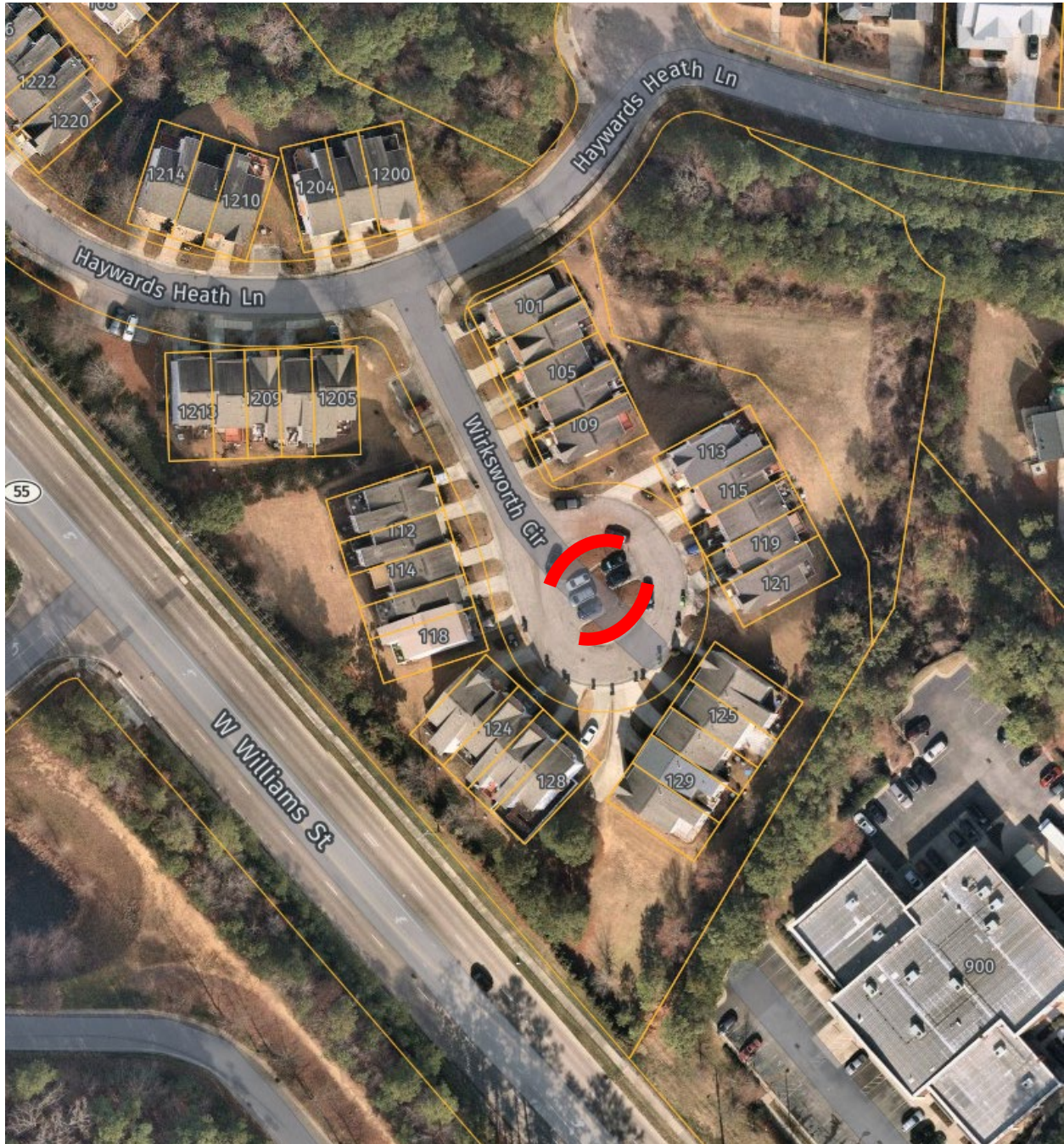
**SIGNATURES CONTINUED**

Approved As To Form:

---

Laurie L. Hohe,  
Town Attorney

**Ordinance Amend 20-164(42), No Parking around the perimeter of the median island at the terminus of Wirks Worth Circle, except within designated parking spaces**



**Proposed No Parking Zone**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to approve a Resolution Supporting Abandonment of a Portion of Walden Road (SR 1148, Wake County) by the North Carolina Department of Transportation.

### Approval Recommended?

Yes

### Item Details

The "Evans Road Assembly" (Friendship Village) residential subdivision is currently in construction plan review. The subdivision plan would replace the existing unpaved state-maintained section of Walden Road connecting to Evans Road with paved residential streets connecting to Evans Road further north of the existing intersection in accordance with the approved subdivision plan while meeting Apex standards. Staff is supportive of the abandonment of Walden Road by NCDOT within the proposed residential subdivision to allow for construction of the new residential streets.

Council approved a resolution supporting this abandonment on October 11, 2022. After additional discussions with the North Carolina Department of Transportation (NCDOT), it was determined that the quoted length (miles) of the abandonment was not accurate. NCDOT was not able to take any action on the prior resolution, therefore, this resolution is required to complete this abandonment.

### Attachments

- CN12-A1: Resolution Supporting Abandonment of a Portion of Walden Road (SR 1148, Wake County) by the North Carolina Department of Transportation
- CN12-A2: Adopted Resolution RES-2022-121 (Council Adopted October 11, 2022)
- CN12-A3: Right-of-way Abandonment Request - "Evans Road Assembly" (Friendship Village) project



**RESOLUTION: 2023-\_\_\_\_\_**

**RESOLUTION SUPPORTING ABANDONMENT OF A PORTION OF WALDEN ROAD  
(SR1148, WAKE COUNTY) BY THE NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION**

WHEREAS, the Town Council is authorized to regulate the use of the public streets, sidewalks, alleys and bridges of the Town of Apex pursuant to North Carolina law; and

WHEREAS, the Town Council deems it to be efficient and appropriate for the North Carolina Department of Transportation to abandon operation and maintenance of the entirety of Walden Road from its intersection with Evans Road to its terminus .34 miles (1,795 feet) north of its intersection with Evans Road; and

WHEREAS, the Town Council recognizes the intent of the abandonment is to allow for the future construction of a new public street network to connect Walden Road at the northern property boundary to Evans Road and for this public street to be dedicated as a Town road.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APEX RESOLVES THAT the Town Council supports the abandonment of the operation and maintenance of Walden Road by the North Carolina Department of Transportation as described in this Resolution.

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

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

With \_\_\_\_\_ Council Members voting aye.

With \_\_\_\_\_ Council Members voting no.

Adopted and effective this the \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

RESOLUTION: <sup>2622</sup> 22- 121

**RESOLUTION SUPPORTING ABANDONMENT OF A PORTION OF WALDEN ROAD (SR1148, WAKE COUNTY) BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Town Council is authorized to regulate the use of the public streets, sidewalks, alleys and bridges of the Town of Apex pursuant to North Carolina law; and

WHEREAS, the Town currently operates and maintains a portion of Walden Road from a point 1,000 feet north of its intersection with Evans Road to its northern terminus; and

WHEREAS, the Town Council deems it to be efficient and appropriate for the North Carolina Department of Transportation to abandon operation and maintenance of Walden Road from its intersection with Evans Road to its terminus 1,000 feet north of its intersection with Evans Road; and

WHEREAS, the Town Council recognizes the intent of the abandonment is to allow for the future construction of a new public street network to connect Walden Road at the northern property boundary to Evans Road and for this public street to be dedicated as a Town road.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APEX RESOLVES THAT the Town Council supports the abandonment of the operation and maintenance of Walden Road by the North Carolina Department of Transportation as described in this Resolution.

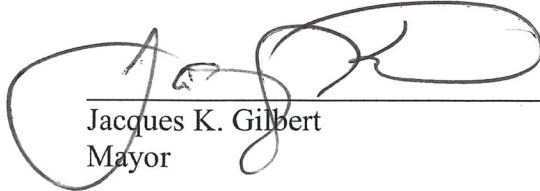
Motion made by Council Member Killingsworth


Motion seconded by Council Member Stallings

With 5 Council Members voting aye.

With 4 Council Members voting no.

Adopted and effective this the 14<sup>th</sup> day of October, 2022.

  
\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk





June 6, 2022

Russell H. Dalton, PE  
Town of Apex  
Russell.Dalton@apexnc.org  
P: (919)-249-3358

**Subject:** Right-of-Way Abandonment Request for Walden Road  
Evans Road Assembly in Apex

Dear Mr. Dalton:

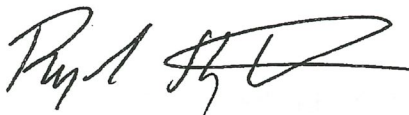
This letter is provided as part of a request for right-of-way abandonment of a portion of Walden Road located between the Bella Casa neighborhood and Evans Road. This portion of Walden Road is an existing unpaved roadway that is located through the Evans Road Assembly development property. This portion of Walden Road is maintained by the North Carolina Department of Transportation (NCDOT) and would require an official approval by NCDOT to abandon the right-of-way. It is our understanding that NCDOT will require Town Council approval of the right-of-way abandonment request to continue with the process.

Based on site plan, the portion of existing Walden Road would be abandoned and a new public street network would be established to connect Walden Road at the northern property boundary to Evans Road. The new public streets would be Town roads. The functional purpose of existing Walden Road will remain which is to connect the property to Evans Road.

A plat is attached that provides a description of the right-of-way being requested for abandonment. Also attached is a site plan that illustrates the new street connectivity within the Evans Road Assembly development. We are requesting your review of this proposal and to forward the request to Town Council for approval.

If you should have any questions regarding this letter, please feel free to contact me at (919) 872-5115.

Sincerely,



Rynal Stephenson, P.E.  
Director of North Carolina  
RAMEY KEMP & ASSOCIATES, INC.



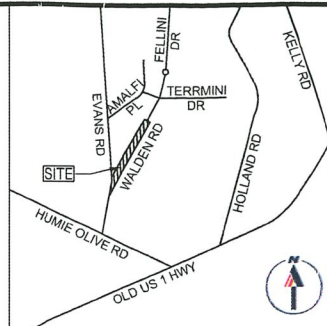
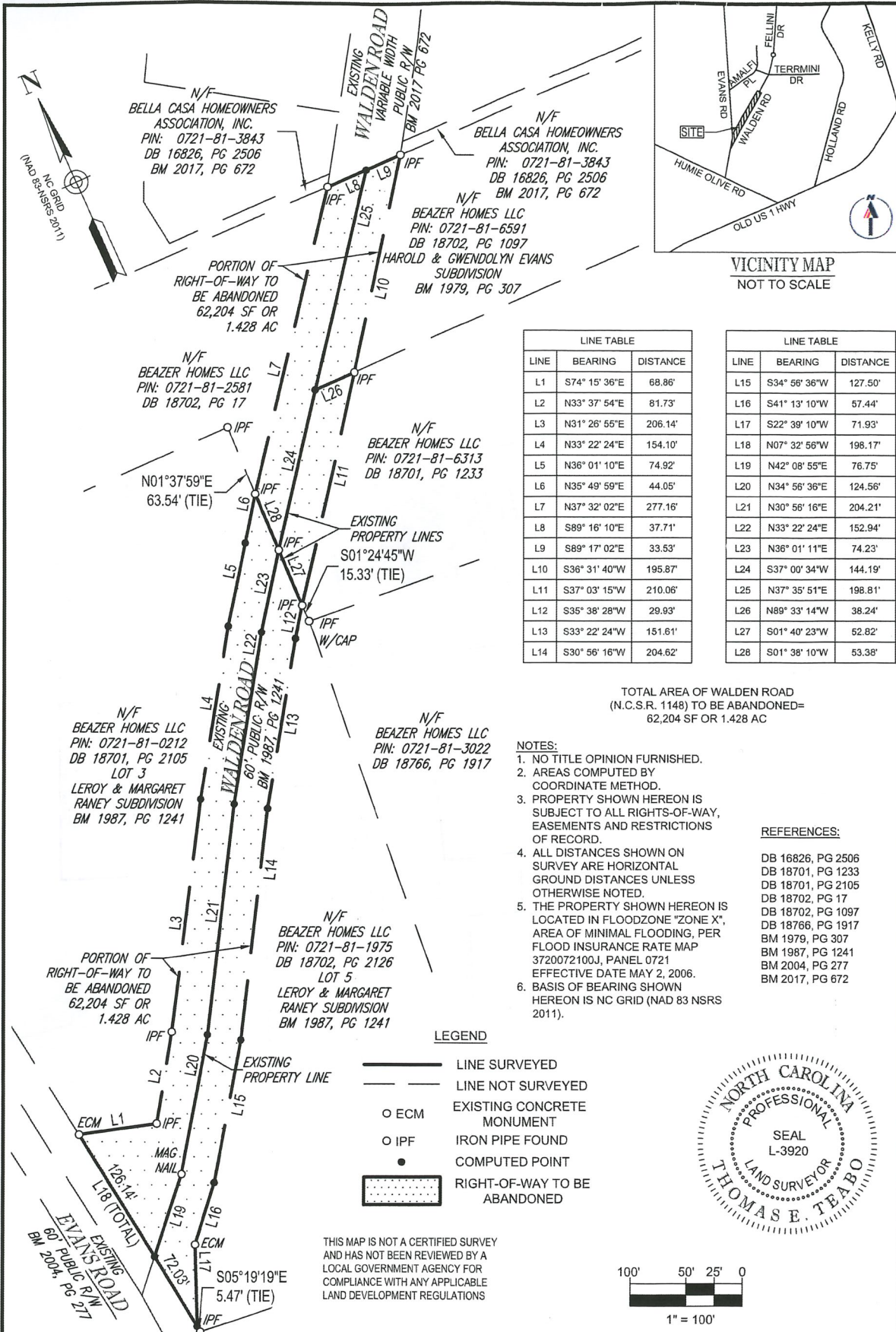
6/6/2022

NC Corporate License #C-0910



Attachments: Site Plan for Evans Road Assemblage  
Walden Road Plat

cc: Sean Brennan, PE, NCDOT  
Edwin Fenner, PE, NCDOT  
Serge Grebenschikov, PE, Town of Apex  
Jeremy Warren, PE, NCDOT



LINE	BEARING	DISTANCE
L1	S74° 15' 36"E	68.86'
L2	N33° 37' 54"E	81.73'
L3	N31° 26' 55"E	206.14'
L4	N33° 22' 24"E	154.10'
L5	N36° 01' 10"E	74.92'
L6	N35° 49' 59"E	44.05'
L7	N37° 32' 02"E	277.16'
L8	S89° 16' 10"E	37.71'
L9	S89° 17' 02"E	33.53'
L10	S36° 31' 40"W	195.87'
L11	S37° 03' 15"W	210.06'
L12	S35° 38' 28"W	29.93'
L13	S33° 22' 24"W	151.61'
L14	S30° 56' 16"W	204.62'

LINE	BEARING	DISTANCE
L15	S34° 56' 36"W	127.50'
L16	S41° 13' 10"W	57.44'
L17	S22° 39' 10"W	71.93'
L18	N07° 32' 56"W	198.17'
L19	N42° 08' 55"E	76.75'
L20	N34° 56' 39"E	124.56'
L21	N30° 56' 16"E	204.21'
L22	N33° 22' 24"E	152.94'
L23	N36° 01' 11"E	74.23'
L24	S37° 00' 34"W	144.19'
L25	N37° 35' 51"E	198.81'
L26	N89° 33' 14"W	38.24'
L27	S01° 40' 23"W	52.82'
L28	S01° 38' 10"W	53.38'

TOTAL AREA OF WALDEN ROAD  
(N.C.S.R. 1148) TO BE ABANDONED=  
62,204 SF OR 1.428 AC

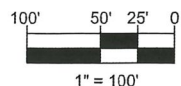
- NOTES:
- NO TITLE OPINION FURNISHED.
  - AREAS COMPUTED BY COORDINATE METHOD.
  - PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
  - ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
  - THE PROPERTY SHOWN HEREON IS LOCATED IN FLOODZONE "ZONE X", AREA OF MINIMAL FLOODING, PER FLOOD INSURANCE RATE MAP 3720072100J, PANEL 0721 EFFECTIVE DATE MAY 2, 2006.
  - BASIS OF BEARING SHOWN HEREON IS NC GRID (NAD 83 NSRS 2011).

- REFERENCES:
- DB 16826, PG 2506
  - DB 18701, PG 1233
  - DB 18701, PG 2105
  - DB 18702, PG 17
  - DB 18702, PG 1097
  - DB 18766, PG 1917
  - BM 1979, PG 307
  - BM 1987, PG 1241
  - BM 2004, PG 277
  - BM 2017, PG 672

LEGEND

- LINE SURVEYED
- - - LINE NOT SURVEYED
- ECM EXISTING CONCRETE MONUMENT
- IPF IRON PIPE FOUND
- COMPUTED POINT
- ▨ RIGHT-OF-WAY TO BE ABANDONED

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS



I, THOMAS E. TEABO, PLS, HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30, AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 26TH DAY OF MAY 26, A.D. 2022.

ABANDONMENT OF A PORTION OF:  
**N.C.S.R. 1148 WALDEN ROAD**

TOWN OF APEX, BUCKHORN TOWNSHIP,  
WAKE COUNTY, NORTH CAROLINA

NCBELS: P-1132



4130 PARKLAKE AVENUE, SUITE 130  
RALEIGH, NORTH CAROLINA 27612  
919.578.9000  
[www.bohlerengineering.com](http://www.bohlerengineering.com)

PRELIMINARY - NOT FOR RECORDATION,  
SALES OR CONVEYANCES

REGISTRATION NUMBER	SURVEYOR	DATE OF SURVEY: 05/13/2022	FILE NO. NS201007	DRAFTED: DET	DATE: 05/26/2022	CHECKED: TET
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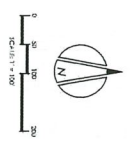
Designer:	JR	Scale:	1" = 100'
Drawn By:	JR	Date:	12/9/2020
Checked By:	JR	Job No.:	180903

**EVANS ROAD ASSEMBLY**  
APEX, NORTH CAROLINA

**BEAZER HOMES**  
SKETCH PLAN 3A

**PEAK** Engineering & Design  
 1125 Beazer Road, Apex, NC 27502  
 Phone: (919) 438-0100  
 www.peakengineering.com

Sheet No. **SP-3A**



June 6, 2022

Russell H. Dalton, PE  
Town of Apex  
Russell.Dalton@apexnc.org  
P: (919)-249-3358

**Subject:** Right-of-Way Abandonment Request for Walden Road  
Evans Road Assembly in Apex

Dear Mr. Dalton:

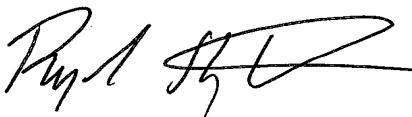
This letter is provided as part of a request for right-of-way abandonment of a portion of Walden Road located between the Bella Casa neighborhood and Evans Road. This portion of Walden Road is an existing unpaved roadway that is located through the Evans Road Assembly development property. This portion of Walden Road is maintained by the North Carolina Department of Transportation (NCDOT) and would require an official approval by NCDOT to abandon the right-of-way. It is our understanding that NCDOT will require Town Council approval of the right-of-way abandonment request to continue with the process.

Based on site plan, the portion of existing Walden Road would be abandoned and a new public street network would be established to connect Walden Road at the northern property boundary to Evans Road. The new public streets would be Town roads. The functional purpose of existing Walden Road will remain which is to connect the property to Evans Road.

A plat is attached that provides a description of the right-of-way being requested for abandonment. Also attached is a site plan that illustrates the new street connectivity within the Evans Road Assembly development. We are requesting your review of this proposal and to forward the request to Town Council for approval.

If you should have any questions regarding this letter, please feel free to contact me at (919) 872-5115.

Sincerely,



Rynal Stephenson, P.E.  
Director of North Carolina  
RAMEY KEMP & ASSOCIATES, INC.

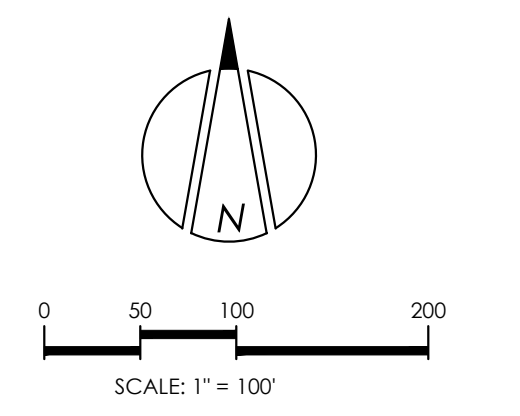


6/6/2022

NC Corporate License #C-0910

Attachments: Site Plan for Evans Road Assemblage  
Walden Road Plat

cc: Sean Brennan, PE, NCDOT  
Edwin Fenner, PE, NCDOT  
Serge Grebenshikov, PE, Town of Apex  
Jeremy Warren, PE, NCDOT



No.	DATE	REVISION	BY

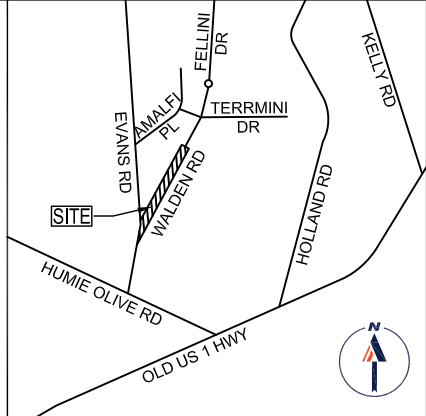
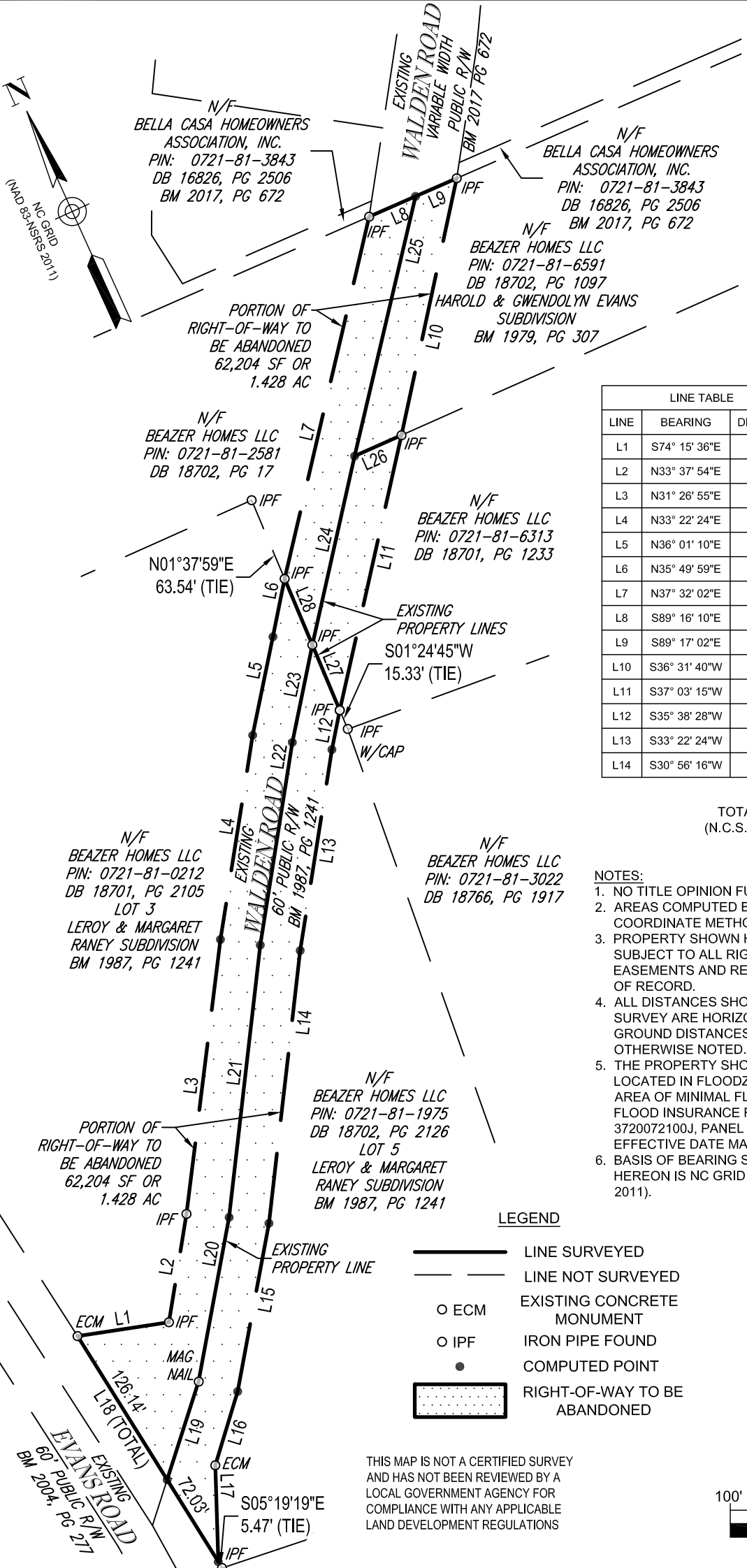
Designer: JR Scale: 1" = 100'  
 Drawn By: JR Date: 12/9/2020  
 Checked By: JR Job No.: 180903

## EVANS ROAD ASSEMBLY APEX, NORTH CAROLINA

## BEAZER HOMES SKETCH PLAN 3A

**PEAK** Engineering & Design  
 1125 Apex Parkway | Apex, NC 27502  
 Phone: (919) 439-0100  
 www.PeakEngineering.com

Sheet No.  
**SP-3A**



VICINITY MAP  
NOT TO SCALE

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S74° 15' 36"E	68.86'
L2	N33° 37' 54"E	81.73'
L3	N31° 26' 55"E	206.14'
L4	N33° 22' 24"E	154.10'
L5	N36° 01' 10"E	74.92'
L6	N35° 49' 59"E	44.05'
L7	N37° 32' 02"E	277.16'
L8	S89° 16' 10"E	37.71'
L9	S89° 17' 02"E	33.53'
L10	S36° 31' 40"W	195.87'
L11	S37° 03' 15"W	210.06'
L12	S35° 38' 28"W	29.93'
L13	S33° 22' 24"W	151.61'
L14	S30° 56' 16"W	204.62'

LINE TABLE		
LINE	BEARING	DISTANCE
L15	S34° 56' 36"W	127.50'
L16	S41° 13' 10"W	57.44'
L17	S22° 39' 10"W	71.93'
L18	N07° 32' 56"W	198.17'
L19	N42° 08' 55"E	76.75'
L20	N34° 56' 36"E	124.56'
L21	N30° 56' 16"E	204.21'
L22	N33° 22' 24"E	152.94'
L23	N36° 01' 11"E	74.23'
L24	S37° 00' 34"W	144.19'
L25	N37° 35' 51"E	198.81'
L26	N89° 33' 14"W	38.24'
L27	S01° 40' 23"W	52.82'
L28	S01° 38' 10"W	53.38'

TOTAL AREA OF WALDEN ROAD  
(N.C.S.R. 1148) TO BE ABANDONED=  
62,204 SF OR 1.428 AC

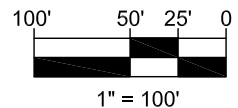
- NOTES:
- NO TITLE OPINION FURNISHED.
  - AREAS COMPUTED BY COORDINATE METHOD.
  - PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
  - ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
  - THE PROPERTY SHOWN HEREON IS LOCATED IN FLOODZONE "ZONE X", AREA OF MINIMAL FLOODING, PER FLOOD INSURANCE RATE MAP 3720072100J, PANEL 0721 EFFECTIVE DATE MAY 2, 2006.
  - BASIS OF BEARING SHOWN HEREON IS NC GRID (NAD 83 NSRS 2011).

- REFERENCES:
- DB 16826, PG 2506
  - DB 18701, PG 1233
  - DB 18701, PG 2105
  - DB 18702, PG 17
  - DB 18702, PG 1097
  - DB 18766, PG 1917
  - BM 1979, PG 307
  - BM 1987, PG 1241
  - BM 2004, PG 277
  - BM 2017, PG 672

LEGEND

- LINE SURVEYED
- LINE NOT SURVEYED
- EXISTING CONCRETE MONUMENT
- IRON PIPE FOUND
- COMPUTED POINT
- RIGHT-OF-WAY TO BE ABANDONED

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS



I, THOMAS E. TEABO, PLS, HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30, AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 26TH DAY OF MAY 26, A.D. 2022.

ABANDONMENT OF A PORTION OF:  
**N.C.S.R. 1148 WALDEN ROAD**

TOWN OF APEX, BUCKHORN TOWNSHIP,  
WAKE COUNTY, NORTH CAROLINA

NCBELS: P-1132



4130 PARKLAKE AVENUE, SUITE  
130 RALEIGH, NORTH CAROLINA  
27612 919.578.9000  
www.bohlerengineering.com

PRELIMINARY - NOT FOR RECORDATION,  
SALES OR CONVEYANCES



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): June Cowles, Senior Planner

Department(s): Planning

### Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ10, Salem Church Road Parcels, Carl Helton, Sundance of NC, LLC, petitioner, for the properties located at 1529, 1531, 1535 Salem Church Road (PINs 0743818238, 0743819289, 0743911218).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Application No. 23CZ10 was approved at the August 8, 2023 Town Council meeting.

### Attachments

- CN13-A1: Statement and Ordinance - Rezoning Case No. 23CZ10 - Salem Church Road Parcels
- CN13-A2: Attachment A - Legal Description - Rezoning Case No. 23CZ10 - Salem Church Road Parcels



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.9 ACRES LOCATED AT 1529, 1531, AND 1535 SALEM CHURCH ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)**

**#23CZ10**

**WHEREAS**, Carl Helton, Sundance of NC, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 28<sup>th</sup> day of April 2023 (the “Application”). The proposed conditional zoning is designated #23CZ10;

**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 #23CZ10 before the Planning Board on the 10<sup>th</sup> day of July 2023;

**WHEREAS**, the Apex Planning Board held a public hearing on the 10<sup>th</sup> day of July 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ10. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ10;

**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 #23CZ10 before the Apex Town Council on the 8<sup>th</sup> day of August 2023;

**WHEREAS**, the Apex Town Council held a public hearing on the 8<sup>th</sup> day of August 2023. June Cowles, Senior Planner, presented the Planning Board’s recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #23CZ10 were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Medium Density Residential. This designation on the 2045 Land Use Map includes the zoning district Medium Density Residential-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the rezoning to Medium Density Residential-Conditional Zoning (MD-CZ) will allow development to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: the rezoning will implement stricter environmental conditions than the UDO requires and provide additional single-family homes that are compatible with those in the general vicinity; and

**WHEREAS**, the Apex Town Council by a vote of 4 to 1 approved Application #23CZ10 rezoning the subject tract located at 1529, 1531, 1535 Salem Church Road from Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-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 Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-CZ) District, subject to the conditions stated herein.

## Ordinance Amending the Official Zoning District Map #23CZ10

**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 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
2. Accessory apartment
3. Utility, minor

### Zoning Conditions:

1. If there is a back roof that faces to the East, South and/or West, then there shall be a minimum 4-kilowatt (kW) solar PV system installed on one rooftop.
2. If a buffer is required along Salem Church Road, the buffer shall be a Type “B”.
3. The project shall preserve a minimum of 40% of the existing tree canopy.
4. The project shall include drought tolerant plants, of which 100% of the plants selected shall be native. Landscaping shall be coordinated with and approved by the Planning Department at subdivision review.
5. All homes shall include solar conduit in the building design to facilitate future installation of roof-mounted solar PV panels.
6. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electric vehicles.
7. The existing parcels are served by four driveways accessing Salem Church Road. Subdivision of the parcels shall not increase the total number of existing driveways.
8. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
9. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
10. Eaves shall project at least 12 inches from the wall of the structure.
11. Garage doors shall have windows, decorative details or carriage-style adornments on them.
12. The front facade or front porch shall extend a minimum of 6 feet in front of the garage door for front loaded garage facades.
13. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
14. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
15. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
16. Front porches shall be a minimum of 6 feet deep.
17. No more than 25% of lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.

**Ordinance Amending the Official Zoning District Map #23CZ10**

18. A 20-foot permanent construction easement shall be provided along Salem Church Road for future sidewalk connection.

**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. Subdivision plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for subdivision 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 \_\_\_\_\_ 2023.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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

## Attachment A: Legal Description

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

Lying and being in Town of Apex ETJ, Cary Township, Wake County, North Carolina, and described more fully as follows to wit:

BEGINNING at the northwest corner Lot A (B.M. 2005, Pg. 508), also being the southernmost corner Lots 32 & 33 (B.M. 2003, Pg. 1053); thence South  $00^{\circ} 44' 07''$  East, 272.12 feet to a point; thence North  $87^{\circ} 32' 00''$  West, 43.01 feet to a point; thence North  $88^{\circ} 10' 26''$  West, 215.08 feet to a point; thence North  $88^{\circ} 29' 23''$  West, 200.28 feet to a point; thence North  $00^{\circ} 51' 23''$  East, 285.36 feet to a point; thence South  $86^{\circ} 32' 31''$  East, 451.22 feet to the BEGINNING, containing 2.9013 total acres more or less.

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

# PRELIMINARY

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

### Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ12, Sweetwater PUD Amendment, David Schmidt, ExperienceOne Homes, LLC, petitioner, for the properties located at, 0 Core Banks St and 0 Little Gem Ln (PINs 0722441499 and 0722441386).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Application No. 23CZ12 was approved at the August 22, 2023 Town Council meeting.

### Attachments

- CN14-A1: Statement and Ordinance - Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment
- CN14-A2: Attachment A - Legal Description - Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment
- CN14-A3: Attachment B - Sweetwater PUD Amendment - Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.944 ACRES LOCATED AT 0 CORE BANKS ST AND 0 LITTLE GEM LN FROM PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ #17CZ21) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ) #23CZ12**

**WHEREAS**, David Schmidt, ExperienceOne Homes, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of May 2023 (the “Application”). The proposed conditional zoning is designated #23CZ12;

**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 #23CZ12 before the Planning Board on the 10<sup>th</sup> day of July 2023;

**WHEREAS**, the Apex Planning Board held a public hearing on the 10<sup>th</sup> day of July 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ12. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ12;

**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 #23CZ12 before the Apex Town Council on the 8<sup>th</sup> day of August 2023;

**WHEREAS**, the Apex Town Council held a public hearing on the 8<sup>th</sup> day of August 2023. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #23CZ12 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 Mixed Use: High Density Residential/Office Employment/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) and the Apex Town Council has further considered that the rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will allow development to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning will allow for non-residential use of the subject property with a more limited list of permitted uses and a lower building height to maintain compatibility with the existing townhomes to the east and south. The overall Sweetwater PUD has maxed out its permitted residential density and the proposed rezoning will allow for development of the property that will increase the tax base and provide services to the nearby residential uses.; and

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ12 rezoning the subject tract located at 0 Core Banks St. and 0 Little Gem Ln. from Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ21) to Planned Unit Development-Conditional Zoning (PUD-CZ).

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

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

**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

**Ordinance Amending the Official Zoning District Map #23CZ12**

zoning classification of the "Rezoned Lands" from Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ21) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

**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 the conditions in Attachment "B" Sweetwater PUD which are imposed as part of this rezoning.

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

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

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

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

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

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

This the \_\_\_\_ day of \_\_\_\_\_ 2023.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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



LAND DESCRIPTION PHASE 8 REMAINDER LOTS – SWEETWATER

LYING AND BEING IN WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

NCPIN: 0722-44-1499 & 0722-44-1386

COMMENCING AT A POINT, SAID POINT BEING PUBLISHED IN THE NATIONAL GEODETIC SURVEY AS "JORDAN LAKE CORS ARP" A NORTH CAROLINA CORS MONUMENT(PID: DL3891) AND HAVING NC GRID COORDINATES OF NORTHING: 739,273.06' & EASTING: 1,989,789.68'; THENCE S67° 07' 56"E A GRID DISTANCE OF 37,250.87' TO A POINT; SAID POINT BEING AN IRON PIPE FOUND(IPF) WITH A TACK & CAP, A COMMON CORNER WITH SMITH, HAVING NC GRID COORDINATES OF NORTHING: 724,797.17' & EASTING: 2,024,112.80'; THENCE, ALONG A COMMON BOUNDARY WITH SMITH, S 00°25'12" E, 180.00 FEET TO A POINT, SAID POINT LYING ON THE SOUTHERN MARGIN OF CORE BANKS STREET; A VARIABLE WIDTH PUBLIC RIGHT OF WAY, SAID POINT IS HEREBY KNOWN AS **THE POINT OF BEGINNING**.

THENCE FROM THE SAID **POINT OF BEGINNING** WITH THE MARGIN OF CORE BANKS STREET N89°34'48"E, 7.58 FEET TO AN IRON PIPE FOUND (IPF) THENCE, WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 670.00 FEET A CHORD BEARING AND DISTANCE OF, S82°23'28"E, 187.16 FEET TO A POINT; THENCE, WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET A CHORD BEARING AND DISTANCE OF, S27°17'17"E, 36.62 FEET TO A POINT ON THE WESTERN MARGIN OF LITTLE GEM LANE A 50' PUBLIC RIGHT OF WAY; THENCE, WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET A CHORD BEARING AND DISTANCE OF, S28°11'28"W, 36.52 FEET TO A POINT; THENCE ALONG SAID MARGIN S 36°35'24" W, 313.86 FEET TO A POINT, SAID POINT BEING A COMMON CORNER WITH SWEETWATER PROPERTY OWNERS ASSOCIATION, INC.; THENCE WITH ALONG A COMMON BOUNDARY WITH SAID PROPERTY OWNERS ASSOCIATION, N89°15'15"W, 3.04 FEET TO A POINT, SAID POINT BEING A COMMON CORNER WITH SMITH; THENCE ALONG A COMMON LINE WITH SMITH N00°25'12"W, 341.43 FEET TO THE **POINT AND PLACE OF BEGINNING**, HAVING AN AREA OF 41,118 SQUARE FEET OR, 0.944 ACRES MORE OR LESS.

# Attachment "B"

## Sweetwater PUD Amendment

Proposed Rezoning Changes

June 28,2023

(Limited to PINs 0722-44-1499 & 0722-44-1386)

The PUD will retain all of the conditions from rezoning #16CZ21, #17CZ21, and #18CZ01 except:

### I. Revision to Section 5:

### Section 5: Permitted Uses

Table 1 (below) presents a list of permitted uses for Sweetwater. The list of uses will provide the opportunity for the proposed development to have flexibility in the ultimate build out of the project.

- Uses are subject to general and specific regulations
- Some of the uses include specific regulations that can be found in the UDO permitted use Table and Section 4.4, Supplemental Standards.

Table 1	Residential	Non-Residential/Mixed-Use Areas	PINs 0722-44-1499 0722-44-1386
<b>Residential Uses</b>			
Accessory Apartment	P	P	P
Single-Family	P		
Townhouse	P		
Apartment (2 <sup>nd</sup> Story and above only)		P	
<b>Public &amp; Civic Uses</b>			
Assembly Hall, Nonprofit		P	
Church or Place of Worship		P/S	
Daycare Facility		P	P
Drop-in or Short-Term Daycare		P	P
Government Service		P	
School, Public or Private		P	
Veterinary Clinic or Hospital		P	P
Vocational School		P	
<b>Utilities</b>			
Utility, Minor		P	
<b>Recreational Uses</b>			
Entertainment, Indoor		P	
Greenway	P	P	P
Park, Active	P	P	P
Park, Passive	P	P	P
Recreation Facility, Private	P	P	P

<b>Food &amp; Beverage Service</b>			
Restaurant, Drive-Through		P	
Restaurant, General		P	P
<b>Office &amp; Research</b>			
Dispatching Office		P	P
Medical or Dental Office or Clinic		P	P
Medical or Dental Laboratory		P	P
Office, Business or Professional		P	P
Publishing Office		P	P
Research Facility		P	P
<b>Public Accommodation</b>			
Hotel or Motel		P	
<b>Retail, Sales &amp; Service</b>			
Barber & Beauty Shop		P	P
Bookstore		P	P
Building Supplies, Retail		P	
Convenience Store		P	
Convenience Store with Gas Sales		P	
Dry Cleaners & Laundry Service		P	P
Farmer's Market		P	P
Financial Institution		P	
Floral Shop		P	P
Funeral Home		P	
Gas & Fuel, Retail		P	
Greenhouse or Nursery, Retail		P	
Grocery, Retail		P	
Grocery, Specialty		P	
Health/Fitness Center or Spa		P	
Kennel, Indoor		P	P
Laundromat		P	
Newsstand or Gift Shop		P	
Personal Service		P	P
Pharmacy		P	
Printing & Copying Service		P	P
Real Estate Sales		P	P
Repair Service, Limited		P	
Retail Sales, Bulky Goods		P	
Retail Sales, General		P	P

Studio for Art		P	<b>P</b>
Tailor Shop		P	<b>P</b>
Theater		P	
Pet Services		P	<b>P</b>
<b>Vehicle Repair or Service</b>			
Automotive Parts		P	
Car Wash or Auto Detailing		P	
Vehicle Inspection Center		P	
<b>Industrial Uses/Industrial Service</b>			
Laboratory, Industrial Research		P	
<b>Production</b>			
Microbrewery		P	<b>P</b>

P = Permitted Use

S = Special Use

II. Revision to Section 6:

**Section 6: Design Controls**

**NONRESIDENTIAL/MIXED-USE AREAS:**

**Building Height:**

Maximum Height: 62 Feet (5 Story)

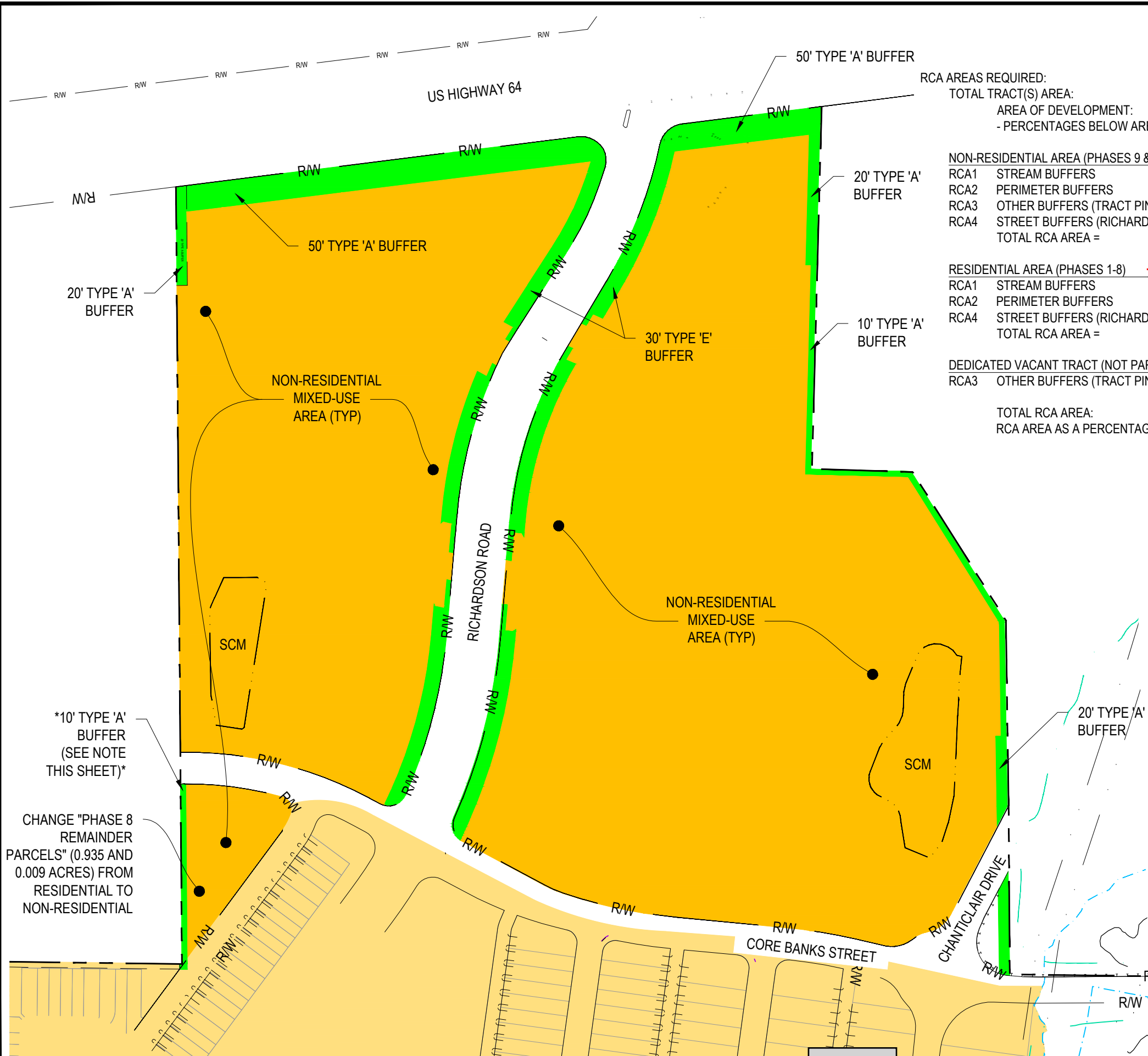
**39 Feet (2 Story) – PINs 0722-44-1499 & 0722-44-1386**

**Buffers (Refer to PUD Amendment Exhibit):**

Perimeter Buffers

Adjacent to Vacant Property:

**10-foot Type A buffer: If a buffer is required by UDO Section 8.2.6, it shall not exceed 10' in width.**

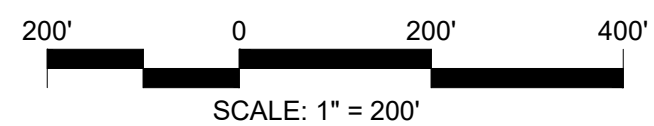


RCA AREAS REQUIRED:

TOTAL TRACT(S) AREA:	164.79 AC
AREA OF DEVELOPMENT:	164.79 AC
- PERCENTAGES BELOW ARE OF DEVELOPED AREA RCA BUFFERS	
<b>NON-RESIDENTIAL AREA (PHASES 9 &amp; 10)</b>	
	<del>45.65 AC (27.70%)</del> <b>46.59 AC (28.27%)</b>
RCA1 STREAM BUFFERS	0.00 AC
RCA2 PERIMETER BUFFERS	1.90 AC
RCA3 OTHER BUFFERS (TRACT PIN 0722730032)	0.00 AC
RCA4 STREET BUFFERS (RICHARDSON RD)	1.70 AC
TOTAL RCA AREA =	3.60 AC (2.18%)
<b>RESIDENTIAL AREA (PHASES 1-8)</b>	
	<del>106.38 AC (65.55%)</del> <b>105.44 AC (63.98%)</b>
RCA1 STREAM BUFFERS	26.41 AC
RCA2 PERIMETER BUFFERS	<del>1.34 AC</del> <b>1.26 AC</b>
RCA4 STREET BUFFERS (RICHARDSON RD)	1.88 AC
TOTAL RCA AREA =	<del>29.63 AC (17.98%)</del> <b>29.55 AC (17.93%)</b>
<b>DEDICATED VACANT TRACT (NOT PART OF DEVELOPED AREA)</b>	
RCA3 OTHER BUFFERS (TRACT PIN 0722730032)	13.20 AC
<b>TOTAL RCA AREA:</b>	<del>46.43 AC</del> <b>46.35 AC</b>
<b>RCA AREA AS A PERCENTAGE OF DEVELOPED AREA:</b>	<del>28.18%</del> <b>28.13%</b>

RESIDENTIAL	
MIXED USE	
RCA - (CURRENT) 46.35 AC. (28.13%)	

\*NOTE: 10' TYPE 'A' BUFFER: IF A BUFFER IS REQUIRED BY THE UDO, IT SHALL NOT EXCEED 10' IN WIDTH. IF THE ADJACENT PROPERTY DEVELOPS AS COMMERCIAL BEFORE THIS ONE, THEN NO BUFFER WILL BE REQUIRED. IF THE ADJACENT PROPERTY DEVELOPS AS MULTI-FAMILY OR IS STILL VACANT, THEN ONLY A 10' BUFFER WILL BE REQUIRED.



**CE GROUP**

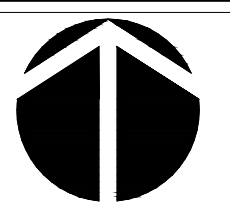
301 GLENWOOD AVE. 220  
RALEIGH, NC 27603  
PHONE: 919-367-8790  
FAX: 919-322-0032

www.cegroupinc.com

License # C-1739

**SWEETWATER  
PUD AMENDMENT  
LAYOUT PLAN**

06/22/2023



**NORTH**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Russell Dalton, P.E., Traffic Engineering Manager

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to approve a North Carolina Department of Transportation (NCDOT) Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence for a 25-mph speed limit on SR 1157 (James St) between 0.14 mile west of SR 1153 (Tingen Rd) and SR 1158 (S Hughes St) within Apex municipal limits.

### Approval Recommended?

Yes

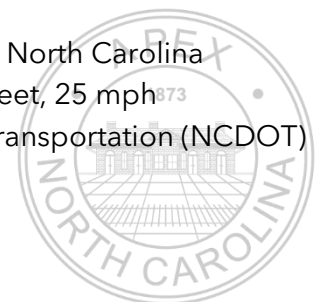
### Item Details

Approval of this Certification of Municipal Declaration will provide the necessary municipal concurrence for NCDOT to enact a 25-mph speed limit on James Street west of South Hughes Street where 25 mph signs had been posted, when it is in fact still a statutory 35 mph zone within Apex municipal limits. NCDOT reviewed the existing 25 mph posting and conditions compared to the statutory 35 mph speed limit and are prepared to proceed with enacting a 25-mph speed limit once they receive municipal concurrence, which will allow the current posting to remain.

Traffic engineering staff and police reviewed the existing conditions and existing posting of 25 mph and concur with NCDOT changing the statutory 35 to 25 to match the existing posting. Police asked that the posting not be increased to 35, as that has the potential to encourage faster speeds and could adversely impact safety compared to existing conditions.

### Attachments

- CN15-A1: Certification of Municipal Declaration - Speed Limit Concurrence - North Carolina Department of Transportation (NCDOT) - James Street west of S. Hughes Street, 25 mph<sup>373</sup>
- CN15-A2: Map - Speed Limit Concurrence - North Carolina Department of Transportation (NCDOT) - James Street west of S. Hughes Street, 25 mph



**Certification of Municipal Declaration  
To Enact Speed Limits and Request for Concurrence**

---

Concurring State Ordinance Number: 1084422

Division: 5      County: WAKE

Municipality APEX

Type: Municipal Speed Zones

Road: SR 1157

Car: 25 MPH

Truck: 25 MPH

Description: On SR 1157 (James St) between 0.14 mile west of SR 1153 (Tingen Rd) and SR 1158 (S Hughes St)

---

**Municipal Certification**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: \_\_\_\_\_ Page: \_\_\_\_\_ Ordinance Number: \_\_\_\_\_

In witness whereof, I have hereunto set my  
hand and the municipal seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(signature)

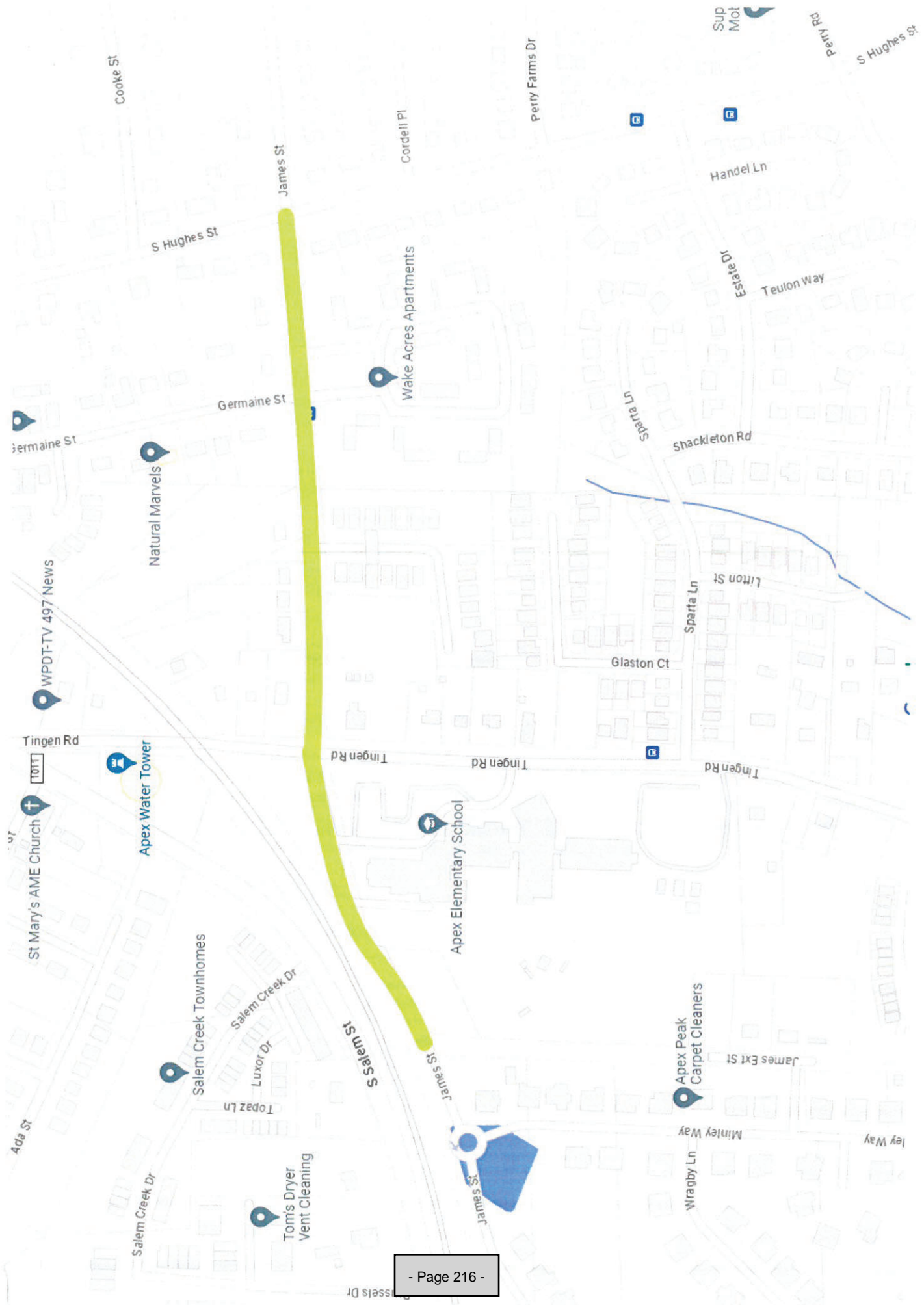
\_\_\_\_\_  
(municipal seal)

---

**Department of Transportation Approval**

Division: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Region: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_





# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 22, 2023

## Item Details

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

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

### Requested Motion

Motion to recommend a Fee-In-Lieu (FIL) of dedication for Tobacco Road Place.

### Approval Recommended?

Yes

### Item Details

Every person who subdivides or develops land for residential purposes shall prior to the time of final approval of the Master Subdivision Plan or Minor or Major Site Plan agree to dedicate a portion of such land, as set forth in this Article 14 of the Unified Development Ordinance (UDO) for the purpose of providing park, recreation, or open space sites to serve the future residents of the neighborhood within the Town of Apex corporate limits.

Exemptions: When a development contains 30 units or less in a single-family, detached subdivision; 45 units or less in a single-family, attached subdivision; or 51 units or less in a multi-family development, only the payment of Fee-In-Lieu shall be required, unless the development abuts an existing or planned park or greenway. As such, the Tobacco Road subdivision with 2 Single-family Detached lots would pay a Fee-In-Lieu of dedication.

### Attachments

- CN16-A1: Tobacco Road Place Subdivision Plan - Fee-In-Lieu (FIL)



NO.	DATE	REVISION	BY
1	07/24/23	2-LIST SUBDIVISION	JAW

PROJECT NUMBER	10023
DATE	07/03/2023
HORIZ. SCALE	1" = 40'
VERTICAL SCALE	N/A
DESIGNER	JAW
REVIEWER	JAW

**SITE PLAN**

**TOBACCO ROAD PLACE  
 SUBDIVISION**  
 TOWN OF APEX WAKE COUNTY NORTH CAROLINA

SHEET NO. **C2.1**

BUILT-UPON-AREA:	
1.	THE MAXIMUM ALLOWABLE BUILT UPON AREA IS 12% OF THE TOTAL SITE AREA.
2.	TOTAL SITE AREA: 3.34 AC, MAXIMUM BUILT-UPON-AREA: 0.4008 AC / 17,458 SF
3.	PROPOSED BUILT-UPON-AREA: 17,430 SF

DENUDED AREA:	
1.	THE MAXIMUM ALLOWABLE DENUDED AREA IS 1.0 AC / 43,560 SF
2.	PROPOSED DENUDED AREA IS 1.0 AC / 43,530 SF

SITE PLAN LEGEND		
SYMBOL	DESCRIPTION	DETAIL
	PROPOSED CONCRETE SIDEWALK	-/-
	PROPOSED 2'-0" CURB AND GUTTER	-/-
	PROPOSED ASPHALT ROADWAY (2" SURFACE, 2.5" INTERMEDIATE, 8" AGGREGATE)	-/-
	PROPOSED ASPHALT PATCH (2" ASPHALT SURFACE COURSE, 8" ASPHALT INTERMEDIATE COURSE)	-/-
	1.5" MILL AND 1.5" ASPHALT SURFACE COURSE OVERLAY	-/-
	TREE PROTECTION FENCE	C5.4
	RETAINING WALL (PRIVATE)	-/-
	PROPOSED CLUSTER BOX UNIT (CBU) MAILBOX	-/-
	RESOURCE CONSERVATION AREA	-/-

**REQUIRED PLAN NOTES:**

- No site development activity including, but not limited to, testing, clearing, installation of S&E measures, or grading, shall occur until required tree protection fencing has been installed and inspected. A tree protection fencing installation permit may be obtained at the Planning Department or online at <http://www.apexnc.org/215/Applications-Schedules>.
- Tree protection fencing must be placed:
  - One foot away from any saved tree for each inch of diameter at breast height.
  - Along the outside line of the 100-year floodplain, and the outside edge of any riparian buffer, and
  - At least 10 feet away from any other designated RCA such as, but not limited to, historic buildings and structures, wetlands, and ponds.
- Additional tree protection fencing may be required in other locations close to construction activity where it is deemed necessary by the zoning enforcement officer; such areas may include but are not limited to common property lines or near public areas (sidewalks, etc.).
- If buildings are to be demolished, a copy of the Demolition Notification from the NC Health Hazard Control Unit and an asbestos inspection report from a NC accredited asbestos inspector must accompany the application for the demolition permit which must be obtained prior to start of the demolition.
- All grading and support structures associated with any retaining structure shall not encroach into any required buffer or protected area (i.e. RCA, the critical root zones of trees, public utility easements and rights-of-way), and shall be contained entirely on site.
- Site elements required to satisfy recreational requirements such as, but not limited to, play fields, greenway trails, and items typically associated with them (benches, trash containers, signs, etc.) must meet any applicable standards found in the Town of Apex Standard Specifications and Standard Details and the requirements of the Town of Apex Parks and Recreation Department.
- The screening of loading docks, roll-out containers, dumpsters, outdoor storage, mechanical and HVAC equipment, and similar facilities on the roof, ground or building shall meet the requirement of Sec. 8.2.8 of the UDO. Specifically, screening must be done so that:
  - It is incorporated into the overall design theme of the building and landscaping
  - Screening materials are not different from or inferior to the principal materials of the building or landscape and are similar in material and color
  - Screening items are out of view from adjacent properties and public streets, and a totally opaque screen is achieved
  - Any ground-mounted HVAC or other mechanical or utility equipment six (6) feet tall or higher must be fenced and landscaped.
  - Dumpster enclosures must meet the above requirements plus be eight (8) feet tall or the height of the dumpster, whichever is greater, and be built of masonry material with opaque gates. Where practicable, shrubs or other plants must be planted outside the enclosure to visually soften the appearance.
- All required site elements shown within a particular phase must be installed before a final Certificate of Occupancy may be issued for any building within that phase.
- Prior to scheduling a final site inspection, all site items (e.g. lighting, landscaping, mulching, screening for dumpsters, mechanical equipment, HVAC, etc., seeding & site stabilization, and parking and pavement marking) must be completed.
- Individual signs are not approved as part of site plan approval process. A separate sign permit must be obtained prior to installation of the sign. Multiple use lots, non-residential subdivisions, and multiple tenant lots must submit a Master Sign Plan for approval.
- Retaining systems providing a cumulative vertical relief greater than five (5) feet in height within a horizontal distance of 50 feet or less, including retaining walls or mechanically stabilized earth walls, shall be designed and constructed under the responsible charge of a registered professional engineer and comply in all aspects with the NC Building Code Sec. 1610. Retaining systems meeting these criteria will require a separate building permit prior to start of work. Retaining structure materials must be an integrally tinted medium or dark brown or rust color.

**ROADWAY CENTERLINE DATA**

LINE TABLE			
LINE	LENGTH	DIRECTION	
L1	62.79'	S 89°49'54" W	

**GRAPHIC SCALE: 1" = 40'**

**SEAL** **NORTH ARROW**

ALL CONSTRUCTION MUST BE PERFORMED IN ACCORDANCE WITH CURRENT TOWN OF APEX STANDARD SPECIFICATIONS AND DETAILS



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

### Requested Motion

Public Hearing to receive public comment on the Proposed Bond Order authorizing \$3,460,000 Public Improvement Bonds.

### Approval Recommended?

Yes

### Item Details

The bond order was introduced at the August 8, 2023 Council Meeting for the above mentioned. Upon closing the public hearing, staff recommends the approval of the respective bond order. Formal application to the Local Government Commission has been submitted and is on their agenda for consideration at their September 12, 2023 meeting. The bonds will be issued on October 3, 2023 along with \$24,500,000 in General Obligation Bonds for Transportation Improvements.

### Attachments

- PH1-A1: Bond Order - Proposed Public Improvement Bonds
- PH1-A2: Affidavit - Proposed Public Improvement Bonds



The Town Council of the Town of Apex, North Carolina met in a regular meeting in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina, the regular place of meeting, at 6:00 p.m. on August 22, 2023.

Present: Mayor Jacques K. Gilbert, presiding, and Council Members

---

Absent: Council Members

---

Also Present: \_\_\_\_\_

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\* \* \* \* \*

\_\_\_\_\_ announced that this was the hour and day fixed by the Town Council for the public hearing upon a bond order entitled “ORDER AUTHORIZING \$3,460,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS” and that the Town Council would immediately hear anyone who might wish to be heard on the questions of the validity of said bond order or the advisability of issuing said bonds.

A list of all persons making comments and a summary of such comments are attached as Exhibit A.

The public hearing was closed.

All statements and comments by participants of the public hearing were duly considered by the Town Council.

Thereupon, upon motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the order introduced and adopted on first reading on August 8, 2023, entitled “ORDER AUTHORIZING \$3,460,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS” was read a second time and placed upon its final adoption. The vote upon the final adoption of said order was:

Ayes: \_\_\_\_\_

---

Noes: \_\_\_\_\_

---

The Town Clerk was thereupon directed to publish the aforementioned order, together with the appended statement as required by The Local Government Bond Act, as amended, once in The News and Observer.

\* \* \* \* \*

I, Allen Coleman, CMC, NCCCC, Town Clerk of the Town of Apex, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the Town Council of said Town at a regular meeting held on August 22, 2023, as it relates in any way to the holding of a public hearing and the adoption of the foregoing bond order authorizing general obligation bonds of said Town and that said proceedings are to be recorded in the minutes of said Town Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said Town this 22<sup>nd</sup> day of August, 2023.

---

Town Clerk

[SEAL]

## **EXHIBIT A**

[A list of any persons making comments and a summary of such comments to be attached. If no comments are made, please insert “None”.]



Beaufort Gazette  
 Belleville News-Democrat  
 Bellingham Herald  
 Bradenton Herald  
 Centre Daily Times  
 Charlotte Observer  
 Columbus Ledger-Enquirer  
 Fresno Bee

The Herald - Rock Hill  
 Herald Sun - Durham  
 Idaho Statesman  
 Island Packet  
 Kansas City Star  
 Lexington Herald-Leader  
 Merced Sun-Star  
 Miami Herald

el Nuevo Herald - Miami  
 Modesto Bee  
 Raleigh News & Observer  
 The Olympian  
 Sacramento Bee  
 Fort Worth Star-Telegram  
 The State - Columbia  
 Sun Herald - Biloxi

Sun News - Myrtle Beach  
 The News Tribune Tacoma  
 The Telegraph - Macon  
 San Luis Obispo Tribune  
 Tri-City Herald  
 Wichita Eagle

# AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
19949	454573	Print Legal Ad-IPL01351250 - IPL0135125		\$1,180.68	2	61 L

**Attention:** Amy Degen

TOWN OF APEX  
 PO BOX 250  
 APEX, NC 275022312

Allen.Coleman@apexnc.org

**ORDER AUTHORIZING \$3,460,000  
 GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS**

BE IT ORDERED by the Town Council of the Town of Apex, North Carolina:

1. That pursuant to the Local Government Bond Act, as amended, the Town of Apex, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said Town may now or hereafter have power and authority to contract, and in evidence thereof to issue General Obligation Public Improvement Bonds in an aggregate principal amount not exceeding \$3,460,000 for the purpose of providing funds, together with any other available funds, for acquiring, constructing and equipping a new administrative office building for said Town.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of debt of said Town has been filed with the Town Clerk and is open to public inspection.

4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people within 30 days after the date of its publication as introduced as provided in G.S. 159-60, in which event it shall take effect when approved by the voters of said Town at a referendum as provided in said Act.

5. That this order is adopted pursuant to the provisions of G.S. 159-49, which authorizes the issuance of bonds without a vote of the people for the purposes specified therein in an amount not exceeding two-thirds of the amount by which the outstanding indebtedness of said Town has been reduced in the preceding fiscal year.

The foregoing order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the Town of Apex, North Carolina to be \$12,377,000,000 and the net debt thereof, including the proposed bonds, to be \$135,790,000. The Finance Director of the Town has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is \$383,621. A tax is authorized to be levied to pay the principal of and interest on the bonds if they are issued. The Finance Director of the Town has filed a statement estimating that no property tax increase will be required to provide sufficient funds to pay principal of and interest on the proposed bonds. These estimates are preliminary, are for general informational purposes only, and may differ from the actual interest paid on such bonds or the actual property tax increases required to provide sufficient funds to pay the principal of and interest on the bonds. Such statement includes certain assumptions upon which the estimates are based, and there is no assurance that such assumptions will occur. The validity of the proposed bonds is not subject to challenge on the grounds that the actual interest cost on the bonds when issued, or the actual property tax increases required to provide sufficient funds to pay the principal of and interest on the bonds when issued, is different than the estimates set forth above.

Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held at 6:00 p.m. on August 22, 2023, in the Council Chambers of the Town Hall located at 73 Hunter Street in Apex, North Carolina.

Allen Coleman, CMC, NCCCC  
 Town Clerk  
 Town of Apex, North Carolina  
 IPL0135125  
 Aug 11 2023

**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:

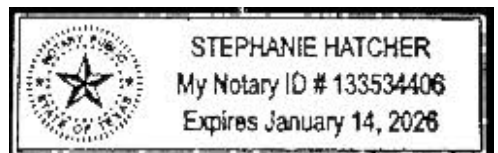
1 insertion(s) published on:  
 08/11/23

*Tara Pennington*

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

*Stephanie Hatcher*

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!



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## 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. 2023-  
ANNEXATION PETITION NO. 756  
YELLOWBRIDGE CAPITAL - 52.375 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 August 22nd, 2023, 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 August 22nd, 2023. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, Wake County, North Carolina, White Oak Township (PIN#: See Recorded Map), Land Surveyor dated April 24, 2023" and recorded in Book of Maps book number 2023 and page number [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 22nd day of August, 2023.

---

Jacques K. Gilbert  
Mayor

ATTEST:

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Allen L. Coleman, CMC, NCCCC  
Town Clerk

APPROVED AS TO FORM:

---

Laurie L. Hohe  
Town Attorney

Legal Description

Yellowbridge Capital Annexation Boundary  
Annexation #756  
Proposed Ennis Branch Subdivision PIN# 0722752304 & 0722743789

All that certain real property situated in White Oak Township, Wake County, North Carolina, described as follows:

Beginning at a set iron rod on the northern right of way line of Chantclair Drive, said iron rod marking the southwestern corner of Lot 74 as said lot is shown and so designated on that certain subdivision plat entitled "Wind so at Abbington - Phase 1, Section A, Map 2, Lots 24-27 & 65-74" recorded in Book of Maps 1998, Page 203, Wake County Registry; thence along the northern right of way line of Chantclair Drive, South 89°37'45" West 280.73 feet to a set iron rod; thence South 00°22'15" East 30.04 feet to

a set iron rod at the centerline of the western terminus of Chantclair Drive and the northeastern corner of the 0.08 acre Reserved Area depicted on that certain subdivision plat entitled "Stratford at Abbington, Phase 1: Lots 1-31, 65-75, Owner: Highway 64, LLC" recorded in Book of Maps 2006, Pages 2638 to 2640, Wake County Registry; thence along the northern and western boundary of said Reserved Area and continuing along the northwestern boundary of said Stratford at Abbington subdivision the following nine courses: (1) South 89°37'45" West 118.01 feet to a set iron rod; (2) South 05°29'21" West 40.93 feet to a set iron rod; (3) South 01°54'29" East 98.00 feet to a set iron rod; (4) South 11°29'28" East 62.80 feet to a set iron rod; (5) South 22°27'50" West 118.06 feet to a found iron pipe; (6) South 70°08'38" West 118.71 feet to a found iron pipe; (7) South 77°30'46" West 65.05 feet to a found iron pipe; (8) South 73°46'05" West 40.75 feet to a found iron pipe; and (9) South 73°28'08" West 311.49 feet to a found iron pipe at an angle point in the northern boundary of Lot 64 as said lot is shown and so designated on that certain subdivision plat entitled "Stratford at Abbington, Phase 2: Lots 32-64, Owner: Highway 64, LLC" recorded in Book of Maps 2008, Pages 33 and 34, Wake County Registry; thence along the northern boundary of said Stratford at Abbington Phase 2 subdivision South 82°16'49" West 758.57 feet to a found iron pipe with cap at the northwestern corner of Lot 56 of said Stratford at Abbington Phase 2 subdivision, said point also being on the eastern boundary of Lot 2 as said lot is shown and so designated on that certain plat entitled "Recombination Survey for Cecil V. Campfield and Wife Sharon K. Campfield" recorded in Book of Maps 1995, Page 334, Wake County Registry; thence along the eastern boundary of said Campfield plat the following two courses: (1) North 03°08'59" East 417.75 feet to a found bent iron pipe; and (2) North 03°12'21" East 406.54 feet to a found iron pipe with cap at the southeastern corner of Lot 'A' as said lot is shown and so designated on that certain plat entitled "Recombination for Joel V. Perry" recorded in Book of Maps 1985, Page 522, Wake County Registry; thence along the eastern boundary of said Perry plat North 03°11'42" East 841.95 feet to a found iron rod with cap on the southern right of way line of U.S. Highway 64; thence North 07°05'34" West 200.00 feet to the northern right of way line of U.S. Highway 64; thence along said northern right of way line North 82°54'26" East 331.57 feet; thence South 07°05'34" East 200.00 feet to the southern right of way line of U.S. Highway 64 and a set iron rod at the northwestern corner of the parcel depicted on that certain plat entitled "Boundary Survey, Property of Calvin Mills, Prepared for David and Sharon Raymer" recorded in Book of Maps 2004, Page 698, Wake County Registry; thence along the western, southern and eastern boundary of said Mills plat the following three courses: (1) South 07°08'43" East 189.52 feet to a found iron pipe; (2) North 82°51'17" East 420.02 feet to a found iron pipe; and (3) North 07°08'43"

West 189.14 feet to a set iron rod on the southern right of way line of U.S. Highway 64; thence North 07°05'34" West 200 .00 feet to the northern right of way line of U.S. Highway 64; thence along said northern right of way line North 82°54'26" East 570.70 feet; thence South 07°05'34" East 199 .88 feet to the southern right of way line of U.S. Highway 64 and a set iron rod at the northwestern corner of Area "B" as shown and so designated on that certain plat entitled "Property of Blakely -Bras well Land Company , LLC" recorded in Book of Maps 1996, Page 634, Wake County Registry; thence along the western boundary of said Area " B" , South 11 °47'52" West 42.58 feet to a found iron pipe with cap at the northwestern corner of Tract 'A' as said lot is shown and so designated on that certain plat entitled" Property of Calvin E. Mills, Alta Belle P. Mills, Ted Mills & Randy Mills By William R. Hoke & Paul Stam, Jr. , Co-trustees" recorded in

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Containing 52.375 acres, more or less.

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. 2023-\_\_\_\_\_, adopted at a meeting of the Town Council, on the 22nd day of August, 2023, 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 22nd day of August, 2023.

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

(SEAL)

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

### Requested Motion

Public Hearing and possible motion to adopt an Ordinance on the Question of Annexation - Apex Town Council's intent to annex 52.375 acres Yellowbridge Capital, Annexation No. 756 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

The annexation has been certified and a public hearing has been posted as required.

### Attachments

- PH2-A1: Annexation Ordinance - Annexation No. 756
- PH2-A2: Public Hearing Notice - Annexation No. 756
- PH2-A3: Legal Description - Annexation No. 756
- PH2-A4: Aerial Map - Annexation No. 756
- PH2-A5: Plat Map - Annexation No. 756
- PH2-A6: Annexation Petition - Annexation No. 756





"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**

## PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (August 11, 2023) – 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 **22nd day of August, 2023**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

### Annexation Petition No. 756 Yellowbridge Capital – 52.375 acres





*"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](mailto:public.hearing@apexnc.org). Please use subject line "Annexation Petition No. 756" 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, August 22, 2023.

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 2<sup>nd</sup> Floor, (email) [allen.coleman@apexnc.org](mailto: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.

###

Yellowbridge Capital Annexation Boundary

Annexation #756

Proposed Ennis Branch Subdivision

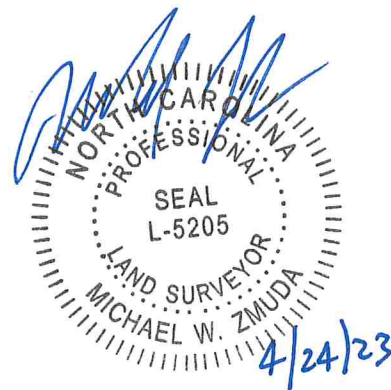
PIN# 0722752304 & 0722743789

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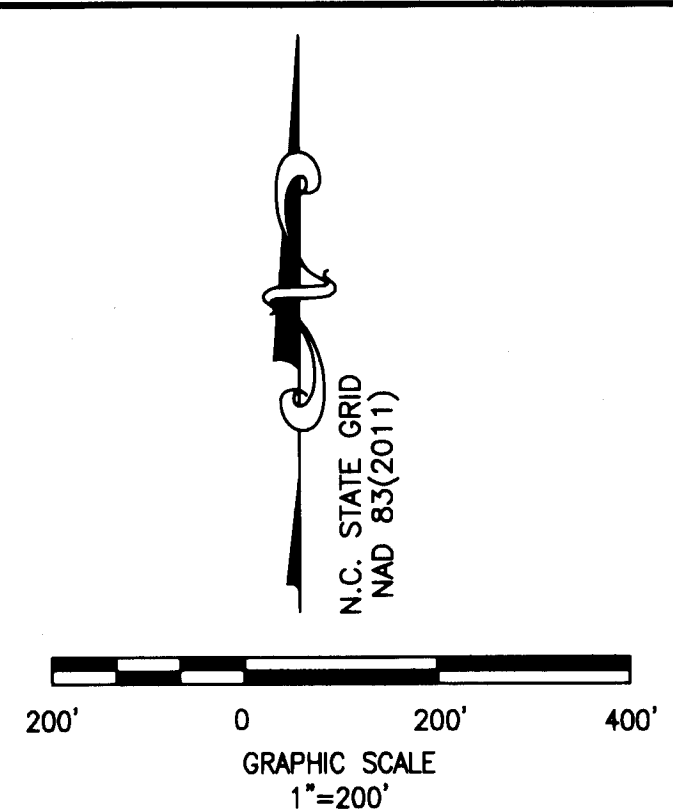
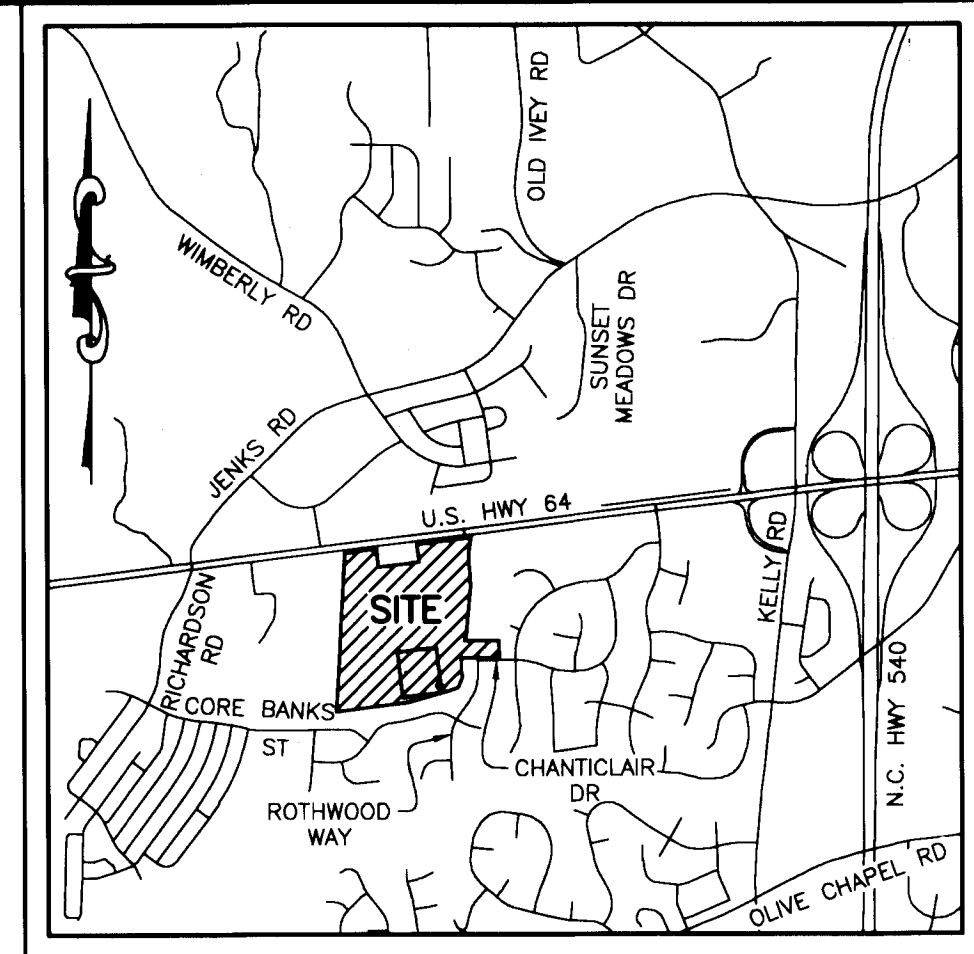
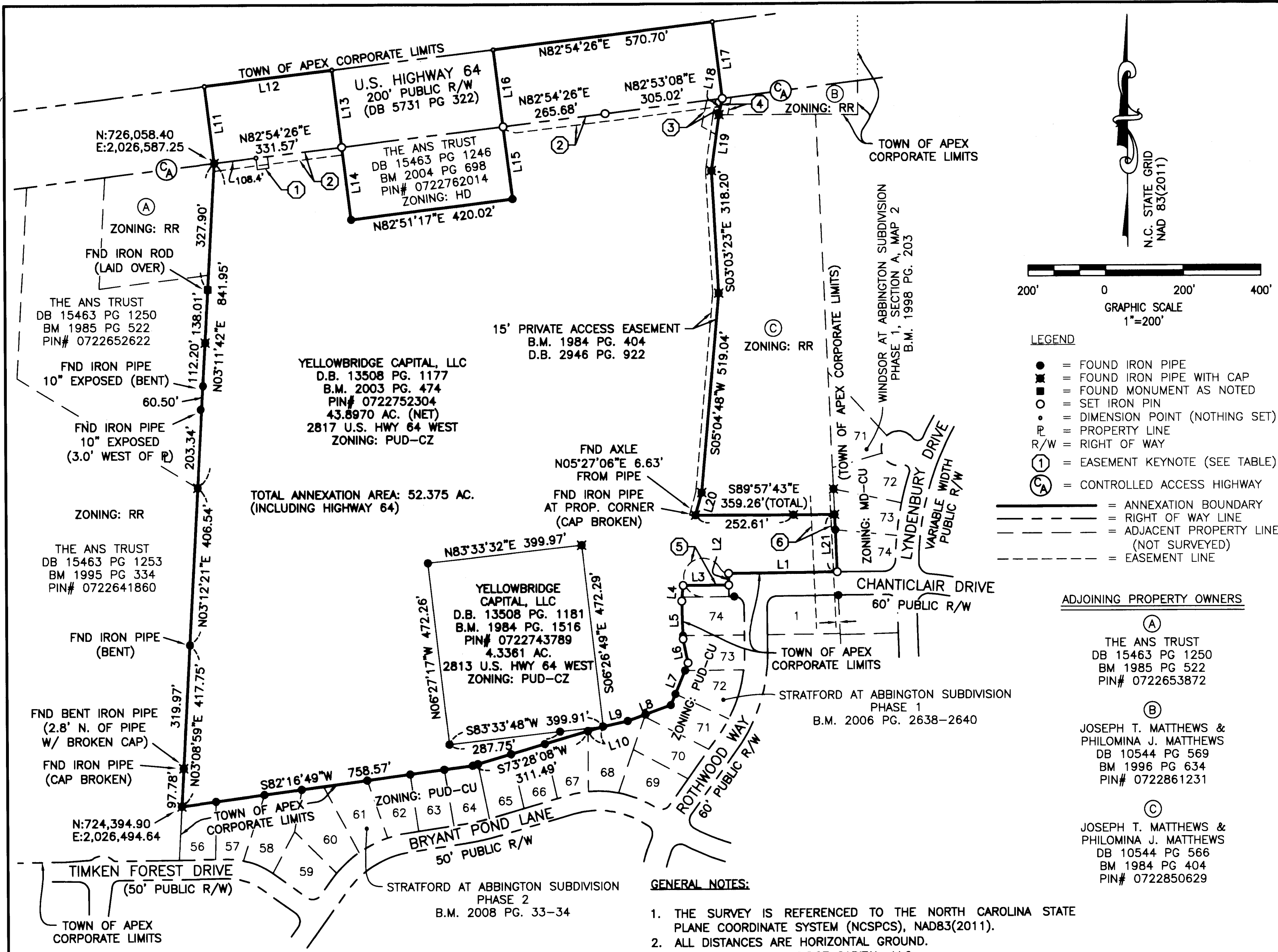
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Containing 52.375 acres, more or less.









- LEGEND**
- = FOUND IRON PIPE
  - = FOUND IRON PIPE WITH CAP
  - = FOUND MONUMENT AS NOTED
  - = SET IRON PIN
  - = DIMENSION POINT (NOTHING SET)
  - = PROPERTY LINE
  - R/W = RIGHT OF WAY
  - ① = EASEMENT KEYNOTE (SEE TABLE)
  - Ⓐ = CONTROLLED ACCESS HIGHWAY
  - = ANNEXATION BOUNDARY
  - - - = RIGHT OF WAY LINE
  - · - · - = ADJACENT PROPERTY LINE (NOT SURVEYED)
  - - - - - = EASEMENT LINE

**VICINITY MAP**  
SCALE: 1"=2000'

**EASEMENTS**

- ① APPROX. LOCATION 30'x30' DRAINAGE EASEMENT D.B. 5731 PG. 325
- ② 20' TOWN OF APEX WATERLINE EASEMENT D.B. 16524 PG. 1151 D.B. 16957 PG. 744
- ③ 60' ACCESS EASEMENT BM 1984 PG 404 DB 2946 PG 922
- ④ 22.5' INGRESS/EGRESS EASEMENT D.B. 3108 PG. 300
- ⑤ PRIVATE ACCESS EASEMENT D.B. 10201 PG. 2461 B.M. 2003 PG. 474
- ⑥ 50' GAS PIPELINE EASEMENT D.B. 8331 PG. 18

LINE	BEARING	DISTANCE
L1	S89°37'45"W	280.73'
L2	S00°22'15"E	30.04'
L3	S89°37'45"W	118.01'
L4	S05°29'21"W	40.93'
L5	S01°54'29"E	98.00'
L6	S11°29'28"E	62.80'
L7	S22°27'50"W	118.06'
L8	S70°08'38"W	118.71'
L9	S77°30'46"W	65.05'
L10	S73°46'05"W	40.75'
L11	N07°05'34"W	200.00'
L12	N82°54'26"E	331.57'
L13	S07°05'34"E	200.00'
L14	S07°08'43"E	189.52'
L15	N07°08'43"W	189.14'
L16	N07°05'34"W	200.00'
L17	S07°05'34"E	199.88'
L18	S11°47'52"W	42.58'
L19	S07°43'26"W	146.44'
L20	S15°45'44"W	60.82'
L21	S02°25'07"E	148.61'

**ADJOINING PROPERTY OWNERS**

- Ⓐ THE ANS TRUST  
DB 15463 PG 1250  
BM 1985 PG 522  
PIN# 0722653872
- Ⓑ JOSEPH T. MATTHEWS & PHILOMINA J. MATTHEWS  
DB 10544 PG 569  
BM 1996 PG 634  
PIN# 0722861231
- Ⓒ JOSEPH T. MATTHEWS & PHILOMINA J. MATTHEWS  
DB 10544 PG 566  
BM 1984 PG 404  
PIN# 0722850629

**GENERAL NOTES:**

1. THE SURVEY IS REFERENCED TO THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM (NCSPCS), NAD83(2011).
2. ALL DISTANCES ARE HORIZONTAL GROUND.
3. OWNER: YELLOWBRIDGE CAPITAL, LLC
4. ADDRESS: 2813 U.S. HWY 64 WEST (PIN# 0722743789)  
2817 U.S. HWY 64 WEST (PIN# 0722752304)
5. ZONING: PUD-CZ (BOTH PARCELS)
6. TOTAL ANNEXATION AREA (INCLUDING HWY 64): 52.375 ACRES
7. THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE 'X' (UNSHADED) AS SHOWN ON THE NATIONAL FLOOD INSURANCE RATE MAP (FIRM) FOR WAKE COUNTY, NORTH CAROLINA, PANEL 0722, MAP NO. 3720072200K, HAVING AN EFFECTIVE DATE OF JULY 19, 2022.

ANNEXATION # \_\_\_\_\_

**CERTIFICATE OF SURVEY**

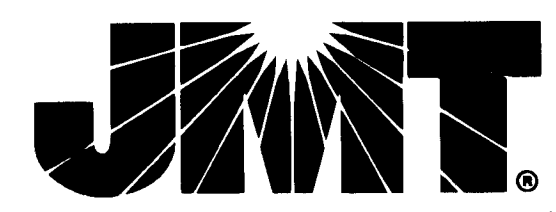
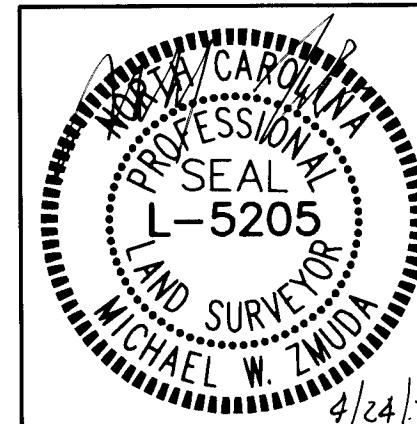
I, MICHAEL W. ZMUDA, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION BASED ON THE REFERENCES SHOWN HEREON; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM THE REFERENCES SHOWN HEREON; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS GREATER THAN 1:15,000; AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 24<sup>th</sup> DAY OF April, A.D., 2023.

I, MICHAEL W. ZMUDA, FURTHER CERTIFY THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

*Michael W. Zmuda*  
MICHAEL W. ZMUDA  
PLS# L-5205

I, ALLEN COLEMAN, CMC, NCCC, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BY THE TOWN COUNCIL. I SET MY HAND AND SEAL OF THE TOWN OF APEX, \_\_\_\_\_.

ALLEN COLEMAN, CMC, NCCC, TOWN CLERK



9201 ARBORETUM PARKWAY, SUITE 310 | RICHMOND, VA 23236  
P: (804) 323-9900 | F: (804) 323-0596 | www.jmt.com

REVISION #	DATE	REASON FOR REVISION
1	4/11/2023	PER TOWN COMMENTS
2	4/24/2023	INCLUDED HWY 64 R/W PER TOWN COMMENTS

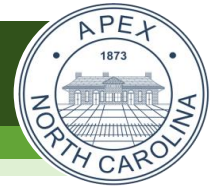
**ANNEXATION MAP**  
FOR THE  
**TOWN OF APEX**

ADDRESS: 2813 & 2817 U.S. HIGHWAY 64 WEST  
WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

DRAWN BY: JSZ	PROJECT#:	JMT# 21-03775-001
CHECKED BY: MWZ	CONTRACT#:	
DATE: 03/27/2023	SCALE: 1"=200'	SHEET 1 OF 1

# PETITION FOR VOLUNTARY ANNEXATION

## Town of Apex, North Carolina



**ANNEXATION PETITION SUBMISSION:** Applications are due by 12:00 pm on the first business day of each month. See the "[Annexation Petition Schedule](#)" on the website for details.

**ANNEXATION FEE:** \$200.00

**VOLUNTARY ANNEXATION:** Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1. A petition submitted pursuant to North Carolina General Statute 160A-58.1 need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

### HARD COPY SUBMITTAL REQUIREMENTS:

- Town of Apex Petition for Annexation with original wet ink signatures. No photocopies or scanned images.
- Petition Fee

### ELECTRONIC SUBMITTAL REQUIREMENTS: [IDT Plans](#)

- Town of Apex Petition for Annexation
- Written Metes and Bounds Legal Description: Submit original PDF. Scanned documents will not be accepted.
- Electronic plat submittal (18" x 24")

### REVIEW AND APPROVAL PROCESS:

- **SUBMITTAL:** Submit hard copy application with original wet signatures (no photo copies or scanned images) and fee to the Department of Planning and Community Development and upload an electronic copy of the application, legal description and Annexation Plat via [IDT Plans](#).
- **REVIEW BY STAFF:** The Planning and Community Development Department and Development Services Department review the annexation submission. Comments will be sent to the applicant via email.
- **DESIGNATION OF ANNEXATION NUMBER:** The application is assigned an annexation number once the annexation petition is received.
- **ANNEXATION PLAT SUBMISSION:** After the map and legal description are deemed sufficient by the Town of Apex, the applicant is required to submit three (3) Mylar annexation plats to the Department of Planning and Community Development by the due date on the attached Annexation Schedule.
- **1<sup>ST</sup> TOWN COUNCIL MEETING:** This Town Council Meeting is typically held the second Tuesday of each month. The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.
- **LEGAL ADVERTISEMENT:** A legal advertisement will be published on the Town of Apex's website no more than 25 days and no less than 10 days prior to the date of the public hearing.
- **2<sup>ND</sup> TOWN COUNCIL MEETING/PUBLIC HEARING:** This Town Council Meeting is typically held the fourth Tuesday of each month. The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Apex.
- **RECORDATION:** If the annexation is approved by the Town Council, the Town Clerk will have the Annexation Plats recorded at the Wake County or Chatham County Register of Deeds, as appropriate. Wake County or Chatham County will keep one of the recorded plats, one copy will be returned to the Department of Planning and Community Development, and the surveying company is given the remaining recorded Annexation Plat.

### FOR WELL AND/OR SEPTIC FAILURES:

If the purpose of the petition is to connect to public water and/or sewer, contact Water Resources Director Michael Deaton at 919-249-3413 or [michael.deaton@apexnc.org](mailto:michael.deaton@apexnc.org) to confirm that public water and/or sewer is available to the property. In order to receive public water and/or sewer services from the Town of Apex, refer to the checklist of items below to assist with obtaining one or both of these services:

- Apply for a plumbing permit with the Building Inspections and Permitting Department.
- The plumbing permit and associated costs for water and/or sewer will be included with the permit.

Please refer to the [Town of Apex Fee Schedule](#) for the list of current fees.

# 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 #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_ 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

Yellowbridge Capital, LLC (attn: Gerald Hornick)	0722-75-2304 & 0722-74-3789
Owner Name (Please Print)	Property PIN or Deed Book & Page #
(919) 267-6928 (attn: Tom Colhoun)	gerryhornick@yahoo.com & tom@colhounrealestate.com
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

## SURVEYOR INFORMATION

Surveyor: Johnson, Mirmiran & Thompson, Inc. [JMT] - Michael Zmuda, PLS  
Phone: (804) 323-9900 Fax: (804) 323-0596  
E-mail Address: mzmuda@jmt.com

## ANNEXATION SUMMARY CHART

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>52.375 ac</u>	Need water service due to well failure <input type="checkbox"/>
Population of acreage to be annexed: <u>2</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>1</u>	Water service (new construction) <input checked="" type="checkbox"/>
Proposed # of housing units: <u>160</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>PUD-CZ</u>	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 Department of Planning and Community Development 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.)

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
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: \_\_\_\_\_

**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 IN A LIMITED LIABILITY COMPANY**

In witness whereof, Yellowbridge Capital, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 3 day of APRIL, 2023

Name of Limited Liability Company YELLOWBRIDGE CAPITAL, LLC

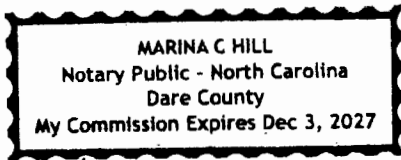
By: [Signature]  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF ~~WAKE~~ DARE

Sworn and subscribed before me, MARINA C HILL a Notary Public for the above State and County, this the 3RD day of APRIL, 2023

[Signature]  
Notary Public

SEAL



My Commission Expires: 12/03/2027

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_ a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, \_\_\_\_\_ a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Limited Liability Company \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PAYMENT DATE**  
04/03/2023

**COLLECTION STATION**  
Tony Ibanez

**RECEIVED FROM**  
Peak Engineering & Design,  
PLLC

**TOWN OF APEX**  
P O BOX 250  
APEX, NC 27502  
(919) 362-8676 - Utility Payments  
(919) 249-3418 - Permits Only  
(919) 249-3426 - Planning & Zoning Only

**BATCH NO.**  
2023-00002803

**RECEIPT NO.**  
2023-00182129

**CASHIER**  
Tony Ibanez

**DESCRIPTION**  
Annexation #756-Yellowbridge Capital (proposed Ennis Branch Sub) - 2023-00000007 Online Payment

PAYMENT CODE	RECEIPT DESCRIPTION	TRANSACTION AMOUNT						
PPC	PROJECT PLANNING CENTER FEES Annexation #756-Yellowbridge Capital (proposed Ennis Branch Sub) - 2023-00000007 Online Payment  Payments: <table border="1" data-bbox="423 646 1175 716"> <thead> <tr> <th>Type</th> <th>Detail</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Check</td> <td>3502</td> <td>\$200.00</td> </tr> </tbody> </table>	Type	Detail	Amount	Check	3502	\$200.00	\$200.00
Type	Detail	Amount						
Check	3502	\$200.00						
<b>Total Amount:</b>		<b>\$200.00</b>						



# VOLUNTARY ANNEXATION-PLAT CHECKLIST

## FOR APPLICANT USE ONLY

### PLEASE DO NOT INCLUDE THIS CHECKLIST WITH YOUR APPLICATION SUBMITTAL

COMMON ACRONYMS/DEFINITIONS			
<a href="#">IDT Website</a>	Contractor's Plan Room	<a href="#">UDO</a>	Town's Unified Development Ordinance
TOA	Town of Apex	NCDEQ	North Carolina Dept. of Environmental Quality
RCA	Resource Conservation Area	<a href="#">DDM</a>	Design & Development Manual
CONTACT INFORMATION			
Department of Planning and Community Development	(919) 249-3426	Soil & Erosion Control Officer	(919) 249-1166
Parks, Recreation, and Cultural Resources Department	(919) 372-7468	Electric Utilities Department	(919) 249-3342
Transportation Engineer	(919) 249-3358	Stormwater & Utility Engineering	(919) 249-3413

#	REQUIRED PLAT ITEMS
1	The exact boundary lines of the area to be annexed fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2	Show and label any utility easements with metes and bounds.
3	Accurate locations and descriptions of all monuments, markers, and control points.
4	Ultimate right-of-way widths on all streets.
5	Entitle "ANNEXATION MAP for the TOWN OF APEX" or "SATELLITE ANNEXATION MAP for the TOWN OF APEX", as appropriate.
6	Name of property owner.
7	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9	Names of the township, county, and state.
10	A detailed vicinity map.
11	Include address of property if assigned.
12	Show all contiguous or non-contiguous town limits.
13	<p>The following certification must be placed on the map near a border to allow the map to be sealed:</p> <p>Annexation # _____</p> <p>I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the ____ day of _____, 20__, by the Town Council. I set my hand and seal of the Town of Apex, _____.</p> <p style="text-align: center;">Day/Month/Year</p> <p style="text-align: right;">_____ Allen Coleman, CMC, NCCCC, Town Clerk</p> <p style="text-align: center;">-Seal-</p>
14	Leave 2 inch by 2 inch space for the Wake County or Chatham County Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.



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## TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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After recording, please return to: Town Clerk, Town of Apex, P.O. Box 250, Apex, NC 27502

ORDINANCE NO. 2023-  
ANNEXATION PETITION NO. 758  
ESTATES AT WHITE OAK - 9.186 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 August 22nd, 2023, 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 August 22nd, 2023. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, Wake County, North Carolina, White Oak Township (PIN#: See Recorded Map), Land Surveyor dated April 06, 2023" and recorded in Book of Maps book number 2023 and page number [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 22nd day of August, 2023.

---

Jacques K. Gilbert  
Mayor

ATTEST:

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Allen L. Coleman, CMC, NCCCC  
Town Clerk

APPROVED AS TO FORM:

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Laurie L. Hohe  
Town Attorney

Legal Description

Annexation Legal Description for REID: 0046520 & 0046521

All that certain parcels of land, situated in Apex, Wake County, North Carolina, being known as REID: 0046520 & 0046521, Wake County Records, and being more particularly described as follows:

Beginning at an Iron Pipe found at the Southwest property corner of Estates at Whiteoak, LLC (REID: 0046520, DB 18779, Pg 2351), Wake County Records and Eastern property line of The Preserve at White Oak Creek Homeowners Association (REID: 0443654, DB 17584, Pg 2495), Wake County records and being designated as the Point of Beginning as shown on map made by Bateman Civil Survey Company, dated 4/06/2023 and entitled "Annexation Map for the Town of Apex, NC, Wake County, White Oak

Township, REID: 0046520 & 0046521", having State Plane Coordinates N:729397.42, E:2027854.86;

Thence N01°26'42"E, 600.47' to an Iron Pipe found at the Northwest Property Corner of REID:0046520; thence N89°03'09"E, 319.33' to an Iron Pipe found at the Northeast Property Corner of REID:0046520; thence S04°42'28"E, 59.90' to an Iron Pipe found at the Northwest Property Corner of REID:0046521; thence S79°00'06"E, 164.44' to a Point in the Western Right of Way of Old Ivey Road SR-1782; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Left having a Radius of 1015.00', a Length of 339.28' and a Direction of S09°18'36"E, 337.70' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 S18°53'06"E, 102.93' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Left having a Radius of 633.00', a Length of 573.65' and a Direction of S44°50'49"E, 554.22' to a Point being on the Northern Right of Way of Jenks Road SR-1601 and Western Right of Way of Old Ivey Road SR-1782; thence along the Northern Right of Way of Jenks Road SR-1601 S54°53'00"W, 0.49' to a Iron Pipe Found; thence N73°06'56"W, 262.85' to an Iron Pipe found; thence N59°58'16"W, 100.00' to an Iron Pipe found; thence N44°48'11"W, 141.48' to an Iron Pipe found; thence N74°51'17"W, 158.69' to an Iron Pipe found being the Southwest Property Corner of REID:0046521 & Southeast Property Corner of REID:0046520; thence N74°54'00"W, 141.20' to an Iron Pipe found; thence S85°37'00"W, 200.00' to an Iron Pipe found; thence N69°28'00"W, 56.00' to an Iron Pipe found. Said Iron Pipe being the Point of Beginning.

Said Annexation contains 352,894 square feet / 8.101 acres, more or less.

#### Annexation Legal Description for Old Ivey Road

All that certain parcels of land, situated in Apex, Wake County, North Carolina, being known as REID: 0046520 & 0046521, Wake County Records, and being more particularly described as follows:

Commencing at an Iron Pipe found at the Southwest property corner of Estates at Whiteoak, LLC (REID: 0046520, DB 18779, Pg 2351), Wake County Records and Eastern property line of The Preserve at White Oak Creek Homeowners Association (REID: 0443654, DB 17584, Pg 2495), Wake County records and being designated as the Point of Beginning as shown on map made by Bateman Civil Survey Company, dated 4/06/2023 and entitled "Annexation Map for the Town of Apex" Apex, NC, Wake County, White Oak Township, REID: 0046520 & 0046521", having State Plane Coordinates N:729397.42, E:2027854.86;

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Said Point being the Point of Beginning; thence to the Centerline of Old Ivey Road SR-1782 S79°00'06"E, 30.55' to a Point; thence along the Centerline of Old Ivey Road SR-1782 a Curve to the Left having a Radius of 985.00', a Length of 323.56' and a Direction of S09°28'32"E, 322.11' to a Point; thence along the Centerline of Old Ivey Road SR-1782 S18°53'06"E, 95.51' to a Point; thence leaving the Centerline of Old Ivey Road SR-1782 N85°00'54"E, 30.91' to a Point in the Eastern Right of Way of Old Ivey Road SR-1782; thence along the Eastern Right of Way of Old Ivey Road SR-1782 a Curve to the

Left having a Radius of 573.00', a Length of 557.66' and a Direction of S46°46'04"E, 535.91' to a Point; thence along the Eastern Right of Way of Old Ivey Road SR-1782 S74°11'06"E, 5.94' to a Point being on the Northern Right of Way of Jenks Road SR-1601 and Eastern Right of Way of Old Ivey Road SR-1782; thence across the Right of Way of Old Ivey Road SR-1782 S54°53'00"W, 75.91' to a Point in the Western Right of Way of Old Ivey Road SR-1782 and Northern Right of Way of Jenks Road SR-1601; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Right having a Radius of 633.00', a Length of 573.65' and a Direction of N44°50'49"W, 554.22' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 N18°53'06"W, 102.93' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Right having a Radius of 1015.00', a Length of 339.28' and a Direction of N09°18'36"W, 337.70' to a Point; Said Point being the Point of Beginning.

Said Annexation contains 47,252 square feet / 1.085 acres, more or less.

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. 2023-\_\_\_\_\_, adopted at a meeting of the Town Council, on the 22nd day of August, 2023, 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 22nd day of August, 2023.

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk

(SEAL)

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

### Requested Motion

Conduct a Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 9.186 acres, Estates at White Oak, Annexation No. 758 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

The annexation has been certified and a public hearing has been posted as required.

### Attachments

- PH3-A1: Annexation Ordinance - Annexation No. 758
- PH3-A2: Public Hearing Notice - Annexation No. 758
- PH3-A3: Legal Description - Annexation No. 758
- PH3-A4: Aerial Map - Annexation No. 758
- PH3-A5: Plat Map - Annexation No. 758
- PH3-A6: Annexation Petition - Annexation No. 758





*"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**

**PUBLIC NOTICE – PUBLIC HEARING**

APEX, N.C. (August 11, 2023) – 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 **22nd day of August, 2023**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

**Annexation Petition No. 758  
Estates at White Oak – 9.186 acres**





*"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](mailto:public.hearing@apexnc.org). Please use subject line "Annexation Petition No. 758" 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, August 22, 2023.

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 2<sup>nd</sup> Floor, (email) [allen.coleman@apexnc.org](mailto: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.

###



Annexation Legal Description for REID: 0046520 & 0046521

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Said Point being the Point of Beginning; thence to the Centerline of Old Ivey Road SR-1782 S79°00'06"E, 30.55' to a Point; thence along the Centerline of Old Ivey Road SR-1782 a Curve to the Left having a Radius of 985.00', a Length of 323.56' and a Direction of S09°28'32"E, 322.11' to a Point; thence along the Centerline of Old Ivey Road SR-1782 S18°53'06"E, 95.51' to a Point; thence leaving the Centerline of Old Ivey Road SR-1782 N85°00'54"E, 30.91' to a Point in the Eastern Right of Way of Old Ivey Road SR-1782; thence along the Eastern Right of Way of Old Ivey Road SR-1782 a Curve to the Left having a Radius of 573.00', a Length of 557.66' and a Direction of S46°46'04"E, 535.91' to a Point; thence along the Eastern Right of Way of Old Ivey Road SR-1782 S74°11'06"E, 5.94' to a Point being on the Northern Right of Way of Jenks Road SR-1601 and Eastern Right of Way of Old Ivey Road SR-1782; thence across the Right of Way of Old Ivey Road SR-1782 S54°53'00"W, 75.91' to a Point in the Western Right of Way of Old Ivey Road SR-1782 and Northern Right of Way of Jenks Road SR-1601; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Right having a Radius of 633.00', a Length of 573.65' and a Direction of N44°50'49"W, 554.22' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 N18°53'06"W, 102.93' to a Point; thence along the Western Right of Way of Old Ivey Road SR-1782 a Curve to the Right having a Radius of 1015.00', a Length of 339.28' and a Direction of N09°18'36"W, 337.70' to a Point; Said Point being the Point of Beginning.

Said Annexation contains 47,252 square feet / 1.085 acres, more or less.





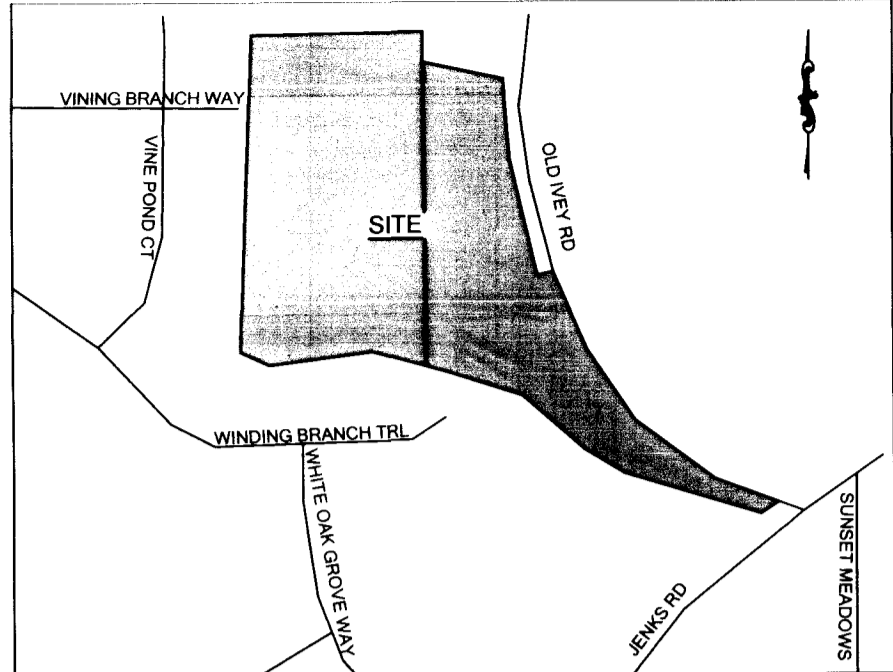
**Bateman Civil Survey Company**  
 Engineers • Surveyors • Planners  
 2524 Reliance Ave., Apex, NC 27539  
 Phone: 919.577.1080 Fax: 919.577.1081  
 NCBELS FIRM No. C-2378

**Estates At Whiteoak LLC**  
 2500 Stonington Dr  
 Apex NC 27523

**ANNEXATION MAP**  
 For The Town of Apex  
 Apex NC, White Oak Township, Wake County  
 REID: 0046520 & 0046521

Rev: 7/20/2023  
 Drawn By: ABB  
 Checked By: JCH  
 Scale: 1" = 100'  
 Date: 04/06/2023  
 Project #: 210512

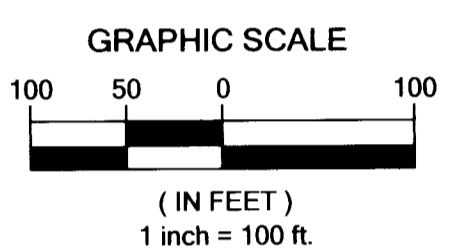
**SHEET**  
 1 OF 1



VICINITY MAP  
 NOT TO SCALE

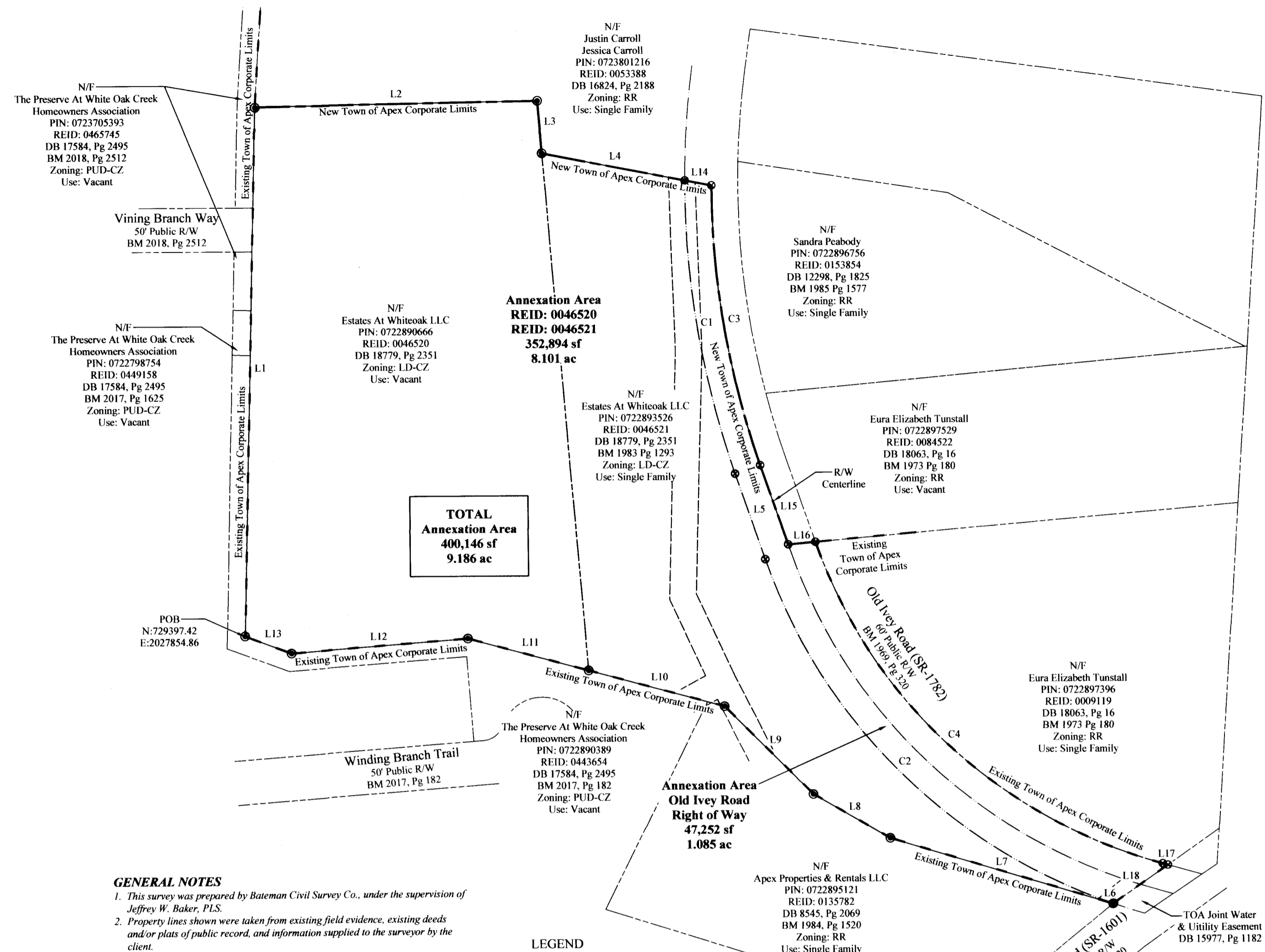
**REFERENCES:**  
 BM 1983, PG 1293  
 DB 18779, PG 2351

Line #	Direction	Length
L1	N01°26'42"E	600.47
L2	N89°03'09"E	319.33
L3	S04°42'28"E	59.90
L4	S79°00'06"E	164.44
L5	S18°53'06"E	102.93
L6	S54°53'00"W	0.49
L7	N73°06'56"W	262.85
L8	N59°58'16"W	100.00
L9	N44°48'11"W	141.48
L10	N74°51'17"W	158.69
L11	N74°54'00"W	141.20
L12	S85°37'00"W	200.00
L13	N69°28'00"W	56.00
L14	S79°00'06"E	30.55
L15	S18°53'06"E	95.51
L16	N85°00'54"E	30.91
L17	S74°11'06"E	5.94
L18	S54°53'00"W	75.91



Curve #	Radius	Length	Delta	Direction	Chord	Tangent
C1	1015.00	339.28	019°09'07"	S09°18'36"E	337.70	171.24
C2	633.00	573.65	051°55'25"	S44°50'49"E	554.22	308.21
C3	985.00	323.56	018°49'15"	S09°28'32"E	322.11	163.25
C4	573.00	557.66	055°45'43"	S46°46'04"E	535.91	303.15

NAD 83 NSRS 2011/SPC



**GENERAL NOTES**

- This survey was prepared by Bateman Civil Survey Co., under the supervision of Jeffrey W. Baker, PLS.
- Property lines shown were taken from existing field evidence, existing deeds and/or plats of public record, and information supplied to the surveyor by the client.
- No investigation into the existence of jurisdictional wetlands or riparian buffers performed by this firm.
- Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence or any other facts that an accurate and current title search may disclose.
- All distances are horizontal ground distances and all bearings are North Carolina State Plane Coordinate System unless otherwise shown.
- No Grid Monuments found within 2000'.
- Areas are by coordinate computation.
- Tied to the National CORS Network through NC VRS.
- This plat is considered preliminary unless signed & sealed by a Licensed Surveyor.

**LEGEND**

- NAIL FOUND
- ⊙ IRON PIPE/REBAR FOUND
- ⊙ COMPUTED POINT
- BM BOOK OF MAPS
- DB DEED BOOK
- N/F NOW OR FORMERLY
- R/W RIGHT OF WAY
- POB POINT OF BEGINNING
- BOUNDARY LINE
- - - EXISTING PROPERTY LINE
- - - EASEMENT LINE
- - - CENTERLINE RIGHT OF WAY
- - - EXISTING CORPORATE LIMITS
- - - NEW CORPORATE LIMITS
- ANNEXATION AREA

**Required Base Information:**

**Project Information:** 7620 McQueens Dr, Apex, NC, 27523 (Reid 0046520)  
 1516 Old Ivey Rd, Apex, NC, 27523 (Reid 0046521)

**Owner Information:** Estates at Whiteoak, LLC

**Surveyor Information:** Jeffrey W. Baker  
 North Carolina  
 L-4412

**Date of Survey & Plat Preparation:** 4/06/2023

**Township, County, State:** White Oak, Wake, North Carolina

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 \_\_\_\_\_, 20\_\_\_\_, by the Town  
 Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_  
 \_\_\_\_\_ Day / Month / Year

Allen Coleman, CMC, NCCCC, Town Clerk

"I, Jeffrey W. Baker, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 18779, page 2351); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 1983, page 1293; that the ratio of precision or positional accuracy as calculated is 1:10000+; that this plat was prepared in accordance with G.S. 47-30 as amended, witness my original signature, license number and seal this 26th day of July, A.D. 2023."

*Jeffrey W. Baker*  
 Professional Land Surveyor  
 License Number-4412

I, Jeffrey W. Baker, Professional Land Surveyor No. L-4412 certify  
 That the survey is of another category, such as the  
 recombination of existing parcels, a court-ordered survey,  
 or other exceptions to the definition of subdivision.

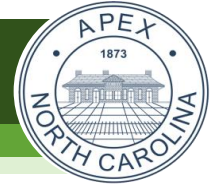
*Jeffrey W. Baker* 7/26/23  
 Jeffrey W. Baker, PLS L-4412 date



CLASS OF SURVEY: 0  
 POSITIONAL ACCURACY: 0.06'  
 TYPE OF GPS FIELD PROCEDURE: NC CORS NETWORK  
 DATES OF SURVEY: JUNE 2021  
 DATUM/EPOCH: NAD83/NSRS2011  
 GEOID MODEL: 18  
 COMBINED GRID FACTOR(S): 0.99989326  
 UNITS: US SURVEY FEET

# PETITION FOR VOLUNTARY ANNEXATION

## Town of Apex, North Carolina



**ANNEXATION PETITION SUBMISSION:** Applications are due by 12:00 pm on the first business day of each month. See the "[Annexation Petition Schedule](#)" on the website for details.

**ANNEXATION FEE:** \$200.00

**VOLUNTARY ANNEXATION:** Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1. A petition submitted pursuant to North Carolina General Statute 160A-58.1 need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

### HARD COPY SUBMITTAL REQUIREMENTS:

- Town of Apex Petition for Annexation with original wet ink signatures. No photocopies or scanned images.
- Petition Fee

### ELECTRONIC SUBMITTAL REQUIREMENTS: [IDT Plans](#)

- Town of Apex Petition for Annexation
- Written Metes and Bounds Legal Description: Submit original PDF. Scanned documents will not be accepted.
- Electronic plat submittal (18" x 24")

### REVIEW AND APPROVAL PROCESS:

- **SUBMITTAL:** Submit hard copy application with original wet signatures (no photo copies or scanned images) and fee to the Department of Planning and Community Development and upload an electronic copy of the application, legal description and Annexation Plat via [IDT Plans](#).
- **REVIEW BY STAFF:** The Planning and Community Development Department and Development Services Department review the annexation submission. Comments will be sent to the applicant via email.
- **DESIGNATION OF ANNEXATION NUMBER:** The application is assigned an annexation number once the annexation petition is received.
- **ANNEXATION PLAT SUBMISSION:** After the map and legal description are deemed sufficient by the Town of Apex, the applicant is required to submit three (3) Mylar annexation plats to the Department of Planning and Community Development by the due date on the attached Annexation Schedule.
- **1<sup>ST</sup> TOWN COUNCIL MEETING:** This Town Council Meeting is typically held the second Tuesday of each month. The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.
- **LEGAL ADVERTISEMENT:** A legal advertisement will be published on the Town of Apex's website no more than 25 days and no less than 10 days prior to the date of the public hearing.
- **2<sup>ND</sup> TOWN COUNCIL MEETING/PUBLIC HEARING:** This Town Council Meeting is typically held the fourth Tuesday of each month. The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Apex.
- **RECORDATION:** If the annexation is approved by the Town Council, the Town Clerk will have the Annexation Plats recorded at the Wake County or Chatham County Register of Deeds, as appropriate. Wake County or Chatham County will keep one of the recorded plats, one copy will be returned to the Department of Planning and Community Development, and the surveying company is given the remaining recorded Annexation Plat.

### FOR WELL AND/OR SEPTIC FAILURES:

If the purpose of the petition is to connect to public water and/or sewer, contact Water Resources Director Michael Deaton at 919-249-3413 or [michael.deaton@apexnc.org](mailto:michael.deaton@apexnc.org) to confirm that public water and/or sewer is available to the property. In order to receive public water and/or sewer services from the Town of Apex, refer to the checklist of items below to assist with obtaining one or both of these services:

- Apply for a plumbing permit with the Building Inspections and Permitting Department.
- The plumbing permit and associated costs for water and/or sewer will be included with the permit.

Please refer to the [Town of Apex Fee Schedule](#) for the list of current fees.

# 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 #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_ 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

Estates at White Oak, LLC	0722-89-0666 & 0722-89-3526
Owner Name (Please Print)	Property PIN or Deed Book & Page #
(361) 228-2071	ranjeetagarwala@hotmail.com
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

## SURVEYOR INFORMATION

Surveyor: Bateman Civil Survey Company (attn: Josh Davidson)  
Phone: (919) 577-1080 Fax: (919) 577-1081  
E-mail Address: josh@batemancivilsurvey.com

## ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>9.186 acres</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>2</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>1</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>20</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>LD-CZ</u>	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 Department of Planning and Community Development 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.)

_____	_____
Please Print	Signature
_____	_____
Please Print	Signature
_____	_____
Please Print	Signature
_____	_____
Please Print	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: \_\_\_\_\_

**COMPLETE IF A CORPORATION:**

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

Corporate Name \_\_\_\_\_

SEAL

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

President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, Estate at White Oak LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 4th day of April, 2023

Name of Limited Liability Company Estate at White Oak LLC

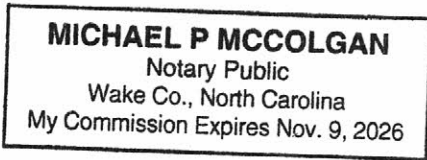
By: Raycel Agnew  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Michael P McColgan, a Notary Public for the above State and County, this the 4 day of April, 2023.

Michael P McColgan  
Notary Public

SEAL



My Commission Expires: 11/9/2026

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_



**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, \_\_\_\_\_ a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Limited Liability Company \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_, a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

By: \_\_\_\_\_  
Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PAYMENT DATE**  
04/11/2023

**COLLECTION STATION**  
eSuites

**RECEIVED FROM**  
Ranjeet Agarwala

**TOWN OF APEX**  
P O BOX 250  
APEX, NC 27502

(919) 362-8676 - Utility Payments  
(919) 249-3418 - Permits Only  
(919) 249-3426 - Planning & Zoning Only

**BATCH NO.**  
2023-00002880

**RECEIPT NO.**  
2023-00188942

**CASHIER**  
Lauren Sisson

**DESCRIPTION**  
Annexation #XXX-Estates at White Oak - 2023-00000009 online payment

PAYMENT CODE	RECEIPT DESCRIPTION	TRANSACTION AMOUNT						
PPC	PROJECT PLANNING CENTER FEES Annexation #XXX-Estates at White Oak - 2023-00000009 online payment	\$200.00						
Payments:	<table border="1"> <thead> <tr> <th>Type</th> <th>Detail</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Other</td> <td>CHG</td> <td>\$200.00</td> </tr> </tbody> </table>	Type	Detail	Amount	Other	CHG	\$200.00	
Type	Detail	Amount						
Other	CHG	\$200.00						
<b>Total Amount:</b>		<b>\$200.00</b>						

Customer Copy

**FOR APPLICANT USE ONLY**

**PLEASE DO NOT INCLUDE THIS CHECKLIST WITH YOUR APPLICATION SUBMITTAL**

COMMON ACRONYMS/DEFINITIONS			
<a href="#">IDT Website</a>	Contractor’s Plan Room	<a href="#">UDO</a>	Town’s Unified Development Ordinance
TOA	Town of Apex	NCDEQ	North Carolina Dept. of Environmental Quality
RCA	Resource Conservation Area	<a href="#">DDM</a>	Design & Development Manual
CONTACT INFORMATION			
Department of Planning and Community Development	(919) 249-3426	Soil & Erosion Control Officer	(919) 249-1166
Parks, Recreation, and Cultural Resources Department	(919) 372-7468	Electric Utilities Department	(919) 249-3342
Transportation Engineer	(919) 249-3358	Stormwater & Utility Engineering	(919) 249-3413

#	REQUIRED PLAT ITEMS
1	The exact boundary lines of the area to be annexed fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2	Show and label any utility easements with metes and bounds.
3	Accurate locations and descriptions of all monuments, markers, and control points.
4	Ultimate right-of-way widths on all streets.
5	Entitle “ANNEXATION MAP for the TOWN OF APEX” or “SATELLITE ANNEXATION MAP for the TOWN OF APEX”, as appropriate.
6	Name of property owner.
7	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9	Names of the township, county, and state.
10	A detailed vicinity map.
11	Include address of property if assigned.
12	Show all contiguous or non-contiguous town limits.
13	<p>The following certification must be placed on the map near a border to allow the map to be sealed:</p> <p>Annexation # _____</p> <p>I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the ____ day of _____, 20____, by the Town Council. I set my hand and seal of the Town of Apex, _____.</p> <p style="text-align: center;">Day/Month/Year</p> <p style="text-align: right;">_____ Allen Coleman, CMC, NCCCC, Town Clerk</p> <p style="text-align: center;">-Seal-</p>
14	Leave 2 inch by 2 inch space for the Wake County or Chatham County Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

### Requested Motion

Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 2.747 acres, located at 5925 Farmpond Road, Satellite Annexation No. 759 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

The annexation has been certified and a public hearing has been posted as required.

### Attachments

- PH4-A1: Annexation Ordinance - Satellite Annexation No. 759
- PH4-A2: Public Hearing Notice - Satellite Annexation No. 759
- PH4-A3: Legal Description - Satellite Annexation No. 759
- PH4-A4: Aerial Map - Satellite Annexation No. 759
- PH4-A5: Plat Map - Satellite Annexation No. 759
- PH4-A6: Annexation Petition - Satellite Annexation No. 759





*"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**

**PUBLIC NOTICE – PUBLIC HEARING**

APEX, N.C. (August 11, 2023) – 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 **22nd day of August, 2023**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

**Satellite Annexation Petition No. 759  
5925 Farmpond Road – 2.747 acres**





*"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](mailto:public.hearing@apexnc.org). Please use subject line "Satellite Annexation Petition No. 759" 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, August 22, 2023.

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 2<sup>nd</sup> Floor, (email) [allen.coleman@apexnc.org](mailto: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.

###



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## TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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After recording, please return to: Town Clerk, Town of Apex, P.O. Box 250, Apex, NC 27502

ORDINANCE NO. 2023-  
SATELLITE ANNEXATION PETITION NO. 759  
5925 Farmpond Road – 2.747 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-58.1, 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 August 22, 2023, 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 finds that the area described therein meets the standards of G.S.§160A-58.1(b), to wit:

- a) The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the Town;
- b) No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
- c) The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

- d) No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;

WHEREAS, the Apex Town Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Apex Town Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and the area proposed for annexation will be best served by annexing the area described;

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-58.2, as amended, the described non-contiguous territory is hereby annexed and 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 August 22, 2023. The survey plat that describes the annexed territory is that certain survey plat entitled "Satellite Annexation Map for the Town of Apex, Wake County, North Carolina, White Oak Township (PIN#: 0743-52-6411), Land Surveyor dated March 23, 2023" and recorded in Book of Maps book number 2023 and page number \_\_\_\_\_, 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 22nd day of August, 2023.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

\_\_\_\_\_  
Allen L. Coleman, CMC, NCCCC  
Town Clerk  
Page 3 of 5



APPROVED AS TO FORM:

---

Laurie L. Hohe  
Town Attorney

Legal Description

Beginning at an existing iron pipe in the southern right of way of Farmpond Road, said pipe being the northwestern corner of a tract now, or formally, owned by Mian Lin, thence leaving said right of way and running with the western line of the Lin tract South 04°54'04" East 241.47' to an existing iron pipe being the northwestern corner of a tract now, or formally, owned by Allen and Mary Kirk; thence running with the western line of the Kirk tract South 03°12'46" East 151.20' to an existing iron pipe; thence along a new line North 89°16'26" West 312.25' to an existing iron pipe being the southeastern corner of a tract now, or formally, owned by Gary and Kelly Lipscomb; thence running with the eastern lines of the Lipscomb tract the following two (2) calls, North 05°05'03" West 311.77' to an existing iron pipe; thence North 42°57'46" East 100.09' to an existing iron pipe in the southern right of way of Farmpond Road; thence with said right of way North 89°06'03" East 242.57' to the point of beginning, containing 2.747 acres.

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 Satellite Annexation Ordinance No. 2023-\_\_\_\_\_, adopted at a meeting of the Town Council, on the 22nd day of August, 2023, the original of which will be on file in the Office of the Town Clerk of Apex, North Carolina.

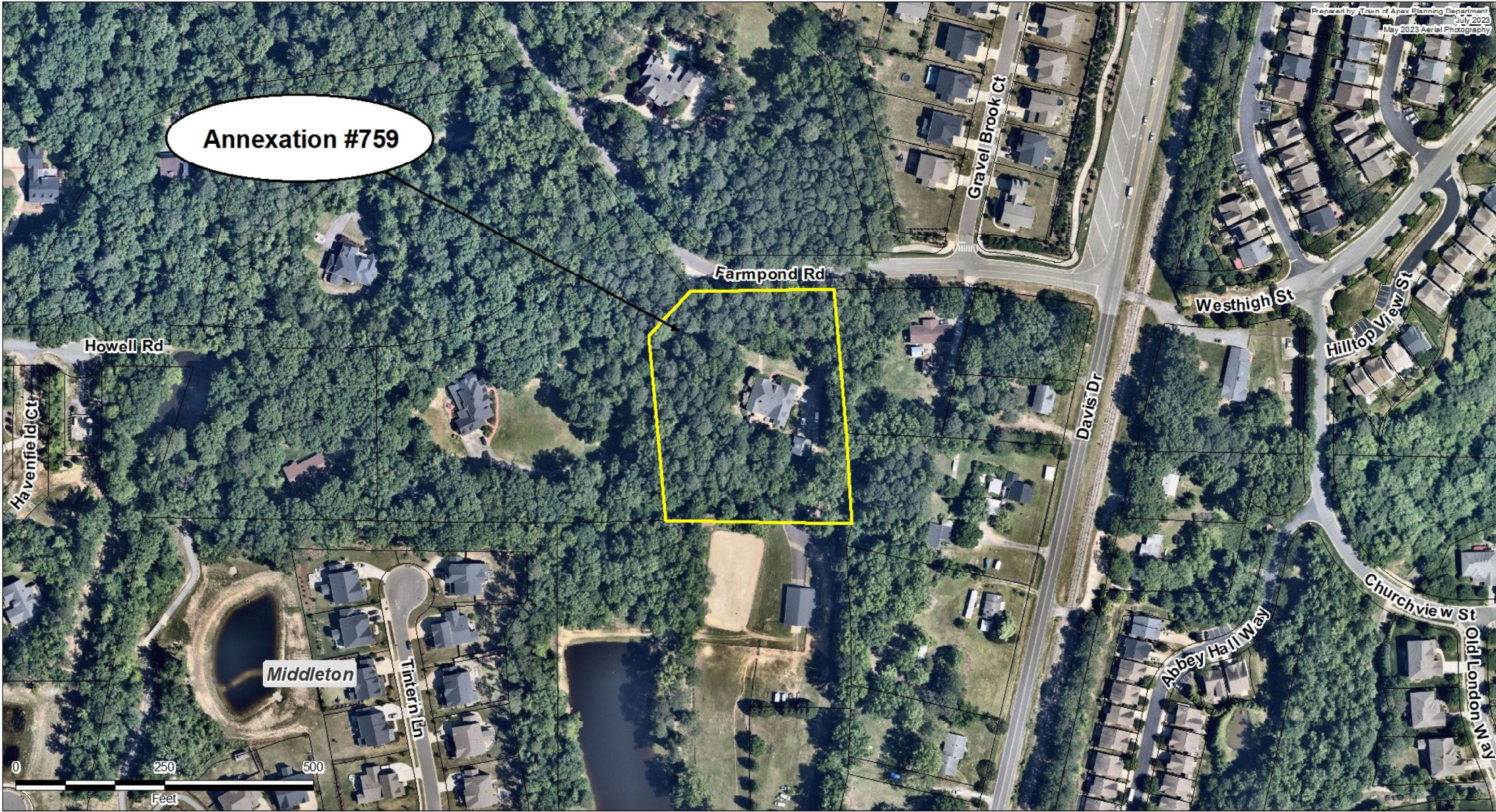
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 22nd day of August, 2023.

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk

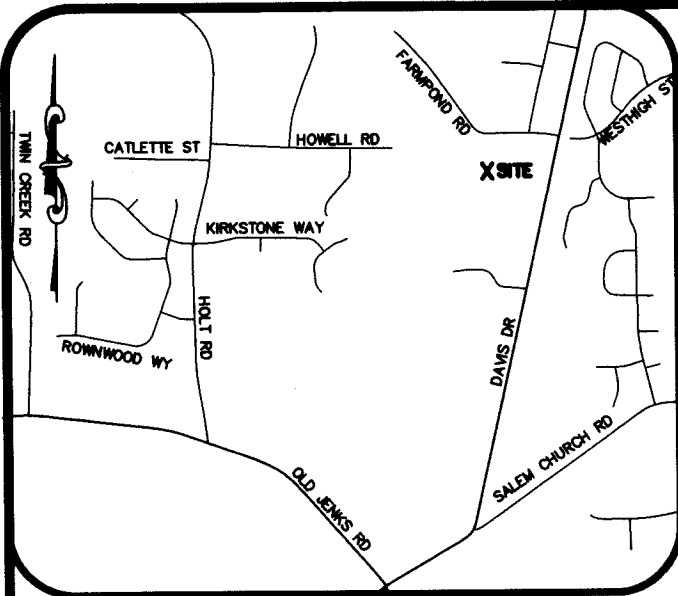
(SEAL

**Annexation #759**



### **Legal Description**

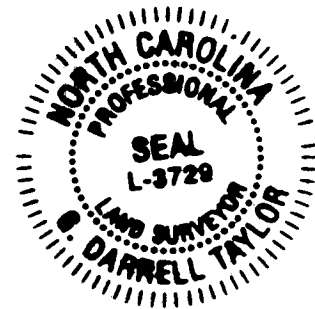
Beginning at an existing iron pipe in the southern right of way of Farmpond Road, said pipe being the northwestern corner of a tract now, or formally, owned by Mian Lin, thence leaving said right of way and running with the western line of the Lin tract South 04°54'04" East 241.47' to an existing iron pipe being the northwestern corner of a tract now, or formally, owned by Allen and Mary Kirk; thence running with the western line of the Kirk tract South 03°12'46" East 151.20' to an existing iron pipe; thence along a new line North 89°16'26" West 312.25' to an existing iron pipe being the southeastern corner of a tract now, or formally, owned by Gary and Kelly Lipscomb; thence running with the eastern lines of the Lipscomb tract the following two (2) calls, North 05°05'03" West 311.77' to an existing iron pipe; thence North 42°57'46" East 100.09' to an existing iron pipe in the southern right of way of Farmpond Road; thence with said right of way North 89°06'03" East 242.57' to the point of beginning, containing 2.747 acres.



VICINITY MAP

I, G. Darrell Taylor, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 12551, Page 927; Book of Maps 1999, page 659); that the ratio of precision as calculated is 1:20,000; that this plat was prepared in accordance with G.S 47-30 as amended. Witness my original signature, registration number and seal this 23 day of March, A.D., 2023

Surveyor  
  
 Reg. No. L-3729



Annexation # \_\_\_\_\_

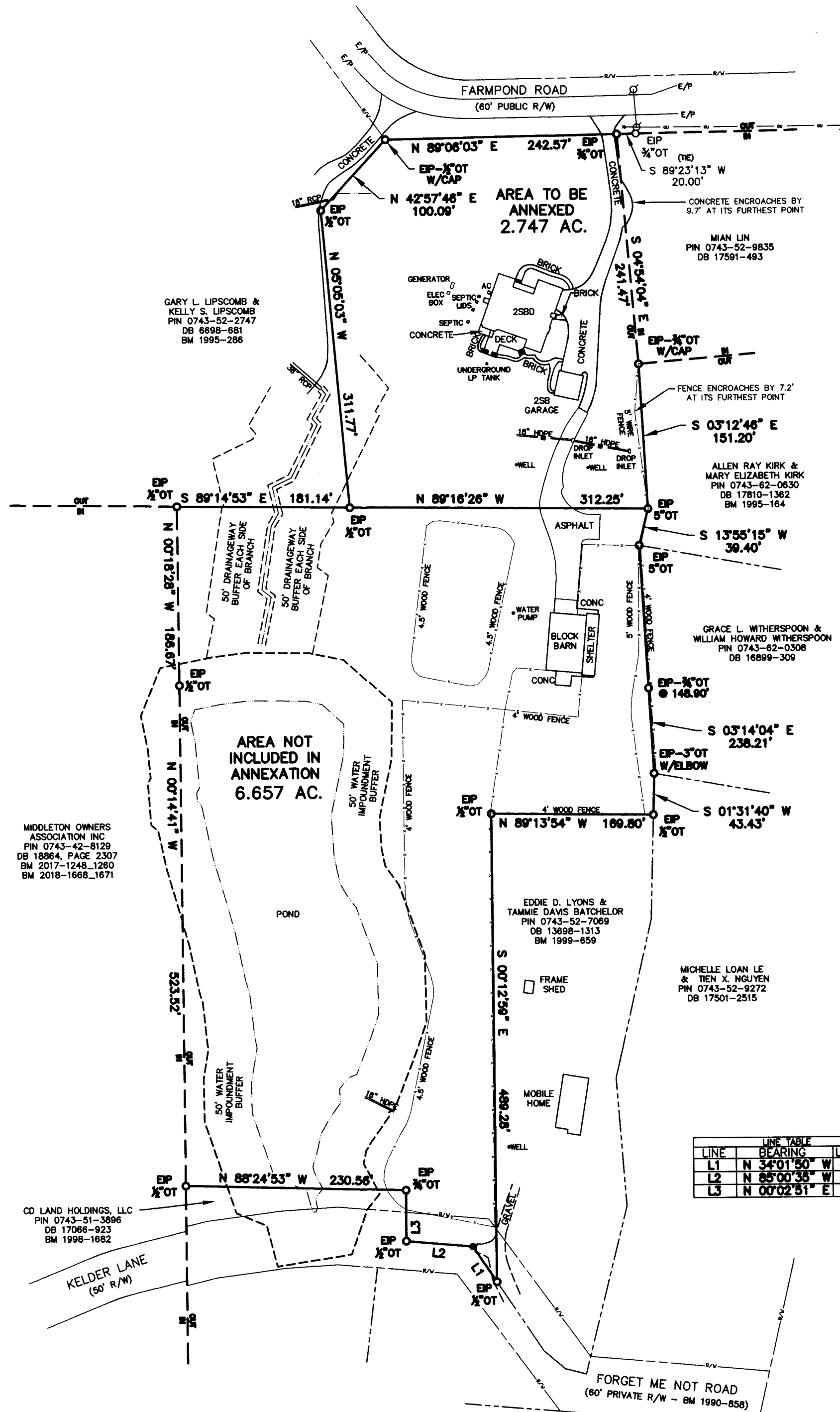
I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_ Day/Month/Year

Allen Coleman, CMC, NCCCC, Town Clerk

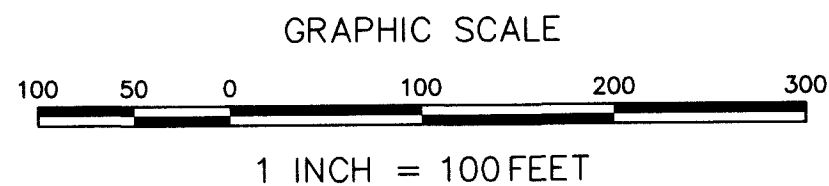
LEGEND	
EIP	= EXISTING IRON PIPE
EIR	= EXISTING IRON ROD
NIR	= NEW IRON ROD
OT	= OPEN TOP PIPE
CT	= CRIMPED TOP PIPE
RB	= RE-BAR
R/W	= RIGHT OF WAY
E/P	= EDGE OF PAVEMENT
B/C	= BACK OF CURB
WM	= WATER METER
⊙	= POWER POLE
*	= LIGHT POLE
●	= CALCULATED POINT
NOTES:	
BEING ALL OF LOT 1 OF THE WYLIE T. HAIR & ANN T. HAIR AND JARVIS CLIFTON FOWLER S/D AS RECORDED IN BOOK OF MAPS 1999 PG. 659 IN THE WAKE COUNTY REGISTRY.	
LOT IS SUBJECT TO ALL RESTRICTIONS AND EASEMENTS OF RECORD.	
FLOOD NOTE:	
NO FEMA FLOOD HAZARD AREAS PER FIRM NUMBER 3720074300K, MAP REVISED JULY 19, 2022.	

PRESENTED FOR REGISTRATION IN THE OFFICE OF THE REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY, NORTH CAROLINA ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_ O'CLOCK \_\_\_\_ M. AND RECORDED IN SAID OFFICE IN PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_

REGISTER OF DEEDS



LINE	BEARING	LENGTH
L1	N 34°01'50" W	44.61'
L2	N 85°00'35" E	80.85'
L3	N 00°02'51" E	53.21'



TOTAL ANNEXATION 2.747 AC.

--- EXISTING TOWN OF APEX CORPORATE LIMITS

**G. DARRELL TAYLOR**  
 Professional Land Surveyor  
 2220 Effingham Circle  
 Raleigh, NC 27615  
 919.906.8043

REVISIONS:



SURVEY BY:

SATELLITE ANNEXATION PLAT FOR THE TOWN OF APEX  
 SIDNEY S. & KIMBERLY A. SMITH  
 5925 FARMPOUND ROAD, APEX, NC 27523  
 WHITE OAK TWP., WAKE CO., N. C.  
 D.B. 12551, PG. 927 - TAX PIN 0743-52-6411

PROJ. NO.: 2023-181  
 FILENAME: SMITH  
 DRAWN BY: GDT  
 SCALE: 1" = 100'  
 DATE: 03/23/23

Annexation-

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 #: 2023-005
Fee Paid \$ 200.00

Submittal Date: 3/15/23
Check # CC online

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, [X] Wake County, [ ] Chatham County, North Carolina.
2. The area to be annexed is [X] 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

Kimberly A Smith
Owner Name (Please Print)

919-669-3835
Phone

Sidney S. Smith
Owner Name (Please Print)

919-669-8043
Phone

Owner Name (Please Print)

Phone

0743526411
Property PIN or Deed Book & Page #

Kim.Smith3835@gmail.com
E-mail Address

0743526411
Property PIN or Deed Book & Page #

Sid.smith12@gmail.com
E-mail Address

Property PIN or Deed Book & Page #

E-mail Address

SURVEYOR INFORMATION

Surveyor:

Phone: Fax:

E-mail Address:

ANNEXATION SUMMARY CHART

Table with 2 columns: Property Information and Reason(s) for annexation (select all that apply). Rows include Total Acreage to be annexed (2.747), Population of acreage to be annexed (4), Existing # of housing units (1), Proposed # of housing units (0), Zoning District\* (RR), and various service needs like water, sewer, and town services.

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

Kimberly A. Smith  
Please Print

Kimberly A. Smith  
Signature

Sidney S. Smith  
Please Print

[Signature]  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

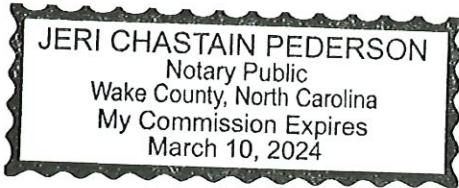
\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above State and County,  
this the 15 day of March, 2023.

SEAL



Jeri Chastain Pederson  
Notary Public

My Commission Expires: 3/10/2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

By: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**PETITION FOR VOLUNTARY ANNEXATION**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, \_\_\_\_\_ a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Limited Liability Company \_\_\_\_\_

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

Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_

Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

**COMPLETE IF IN A PARTNERSHIP**

In witness whereof, \_\_\_\_\_ a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Partnership \_\_\_\_\_

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

Signature of General Partner

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_

Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

# VOLUNTARY ANNEXATION-PLAT CHECKLIST

## FOR APPLICANT USE ONLY

PLEASE DO NOT INCLUDE THIS CHECKLIST WITH YOUR APPLICATION SUBMITTAL

COMMON ACRONYMS/DEFINITIONS			
<a href="#">IDT Website</a>	Contractor's Plan Room	<a href="#">UDO</a>	Town's Unified Development Ordinance
TOA	Town of Apex	NCDEQ	North Carolina Dept. of Environmental Quality
RCA	Resource Conservation Area	<a href="#">DDM</a>	Design & Development Manual
CONTACT INFORMATION			
Department of Planning and Community Development	(919) 249-3426	Soil & Erosion Control Officer	(919) 249-1166
Parks, Recreation, and Cultural Resources Department	(919) 372-7468	Electric Utilities Department	(919) 249-3342
Transportation Engineer	(919) 249-3358	Stormwater & Utility Engineering	(919) 249-3413

#	REQUIRED PLAT ITEMS
1	The exact boundary lines of the area to be annexed fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2	Show and label any utility easements with metes and bounds.
3	Accurate locations and descriptions of all monuments, markers, and control points.
4	Ultimate right-of-way widths on all streets.
5	Entitle "ANNEXATION MAP for the TOWN OF APEX" or "SATELLITE ANNEXATION MAP for the TOWN OF APEX", as appropriate.
6	Name of property owner.
7	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9	Names of the township, county, and state.
10	A detailed vicinity map.
11	Include address of property if assigned.
12	Show all contiguous or non-contiguous town limits.
13	The following certification must be placed on the map near a border to allow the map to be sealed:  Annexation # _____  I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the _____ day of _____, 20____, by the Town Council. I set my hand and seal of the Town of Apex, _____. Day/Month/Year  _____ Allen Coleman, CMC, NCCCC, Town Clerk  -Seal-
14	Leave 2 inch by 2 inch space for the Wake County or Chatham County Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.



**PAYMENT DATE**  
03/15/2023  
**COLLECTION STATION**  
eSuites  
**RECEIVED FROM**  
Kimberly Smith

**TOWN OF APEX**  
P O BOX 250  
APEX, NC 27502  
(919) 362-8676 - Utility Payments  
(919) 249-3418 - Permits Only  
(919) 249-3426 - Planning & Zoning Only

**BATCH NO.**  
2023-00002612  
**RECEIPT NO.**  
2023-00171059  
**CASHIER**  
Lauren Sisson

**DESCRIPTION**  
Annexation #XXX Smith 5925 Farmpond Rd - 2023-00000005 online payment

PAYMENT CODE	RECEIPT DESCRIPTION	TRANSACTION AMOUNT						
PPC	PROJECT PLANNING CENTER FEES Annexation #XXX Smith 5925 Farmpond Rd - 2023-00000005 online payment  <table border="1" data-bbox="443 653 1182 720"> <thead> <tr> <th>Type</th> <th>Detail</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Other</td> <td>CHG</td> <td>\$200.00</td> </tr> </tbody> </table>	Type	Detail	Amount	Other	CHG	\$200.00	\$200.00
Type	Detail	Amount						
Other	CHG	\$200.00						
<b>Total Amount:</b>		<b>\$200.00</b>						

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

### Requested Motion

Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 3.806 acres, located at 2633 Whistling Quail Run, Annexation No. 760 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

The annexation has been certified and a public hearing has been posted as required.

### Attachments

- PH5-A1: Annexation Ordinance - Annexation No. 760
- PH5-A2: Public Hearing Notice - Annexation No. 760
- PH5-A3: Legal Description - Annexation No. 760
- PH5-A4: Aerial Map - Annexation No. 760
- PH5-A5: Plat Map - Annexation No. 760
- PH5-A6: Annexation Petition - Annexation No. 760





"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

PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (August 11, 2023) – 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 22nd day of August, 2023, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

Annexation Petition No. 760
2633 Whistling Quail Run – 3.806 acres





*"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](mailto:public.hearing@apexnc.org). Please use subject line "Annexation Petition No. 760" 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, August 22, 2023.

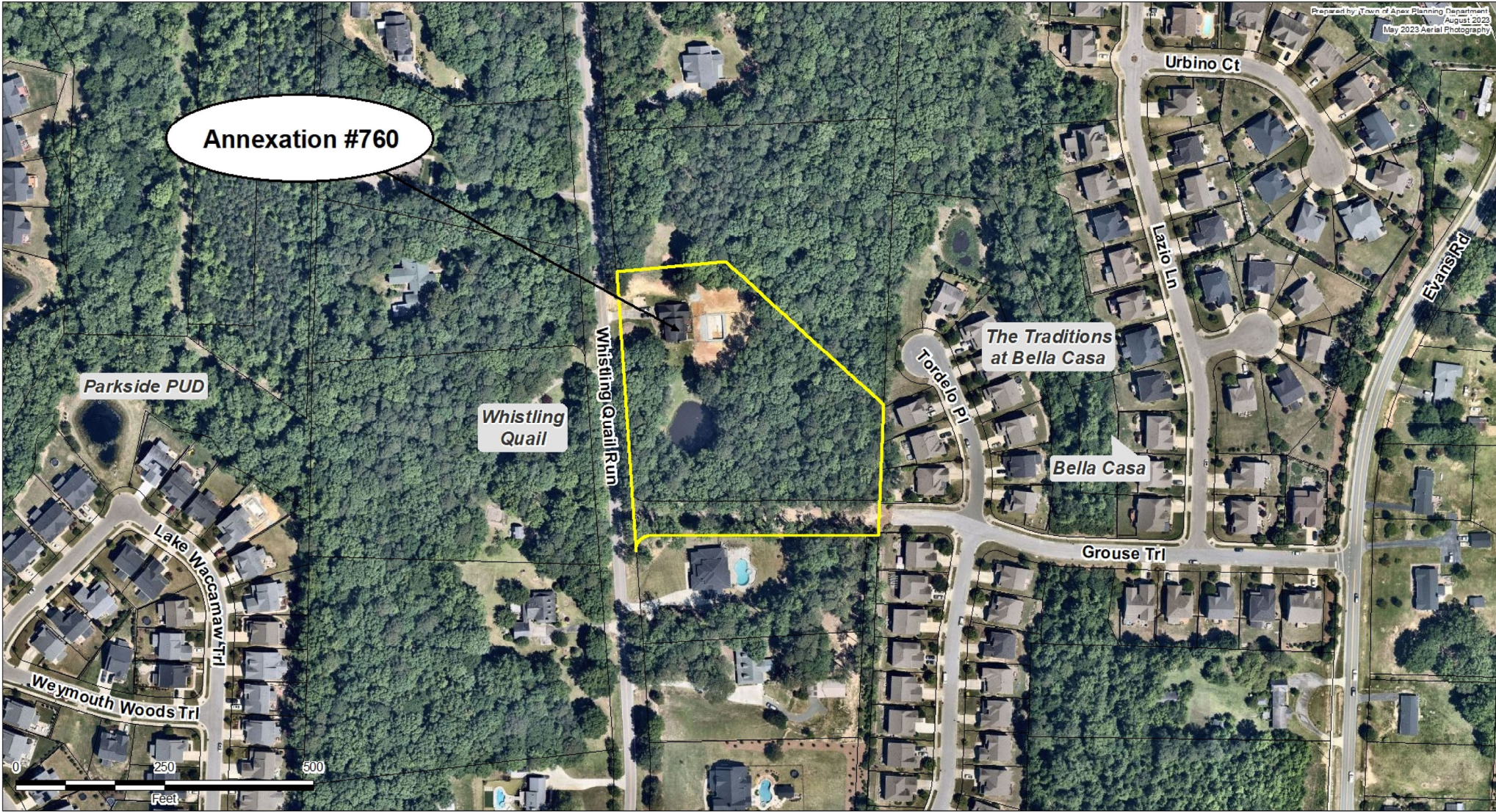
Members of the public can access and view the meeting on the Town's YouTube Channel <https://www.youtube.com/c/TownofApexGov> or attend in-person.

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 2<sup>nd</sup> Floor, (email) [allen.coleman@apexnc.org](mailto: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.

###

Annexation #760





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## TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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After recording, please return to: Town Clerk, Town of Apex, P.O. Box 250, Apex, NC 27502

ORDINANCE NO. 2023-  
ANNEXATION PETITION NO. 760  
2633 WHISTLING QUAIL RUN - 3.806 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 August 22nd, 2023, 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 August 22nd, 2023. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, Wake County, North Carolina, Buckhorn Township (PIN#: 0721-62-8940), Land Surveyor dated March 23, 2023" and recorded in Book of Maps book number 2023 and page number [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 22nd day of August, 2023.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk

APPROVED AS TO FORM:

---

Laurie L. Hohe  
Town Attorney

Legal Description

Beginning at an existing iron pipe in the northern right of way of Grouse Trail where it transitions from a 50' right of way to a 60' right of way; said iron pipe is standing North 03°16'54" East 5.00' from and existing iron pipe in the northern right of way of Grouse Trail and being the southwest corner of lot 201 in Phase 3E, Section 1 of The Traditions at Bella Casa Subdivision, as recorded in Book of Maps 2012 at Page 845 in the Wake County Registry, thence from said beginning point and running with the northern 60' right of way of Grouse Trail, which is unopened, South 89°58'50" West 392.31' to an existing iron pipe; thence with a curve to the right having a radius of 25.00', an arc length of 37.67' and a chord of North 46°59'59" West 34.21' to an existing iron pipe in the eastern right of way of Whistling Quail Run; thence with said right of way North 03°59'09" West 362.01' to an existing iron pipe being a common corner between lots 19 and 20 in Phase 2 of the Whistling Quail Subdivision, as recorded in Book of Maps 1987 at Page 572, for lot 19, and Book of Maps 1987 at Page 445, for lot 20 in the Wake County

Registry; thence leaving said right of way and running the common lines between lots 19 and 20 for the following two (2) calls, North  $84^{\circ}39'29''$  East 183.61' to an existing iron pipe; thence South  $47^{\circ}46'54''$  East 359.75' to an existing iron pipe in the western line of resource conservation area of The Traditions at Bella Casa Subdivision; thence with the western lines of the resource conservation area, lot 203, lot 202 and lot 201, South  $02^{\circ}25'16''$  West 159.83' to the point of beginning, being all of lot 19 in Phase 2 of the Whistling Quail Subdivision, containing 3.232 acres.

And,

Beginning at an existing iron pipe in the northern right of way of Grouse Trail where it transitions from a 50' right of way to a 60' right of way; said iron pipe is standing North  $03^{\circ}16'54''$  East 5.00' from and existing iron pipe in the northern right of way of Grouse Trail and being the southwest corner of lot 201 in Phase 3E, Section 1 of The Traditions at Bella Casa Subdivision, as recorded in Book of Maps 2012 at Page 845 in the Wake County Registry, thence from said beginning point and crossing Grouse Trail South  $02^{\circ}25'16''$  West 60.05' to a point on the southern 60' right of way of Grouse Trail, which is unopened; thence with said right of way South  $89^{\circ}58'50''$  West 382.19' to a point; thence with a curve to the left having a radius of 25.00', an arc length of 41.00' and a chord of South  $42^{\circ}59'51''$  West 36.56' to a point in the eastern right of way of Whistling Quail Run; thence with said right of way North  $03^{\circ}59'09''$  West 110.33' to an existing iron pipe at a southwestern corner of lot 19 in the Whistling Quail Subdivision as recorded in Book of Maps 1987 at Page 1615, where the eastern right of way of Whistling Quail Run intersects the northern right of way of Grouse Trail; thence with said right of way following a curve to the left having a radius of 25.00', an arc length of 37.67' and a chord of South  $46^{\circ}59'59''$  East 34.21' to an existing iron pipe; thence continuing with the northern 60' right of way of Grouse Trail North  $89^{\circ}58'50''$  East 392.31' to the point of beginning, being the unimproved section of Grouse Trail having a 60' right of way and containing 0.574 acres.



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. 2023-\_\_\_\_\_, adopted at a meeting of the Town Council, on the 22nd day of August, 2023, 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 22nd day of August, 2023.

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk

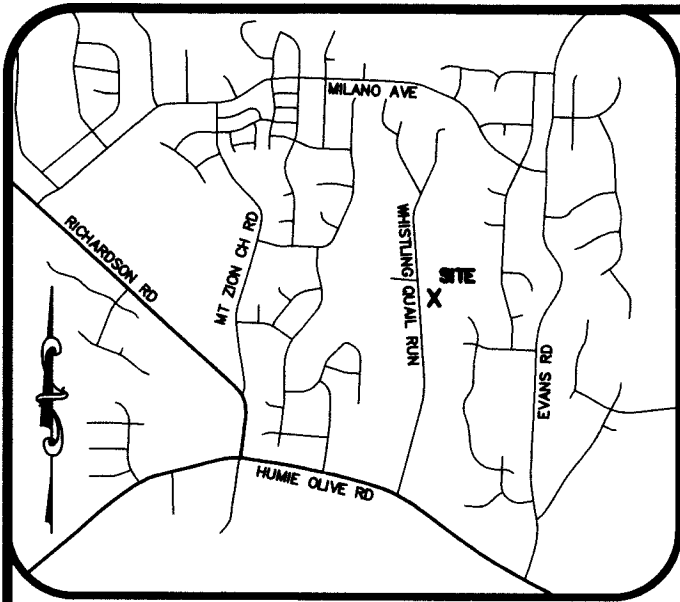
(SEAL)

## **Legal Description**

Beginning at an existing iron pipe in the northern right of way of Grouse Trail where it transitions from a 50' right of way to a 60' right of way; said iron pipe is standing North 03°16'54" East 5.00' from and existing iron pipe in the northern right of way of Grouse Trail and being the southwest corner of lot 201 in Phase 3E, Section 1 of The Traditions at Bella Casa Subdivision, as recorded in Book of Maps 2012 at Page 845 in the Wake County Registry, thence from said beginning point and running with the northern 60' right of way of Grouse Trail, which is unopened, South 89°58'50" West 392.31' to an existing iron pipe; thence with a curve to the right having a radius of 25.00', an arc length of 37.67' and a chord of North 46°59'59" West 34.21' to an existing iron pipe in the eastern right of way of Whistling Quail Run; thence with said right of way North 03°59'09" West 362.01' to an existing iron pipe being a common corner between lots 19 and 20 in Phase 2 of the Whistling Quail Subdivision, as recorded in Book of Maps 1987 at Page 572, for lot 19, and Book of Maps 1987 at Page 1615, for lot 20 in the Wake County Registry; thence leaving said right of way and running the common lines between lots 19 and 20 for the following two (2) calls, North 84°39'29" East 183.61' to an existing iron pipe; thence South 47°46'54" East 359.75' to an existing iron pipe in the western line of resource conservation area of The Traditions at Bella Casa Subdivision; thence with the western lines of the resource conservation area, lot 203, lot 202 and lot 201, South 02°25'16" West 159.83' to the point of beginning, being all of lot 19 in Phase 2 of the Whistling Quail Subdivision, containing 3.232 acres.

### **Legal Description**

Beginning at an existing iron pipe in the northern right of way of Grouse Trail where it transitions from a 50' right of way to a 60' right of way; said iron pipe is standing North 03°16'54" East 5.00' from and existing iron pipe in the northern right of way of Grouse Trail and being the southwest corner of lot 201 in Phase 3E, Section 1 of The Traditions at Bella Casa Subdivision, as recorded in Book of Maps 2012 at Page 845 in the Wake County Registry, thence from said beginning point and crossing Grouse Trail South 02°25'16" West 60.05' to a point on the southern 60' right of way of Grouse Trail, which is unopened; thence with said right of way South 89°58'50" West 382.19' to a point; thence with a curve to the left having a radius of 25.00', an arc length of 41.00' and a chord of South 42°59'51" West 36.56' to a point in the eastern right of way of Whistling Quail Run; thence with said right of way North 03°59'09" West 110.33' to an existing iron pipe at a southwestern corner of lot 19 in the Whistling Quail Subdivision as recorded in Book of Maps 1987 at Page 1615, where the eastern right of way of Whistling Quail Run intersects the northern right of way of Grouse Trail; thence with said right of way following a curve to the left having a radius of 25.00', an arc length of 37.67' and a chord of South 46°59'59" East 34.21' to an existing iron pipe; thence continuing with the northern 60' right of way of Grouse Trail North 89°58'50" East 392.31' to the point of beginning, being the unimproved section of Grouse Trail having a 60' right of way and containing 0.574 acres.



VICINITY MAP

Annexation # \_\_\_\_\_

I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_  
Day/Month/Year

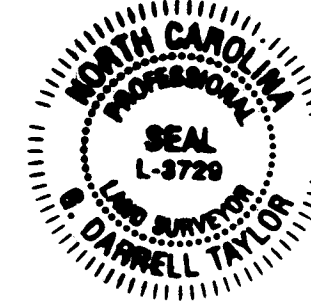
Allen Coleman, CMC, NCCCC, Town Clerk

I, G. Darrell Taylor, certify that this plot was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 18693, page 29); that the boundaries not surveyed are clearly indicated as drawn from information found in Book of Maps 1987, page 572; that the ratio of precision as calculated is 1:20,000+; that this plot was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 23rd day of March, A.D., 2023.

Surveyor

*G. Darrell Taylor*

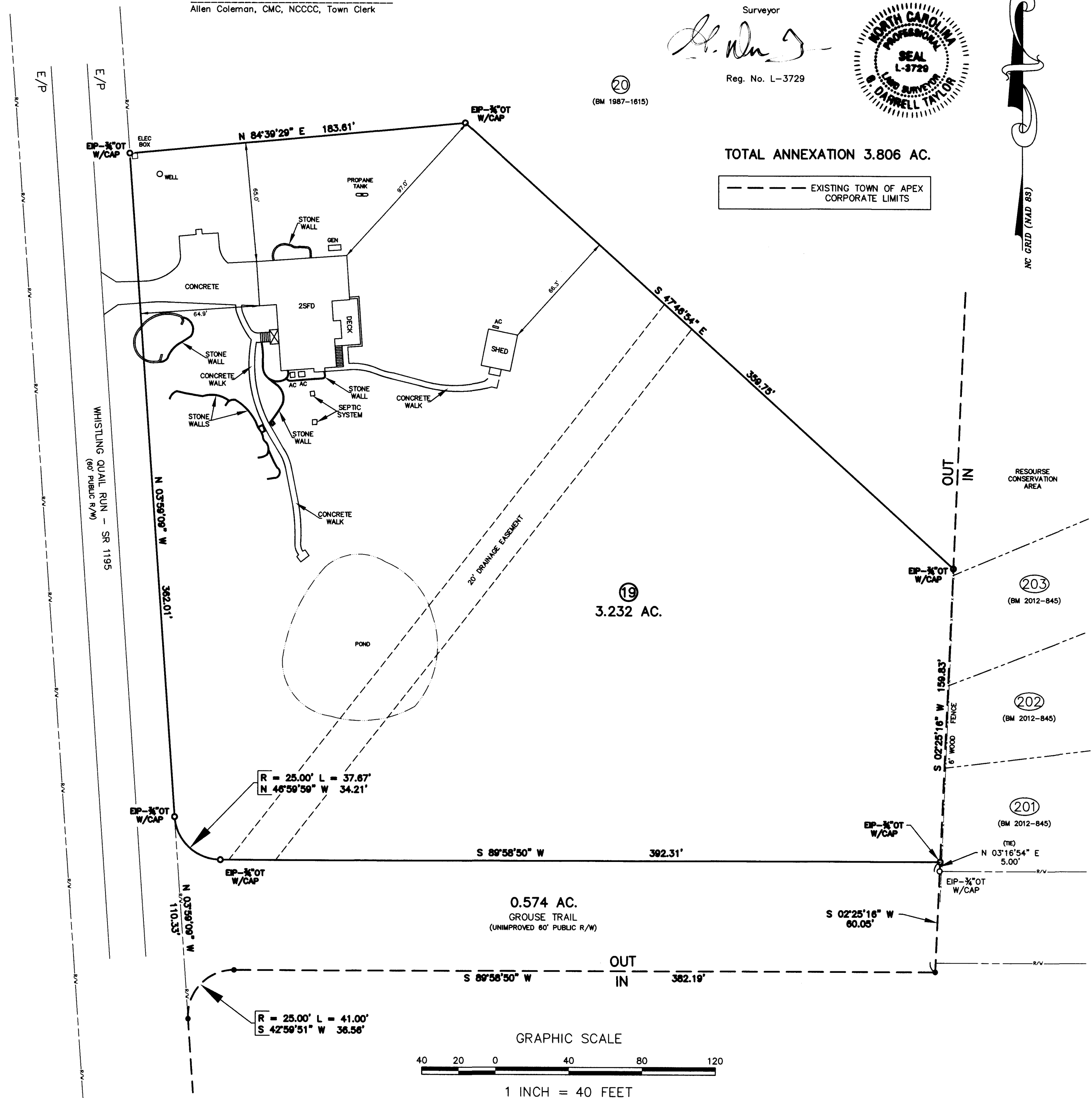
Reg. No. L-3729



20  
(BM 1987-1615)

TOTAL ANNEXATION 3.806 AC.

--- EXISTING TOWN OF APEX CORPORATE LIMITS



PRESENTED FOR REGISTRATION IN THE OFFICE OF THE REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY, NORTH CAROLINA ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. AND RECORDED IN SAID OFFICE IN PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

REGISTER OF DEEDS

LEGEND

- EIP = EXISTING IRON PIPE
- EIR = EXISTING IRON ROD
- NIR = NEW IRON ROD
- OT = OPEN TOP PIPE
- CT = CRIMPED TOP PIPE
- RB = RE-BAR
- R/W = RIGHT OF WAY
- E/P = EDGE OF PAVEMENT
- B/C = BACK OF CURB
- WM = WATER METER
- ⊙ = POWER POLE
- ⊙ = LIGHT POLE
- = CALCULATED POINT

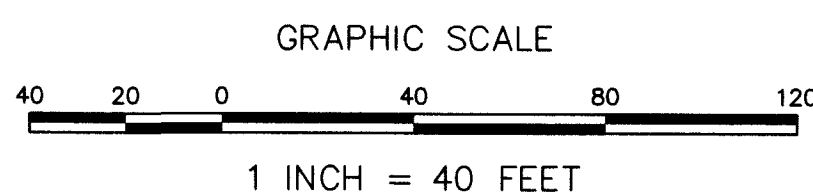
NOTES:

BEING ALL OF LOT 19, PHASE 2 IN THE WHISTLING QUAIL S/D AS RECORDED IN BOOK OF MAPS 1987, PG. 572 IN THE WAKE CO. REGISTRY.

LOT IS SUBJECT TO ALL RESTRICTIONS AND EASEMENTS OF RECORD.

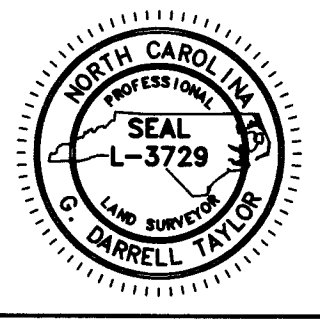
FLOOD NOTE:

NO FEMA FLOOD HAZARD AREAS PER FIRM NUMBER 3720072100K, MAP REVISED JULY 19, 2022.



REVISIONS:

03-22-2023
07-31-2023



SURVEY BY:

ANNEXATION MAP FOR THE TOWN OF APEX  
DOMINIC J. MARQUIS & JENNIFER M. MARQUIS  
2633 WHISTLING QUAIL RUN, APEX, NC 27502  
BUCKHORN TWP., WAKE CO., N. C.  
D.B. 18693, PG. 29 - TAX PIN 0721-62-8940

PROJ. NO.:	21-578 ANNEX
FILENAME:	MARQUIS
DRAWN BY:	GDT & JMT
SCALE:	1" = 40'
DATE:	03-23-2023

**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 #: 2023-011 Submittal Date: 4/27/23  
 Fee Paid: \$ 200.00 Check #: 2059

**PROPERTY INFORMATION**

- 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.
- 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.
- 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**

Dominic Marquis Owner Name (Please Print)	18693 0029 Property PIN or Deed Book & Page #
(925)337-0949 Phone	dominicmarquis@comcast.net E-mail Address
Jennifer Marquis Owner Name (Please Print)	18693 0029 Property PIN or Deed Book & Page #
(925)337-0576 Phone	jennmarquis@comcast.net E-mail Address
_____ Owner Name (Please Print)	_____ Property PIN or Deed Book & Page #
_____ Phone	_____ E-mail Address

**SURVEYOR INFORMATION**

Surveyor: G. Darrell Taylor  
 Phone: 919.906.8043 Fax: \_\_\_\_\_  
 E-mail Address: ncsurveyorder@gmail.com

**ANNEXATION SUMMARY CHART**

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>3.806</u> <del>3.232</del>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>5</u>	Need sewer service due to septic system failure	<input checked="" type="checkbox"/>
Existing # of housing units:	<u>1</u>	Water service (new construction)	<input type="checkbox"/>
Proposed # of housing units:	<u>1</u>	Sewer service (new construction)	<input type="checkbox"/>
Zoning District*:	<u>RR</u>	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 Department of Planning and Community Development 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.)

Dominic J. Marquis  
Please Print

[Signature]  
Signature

Jennifer M. Marquis  
Please Print

Jennifer M. Marquis  
Signature

\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

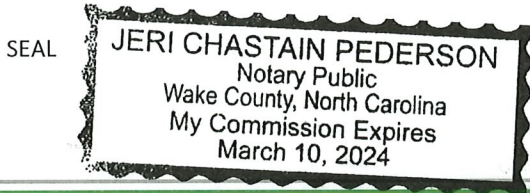
\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above State and County,  
this the 31 day of July, 2023.

Jeri Chastain Pederson  
Notary Public



My Commission Expires: 3/10/2024

COMPLETE IF A CORPORATION:

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

Corporate Name \_\_\_\_\_

SEAL

By: \_\_\_\_\_  
President (Signature)

Attest:

\_\_\_\_\_  
Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

\_\_\_\_\_  
Notary Public

SEAL

My Commission Expires: \_\_\_\_\_

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Jenna Shouse, Senior Long-Range Planner

Department(s): Planning

### Requested Motion

Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add proposed side path along the north side of Old Jenks Road between Holt Road and Davis Drive.

### Approval Recommended?

Planning Department staff and Parks, Recreation, and Cultural Resources Department staff recommend approval of the proposed amendment.

The Parks, Recreation, and Cultural Resources Advisory Commission considered and unanimously recommended approval of the proposed amendment at their June 28, 2023 meeting.

Planning Board considered and unanimously approved this item at their August 14, 2023 meeting.

### Item Details

The purpose of the proposed side path along the north side of Old Jenks Road is to provide an off-road bicycle and pedestrian connection to the Salem Elementary and Salem Middle Schools Campus.

### Attachments

- PH6-A1: Staff Report - Transportation Plan Amendment - Old Jenks Road Side Path
- PH6-A2: Planning Board Report to Town Council - Transportation Plan Amendment - Old Jenks Road Side Path



STAFF REPORT  
Transportation Plan Amendments

August 22, 2023 Town Council Meeting



The purpose of the public hearing is to consider the facts in order to make a decision. The Bicycle and Pedestrian System Plan map represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, and recreation. The Plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, it helps the Town establish long term priorities and identify requirements for new development. The Plan was last amended on May 15, 2023.

The purpose of the public hearing is to consider an amendment to the Bicycle and Pedestrian System Plan map to add proposed side path along the north side of Old Jenks Road from Holt Road to Davis Drive.

A map of the proposed amendment to the Bicycle and Pedestrian System Plan map is displayed in Figure 1 below.



Figure 1. Proposed Bicycle and Pedestrian System Plan Map Amendment

The purpose of this hearing is to consider the addition of proposed side path along the north side of Old Jenks Road in response to a suggestion from the Parks, Recreation, and Cultural Resources Advisory Commission at their April 26, 2023 meeting. This suggestion was shared with Town staff at the Advisory Commission meeting when the proposed amendment to add side path along the east side of Holt Road was presented. The purpose of this side path addition is to complete the bicycle and pedestrian connection to the Salem Elementary and Middle schools campus.

The proposed side path along the north side of Old Jenks Road would enhance the bicycle and pedestrian network. This side path would connect to the proposed side path along the east side of Holt Road, the



**STAFF REPORT**  
Transportation Plan Amendments

August 22, 2023 Town Council Meeting



proposed side path along the west side of Davis Drive, and the proposed side path along the west side of North Salem Street. The proposed side path would address an identified safe routes to school need to provide a bicycle and pedestrian connection from the Middleton subdivision to the main campus driveway.

**Staff Recommendation:**

Planning Department staff and Parks, Recreation, and Cultural Resources Department staff recommend approval of the proposed amendment.

**Parks, Recreation, and Cultural Resources Advisory Commission Recommendation:**

The Parks, Recreation, and Cultural Resources Advisory Commission considered and unanimously recommended approval of the proposed amendment at their June 28, 2023 meeting.

**Planning Board Recommendation:**

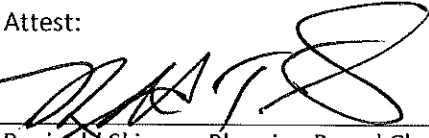
The Planning Board considered and unanimously recommended approval of the proposed amendment at their August 14, 2023 meeting.

**PLANNING BOARD REPORT TO TOWN COUNCIL**

**Long Range Plan Amendments**

Planning Board Meeting Date: August 14, 2023



<b>Long range plan(s) proposed to be amended:</b>
Bicycle and Pedestrian System Plan Map
<b>Description of the proposed amendment(s):</b>
Add proposed side path along the north side of Old Jenks Road between Holt Road and Davis Drive.
<b>Planning Board recommendation:</b>
Motion: To recommend approval as presented.
Introduced by Planning Board member: Alyssa Byrd
Seconded by Planning Board member: Daniel Khodaparast
<input checked="" type="checkbox"/> Approval of the proposed amendment(s) as presented
<input type="checkbox"/> Approval of the proposed amendment(s) with the following conditions or changes:
<input type="checkbox"/> Denial of the proposed amendment(s)
With <u> 8 </u> Planning Board member(s) voting "aye"
With <u> 0 </u> Planning Board member(s) voting "no"
<b>Reason(s) for dissenting votes:</b>
This report reflects the recommendation of the Planning Board, this the <u>14th</u> day of <u>August</u> 2023.
Attest:

Regina Skinner, Planning Board Chair
<b>Dianne Khin</b> Digitally signed by Dianne Khin Date: 2023.08.14 16:44:18 -04'00'
Dianne Khin, Planning Director

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Jenna Shouse, Senior Long-Range Planner

Department(s): Planning

### Requested Motion

Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to:

1. Replace proposed side path with proposed sidewalk along the east side of Transit Trail between Olive Chapel Road and the entrance to the proposed Weston subdivision.
2. Add proposed side path along the west side of Transit Trail between Olive Chapel Road and the proposed greenway in the Legacy Planned Unit Development (PUD).

### Approval Recommended?

Planning Department staff recommend approval of the proposed amendment.

Planning Board considered and unanimously approved this item at their August 14, 2023 meeting.

### Item Details

The purpose of the proposed amendments to the Bicycle and Pedestrian System Plan map is to reflect the approved zoning conditions in Rezoning Application No. 23CZ09 Hatcher Property and to provide an off-road bicycle and pedestrian connection along Transit Trail between Olive Chapel Road and the proposed greenway in the Legacy PUD.

### Attachments

- PH7-A1: Staff Report - Transportation Plan Amendment - Transit Trail Side Path
- PH7-A2: Planning Board Report to Town Council - Transportation Plan Amendment - Transit Trail Side Path





The purpose of the public hearing is to consider the facts in order to make a decision. The Bicycle and Pedestrian System Plan map represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, and recreation. The Plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, it helps the Town establish long term priorities and identify requirements for new development. The Plan was last amended on May 15, 2023.

The purpose of the public hearing is to consider amendments to the Bicycle and Pedestrian System Plan map to:

1. Replace proposed side path with proposed sidewalk along the east side of Transit Trail between Olive Chapel Road and the entrance to the proposed Weston subdivision.
2. Add proposed side path along the west side of Transit Trail between Olive Chapel Road and the greenway in the Legacy Planned Unit Development (PUD).

A map of the proposed amendments to the Bicycle and Pedestrian System Plan map is displayed in Figure 1 below.

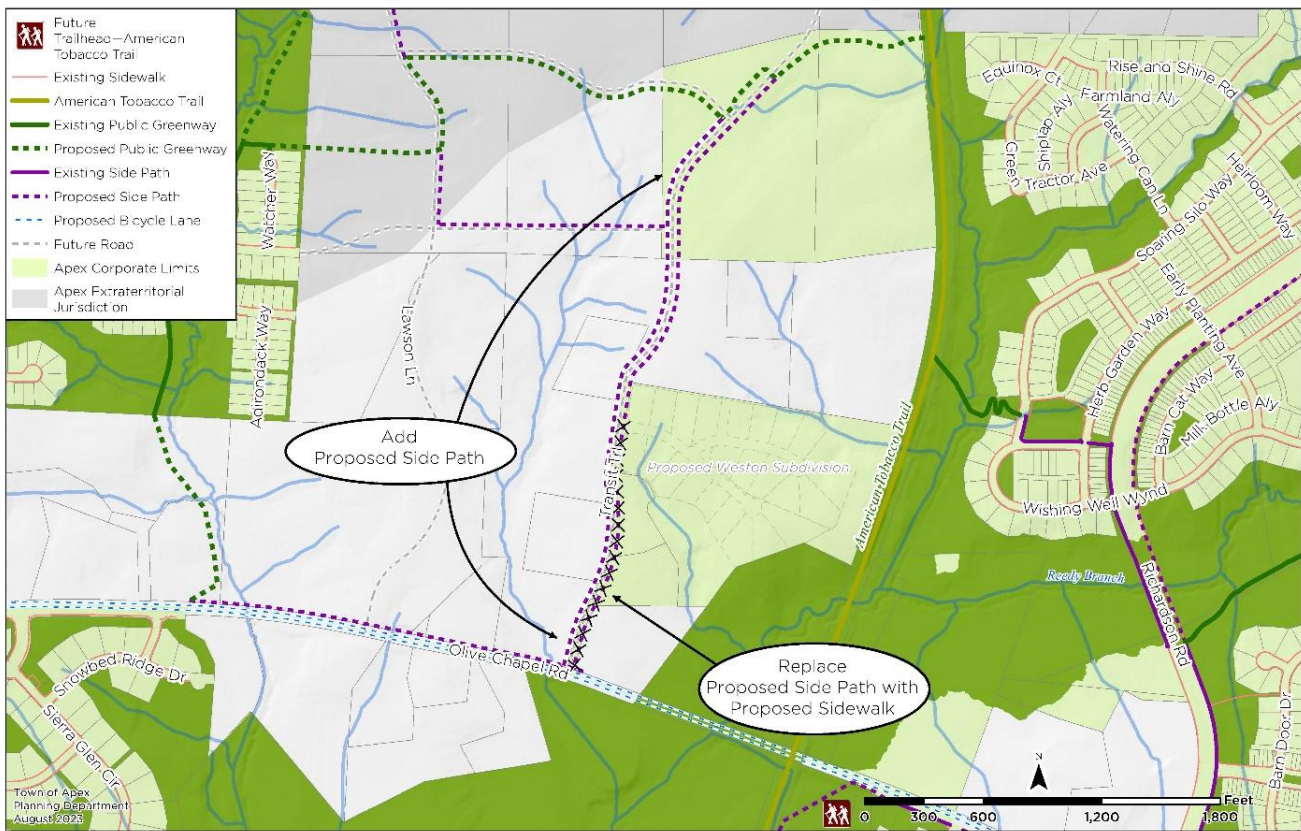


Figure 1. Proposed Bicycle and Pedestrian System Plan Map Amendments

The purpose of the first proposed amendment is to replace the proposed side path along the east side of Transit Trail with proposed sidewalk between Olive Chapel Road and the entrance to the proposed Weston subdivision for consistency with the zoning conditions that Town Council approved on June 27, 2023 as part of 23CZ09 Hatcher Property Rezoning (now known as the proposed Weston subdivision), which removed the requirement to construct side path in this location per the adopted Bicycle and Pedestrian System Plan Map. The approved Hatcher PUD text includes the following requirement:



Developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60' public right-of-way from Olive Chapel Road to the northernmost property boundary, to be dedicated prior to the first plat of the subdivision. The developer shall construct a 24-foot wide section of asphalt (a 6' reduction from the Major Collector Street typical section) and shall not be required to construct curb and gutter on the west side of Transit Trail. The east side of Transit Trail shall be constructed with:

- a. Curb and gutter
- b. A 5-foot sidewalk from Olive Chapel Road to the entrance of the future Master Subdivision Plan, and
- c. A 10-foot side path from the entrance of the future Master Subdivision Plan to the northernmost extent of the property.

The second amendment, the addition of side path along the west side of Transit Trail between Olive Chapel Road and the Legacy PUD greenway, is proposed to provide a continuous off-road bicycle and pedestrian connection between Olive Chapel Road and the greenway, given the removal of side path on the east side of Transit Trail. This side path would enhance the bicycle and pedestrian network in this area by connecting to the proposed greenway in Legacy PUD, the proposed side path along the north side of Olive Chapel Road, and the proposed bicycle lanes along Olive Chapel Road.

If the proposed Transportation Plan amendment is approved, the Legacy PUD developers have agreed to construct side path along the west side of Transit Trail between future Seaside Walk, the east-west road in Legacy, and the southern boundary of the PUD, when development occurs along this section of Transit Trail. Some flexibility in the design of the path will be allowed, including the possibility of a narrowed utility strip or reduced path width, and coordinated with staff at the time of site plan development to accommodate constraints associated within the approved PUD.

The Legacy PUD developer expressed concern about side path being provided along both sides of Transit Trail. Planning staff shared that while side path is not typically included on both side of this type of street, there are considerations for Transit Trail that have led to this recommendation.

- The original plan was to provide side path along only the east side of Transit Trail. Town staff would not be recommending side path along the west side if the side path had been retained on the east side of Transit Trail.
- The Hatcher PUD (Proposed Weston Subdivision) text includes the following requirement that will result in a section of side path on the east side of Transit Trail without a zoning amendment: The east side of Transit Trial shall be constructed with curb and gutter, a 5-foot sidewalk from Olive Chapel Road to the entrance of the future Master Subdivision Plan, and a 10-foot side path from the entrance of the future Master Subdivision Plan to the northernmost extent of the property.
- There is the possibility of a school site on the east side of Transit Trail that would benefit from side path.

**STAFF REPORT**  
Transportation Plan Amendments

August 22, 2023 Town Council Meeting



**Staff Recommendation:**

Planning Department staff recommend approval of the proposed amendments.

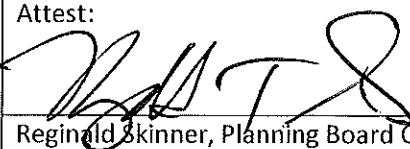
**Planning Board Recommendation:**

The Planning Board considered and unanimously recommended approval of these proposed amendments at their August 14, 2023 meeting.

**PLANNING BOARD REPORT TO TOWN COUNCIL**  
**Long Range Plan Amendments**

Planning Board Meeting Date: August 14, 2023



<b>Long range plan(s) proposed to be amended:</b>	
Bicycle and Pedestrian System Plan Map	
<b>Description of the proposed amendment(s):</b>	
1. Replace proposed side path with proposed sidewalk along the east side of Transit Trail between Olive Chapel Road and the entrance to the proposed Weston subdivision. 2. Add proposed side path along the west side of Transit Trail between Olive Chapel Road and the greenway in the Legacy Planned Unit Development (PUD).	
<b>Planning Board recommendation:</b>	
Motion: To recommend approval as presented.	
Introduced by Planning Board member: Ryan Akers	
Seconded by Planning Board member: Tina Sherman	
<input checked="" type="checkbox"/> Approval of the proposed amendment(s) as presented	
<input type="checkbox"/> Approval of the proposed amendment(s) with the following conditions or changes:	
<input type="checkbox"/> Denial of the proposed amendment(s)	
With <u>  8  </u> Planning Board member(s) voting "aye"	
With <u>  0  </u> Planning Board member(s) voting "no"	
<b>Reason(s) for dissenting votes:</b>	
This report reflects the recommendation of the Planning Board, this the <u>14</u> day of <u>August</u> 2023.	
Attest:	
 _____ Reginald Skinner, Planning Board Chair	Dianne Khin <small>Digitally signed by Dianne Khin          Date: 2023.08.14 16:51:37          -04'00'</small> _____ Dianne Khin, Planning Director

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Jenna Shouse, Senior Long-Range Planner

Department(s): Planning

### Requested Motion

Public hearing and possible motion to amend the Transportation Plan to:

1. Add a proposed local connector street that extends from the Turner Pines Drive stub to a proposed north-south residential street stub in the proposed Utley Farms subdivision.
2. Add a proposed side path along the east side of the proposed local connector as well as the proposed north-south residential street in the proposed Utley Farm subdivision.

### Approval Recommended?

Planning Department staff recommend approval of the proposed amendment.

Planning Board considered and approved this item with a vote of 7-1 at their August 14, 2023 meeting.

### Item Details

The purpose of these amendments is to extend the existing side path along the east side of Turner Pines Drive south to the proposed Utley Farms subdivision for a future side path between the two streets, if these parcels redevelop. The proposed addition of the north-south local connector street is needed in order to show this side path extension.

### Attachments

- PH8-A1: Staff Report - Transportation Plan Amendments - Utley Farms Local Connector and Side Path
- PH8-A2: Planning Board Report to Town Council - Transportation Plan Amendments - Utley Farms Local Connector and Side Path







The Thoroughfare and Collector Street Plan map and Bicycle and Pedestrian System Plan map represent a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, recreation, and active travel. The Transportation Plan does not require a schedule for implementation, nor does it set aside funding for improvements. The purpose of the public hearing is to consider proposed amendments to the Transportation Plan in order to make a decision.

The purpose of the public hearing is to consider amendments to the Transportation Plan to:

1. Add a proposed local connector street that extends from the Turner Pines Drive stub to a proposed north-south residential street stub in the proposed Utley Farms subdivision.
2. Add a proposed side path along the east side of the proposed local connector as well as the proposed north-south residential street in the proposed Utley Farm subdivision.

A map of the proposed amendment to the Thoroughfare and Collector Street Plan map is displayed in Figure 1 below.



Figure 1. Proposed Thoroughfare and Collector Street Plan Map Amendment



A map of the proposed amendment to the Bicycle and Pedestrian System Plan map is displayed in Figure 2 below.



Figure 2. Proposed Bicycle and Pedestrian System Plan Map Amendment

The purpose of these amendments is to extend the existing side path along the east side of Turner Pines Drive south to the proposed Uteley Farms subdivision and plan for a future side path between the two stub streets, if these parcels redevelop. The proposed addition of the north-south local connector street is needed in order to show this side path extension. The proposed alignment of the local connector avoids existing structures, though this street would not be built unless the parcels redevelop in the future.

The Uteley Farms subdivision developer has agreed to construct side path along the east side of the proposed residential street that would connect to the proposed local connector if the amendment is approved.

**Staff Recommendation:**

Planning Department staff recommend approval of the proposed amendments.


**Planning Board Recommendation:**

The Planning Board heard this item at their August 14, 2023 meeting and voted 7-1 to approve the proposed amendments as presented. Tina Sherman, Planning Board Member, gave the dissenting vote based on her recommendation for the local connector alignment to be reconsidered, taking into account the neighbor's concerns.

**PLANNING BOARD REPORT TO TOWN COUNCIL**  
**Long Range Plan Amendments**

Planning Board Meeting Date: August 14, 2023



<b>Long range plan(s) proposed to be amended:</b>
Thoroughfare and Collector Street Plan Map and Bicycle and Pedestrian System Plan Map
<b>Description of the proposed amendment(s):</b>
1. Add a proposed local connector street that extends from the Turner Pines Drive stub to a proposed north-south residential street stub in the proposed Utley Farms subdivision. 2. Add a proposed side path along the east side of the proposed local connector as well as the proposed north-south residential street in the proposed Utley Farm subdivision.
<b>Planning Board recommendation:</b>
Motion: To recommend approval as presented.
Introduced by Planning Board member: Keith Braswell
Seconded by Planning Board member: Ryan Akers
<input checked="" type="checkbox"/> Approval of the proposed amendment(s) as presented
<input type="checkbox"/> Approval of the proposed amendment(s) with the following conditions or changes:
<input type="checkbox"/> Denial of the proposed amendment(s)
With <u>  7  </u> Planning Board member(s) voting "aye" With <u>  1  </u> Planning Board member(s) voting "no"
<b>Reason(s) for dissenting votes:</b>
Tina Sherman's recommendation was for the alignment to be reconsidered taking into account the neighbor's concerns.
This report reflects the recommendation of the Planning Board, this the <u>14<sup>th</sup></u> day of <u>August</u> 2023.
Attest:
 Reginald Skinner, Planning Board Chair
<b>Dianne Khin</b> Digitally signed by Dianne Khin Date: 2023.08.14 17:27:52 -04'00' Dianne Khin, Planning Director

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Chris Johnson, P.E., Director  
Russell Dalton, P.E., Traffic Engineering Manager

Department(s): Transportation & Infrastructure Development

### Requested Motion

Receive as information staff's findings related to traffic operations in the Woodall Estates neighborhood along Woodall Crest Drive and staff's recommendations for improved pedestrian and bicycle safety countermeasures.

### Approval Recommended?

Yes

### Item Details

In response to resident inquiries for traffic safety countermeasures on Woodall Crest Drive, staff reviewed the history and conditions along the corridor. Staff conducted a traffic study and met with the Woodall Estates neighbors to inform potential recommendations. A poll was also conducted by the HOA for input on designation of bike lanes along Woodall Crest Drive, and that poll is attached for information. Staff recommends the following improvements:

- Add bike lanes along Woodall Crest Dr between Apex Barbecue Rd and Aspen River Ln.
- Add 3 stop bars and standard crosswalks at existing stop approaches to Woodall Crest Dr and Aspen River Ln.
- Add 1 high-visibility signed & marked crosswalk across Woodall Crest Dr at Aspen River Ln.
- Remove/replace crosswalk at Apex Barbecue Rd/Woodall Crest Dr intersection with high visibility crosswalk.

### Attachments

- NB1-A1: PowerPoint Presentation - Woodall Crest Drive
- NB1-A2: Traffic Study - Woodall Crest Drive

- NB1-A3: Woodall Estates HOA Poll for Bike Lanes (Responses and Form) - Woodall Crest Drive
- NB1-A4: Woodall Estates Map with Staff Recommendations - Woodall Crest Drive





# Woodall Crest Drive Traffic Study and Recommendations

New Business Item  
August 22, 2023

# Agenda

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Background/history Woodall Estates and Depot 499

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Woodall Estates HOA concerns/discussions

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Traffic study results & education/enforcement strategies

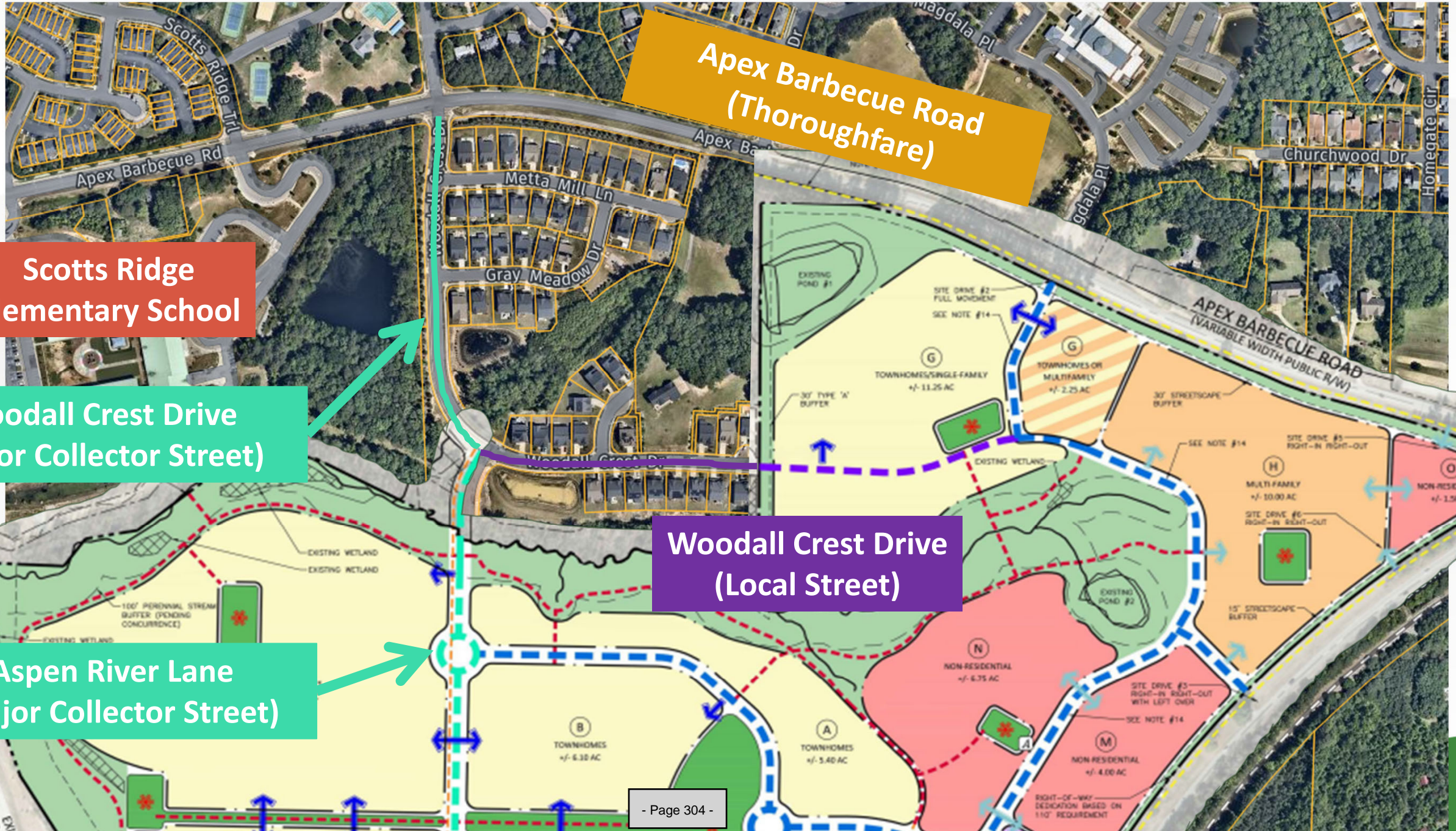
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Neighborhood poll & engineering recommendations

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Additional information on parking ordinances

# Woodall Estates & Depot 499



Scotts Ridge Elementary School

Woodall Crest Drive (Major Collector Street)

Aspen River Lane (Major Collector Street)



## Woodall Crest Drive (2020-2021)

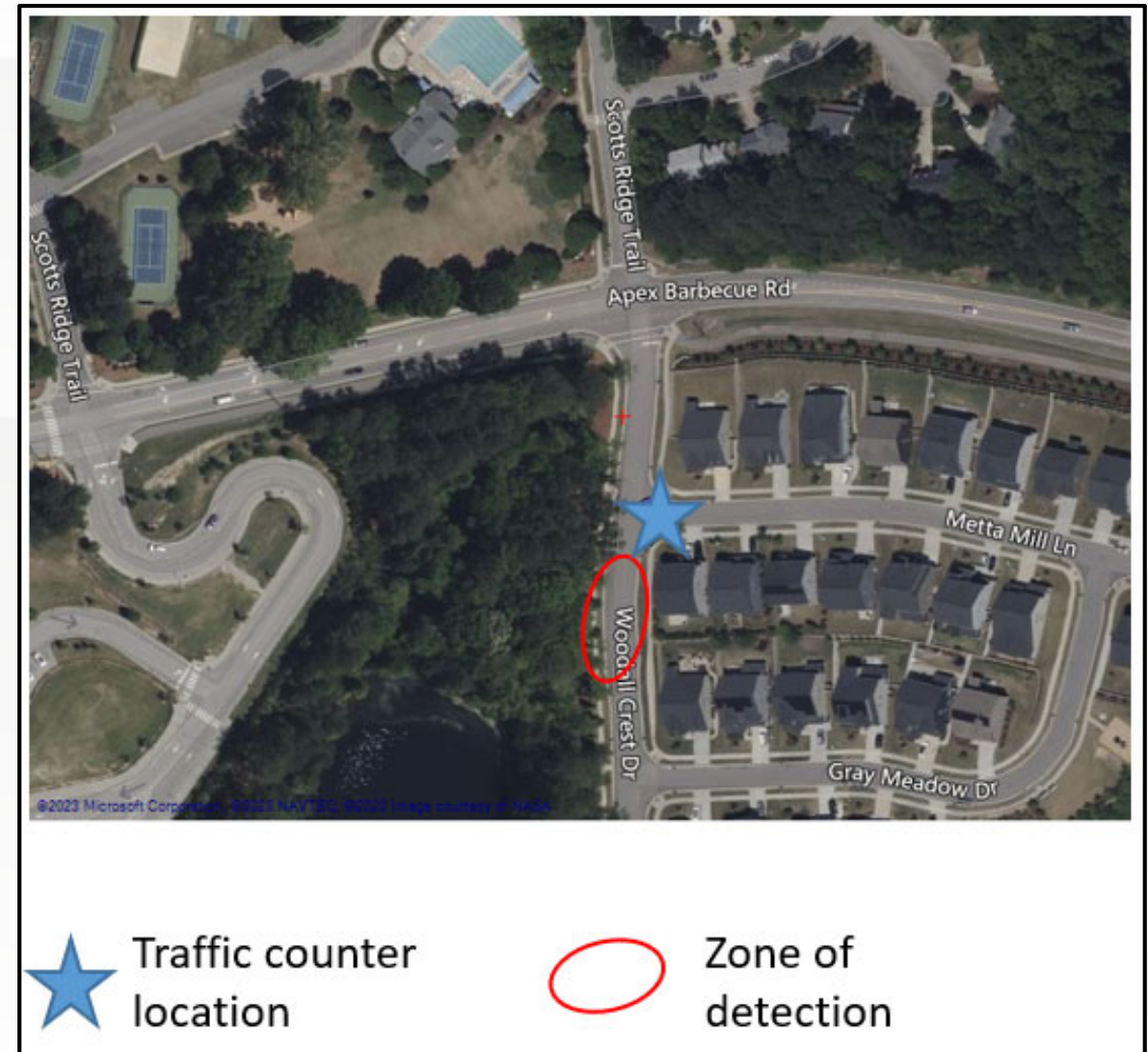
- Depot 499 proposed to extend Aspen River Lane south and Woodall Crest Drive east to fulfill connectivity requirements
- Woodall Estate residents expressed concerns about future increased traffic impacts on ped/bike activity and intersection operations
- Resident requested to reconsider the 35 mph speed limit for short Woodall Crest Drive Major Collector Street segment
  - Following review, staff reduced to 25 mph for all of Woodall Crest Drive

## Woodall Crest Drive (2023)

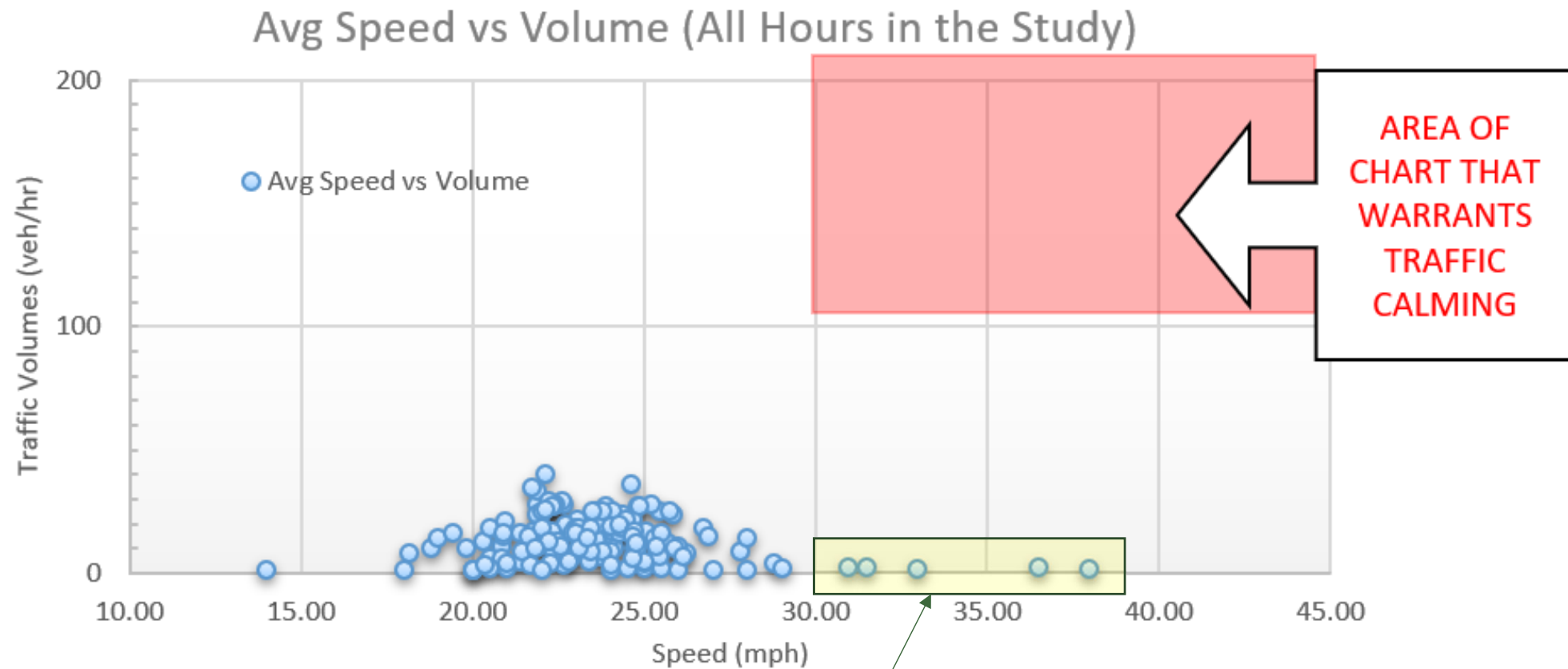
- Woodall Estates HOA requested changes along Woodall Crest Drive (Major Collector Street) following accident at Metta Mill Lane. Items discussed included:
  - Striped bike lanes
  - Parking restrictions
  - More marked crosswalks
  - Lower speed limits
  - Traffic calming
- Staff reviewed existing/future conditions and resident requests
- Staff conducted speed study of Woodall Crest Drive (pre-connection to Depot 499)

# Woodall Crest Drive Speed Study (6/7-6/16/23)

- Average of 269 vehicles/day
- Average speed 23.5 mph
- 85<sup>th</sup>-percentile speed 29 mph
- 11.4% of vehicles > 30 mph
  - (5.1% of these are trucks)
- Follow-up study recommended within a year of streets being opened to Depot 499



# Woodall Crest Drive Speed Study (6/7-6/16/23)



Note:  
Major  
Collector  
Street not  
eligible for  
traffic  
calming  
devices

Education and enforcement measures recommended for small sample of higher speeds



# Vision Zero Education Strategies

Create a social media campaign with appropriate traffic messages that targets the following 5 most relevant concerns identified through public input: (1) Speeding and Traffic Calming, (2) Pedestrian and Bicycle Safety, (3) Distracted Driver / Behavior Programs, (4) Safe Routes to School, (5) Young Driver / Passenger Safety.

**Goal:** **1**

**Leading Department:** Communications

**Supporting Department:** Planning and Community Development, Police Department

**Timeframe:** 

0-2      2-5      5-7      7-10


YEARS

Create a safety education team that will engage in traffic safety outreach and education to community groups (schools, churches, HOAs, and Town staff), and will be supported by the social media campaign and safe traffic messaging.

**Goal:** **1** **4**

**Leading Department:** Transportation

**Supporting Department:** Planning and Community Development, Transportation, Police Department, Communications

**Timeframe:** 

0-2      2-5      5-7      7-10

YEARS



## Vision Zero Enforcement Strategies

Target enforcement on the high injury network, and target the most dangerous driving behavior.

Goal:

3

Leading Department: Police Department


Supporting Department: Transportation

Timeframe:



# Woodall Crest Drive Bike Lanes

U.S. Department of Transportation  
Federal Highway Administration



**Safety Benefits:**  
Bicycle Lane Additions can reduce crashes up to:

**49%**  
for total crashes on urban 4-lane undivided collectors and local roads.<sup>6</sup>

**30%**  
for total crashes on urban 2-lane undivided collectors and local roads.<sup>6</sup>



Major Collector Street Lane  
With/Without Bike Lane Symbols

## Woodall Estates HOA Poll

- 25 of 51 households responding
- 17 in favor of bike lanes (68%)
- 8 not in favor (32%)



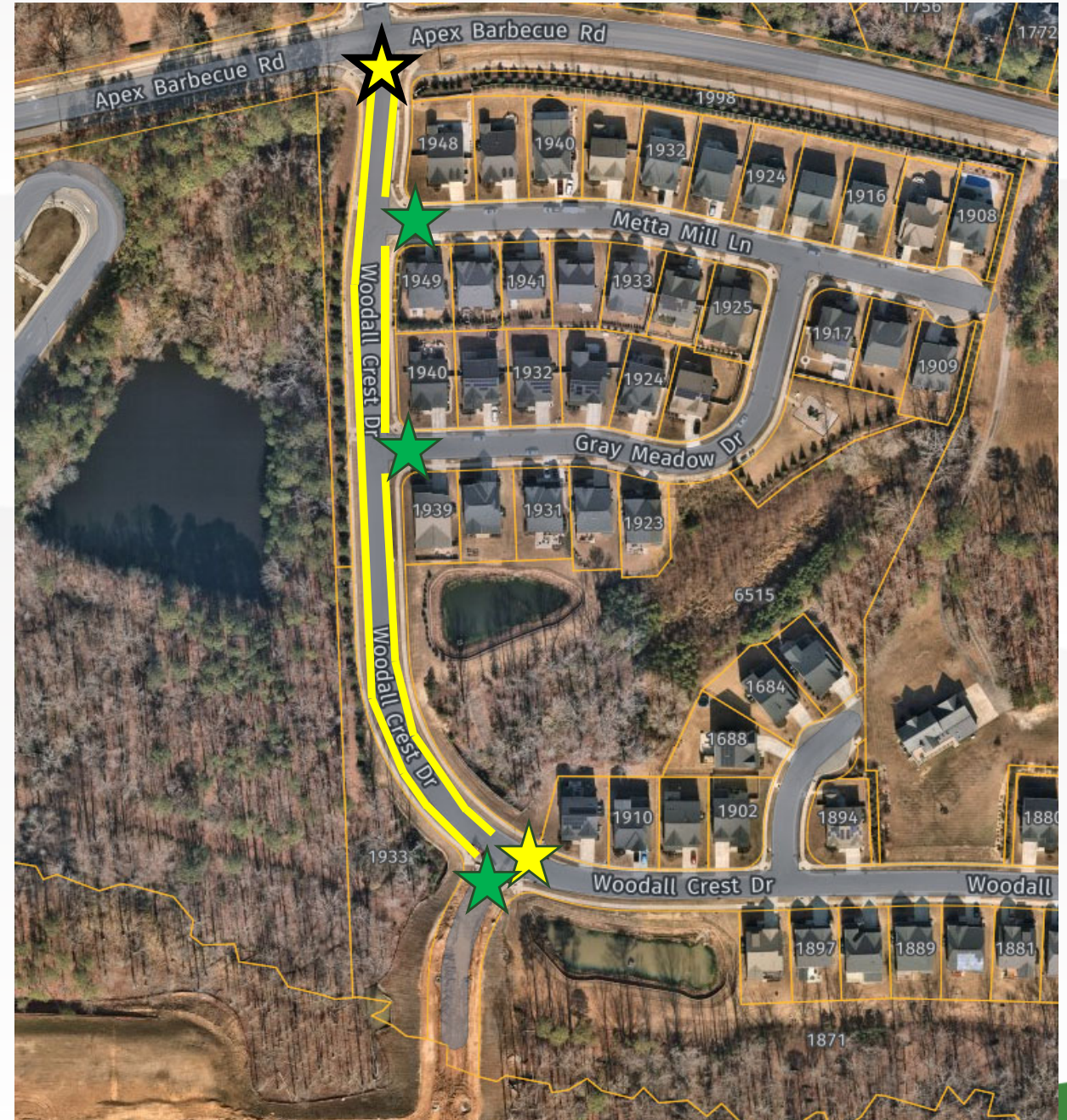
## Engineering Recommendations

Designate bike lanes along Woodall Crest Drive between Apex Barbecue Road and Aspen River Lane with planned Major Collector Street lane markings

★ Add stop bars & crosswalks at existing stopped approaches to Woodall Crest Drive and Aspen River Lane

★ Add high-visibility signed & marked crosswalk across Woodall Crest Drive

★ Enhance Shared Use Path crosswalk to high visibility at existing stopped approach to Apex Barbecue Rd





## Parking Ordinances

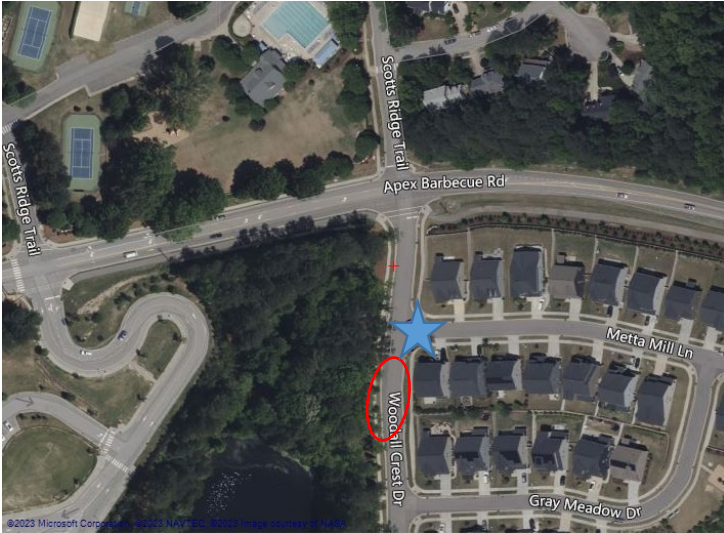
- The Apex Code of Ordinances prohibits various parking behaviors, such as parking closer than 30 feet from intersection or leaving less than 10 feet from the side of the parked vehicle the marked street centerline
- However, the ordinances do not specifically prohibit parking in bike lanes, so an ordinance amendment may be needed in certain instances to enforce parking that happens to occur within a bike lane



## Traffic Calming Study Date: 6/7/2023 – 6/16/2023


Study by: Sajid Hassan


Location: Woodall Crest Dr south of Apex Barbecue



### STATISTICS

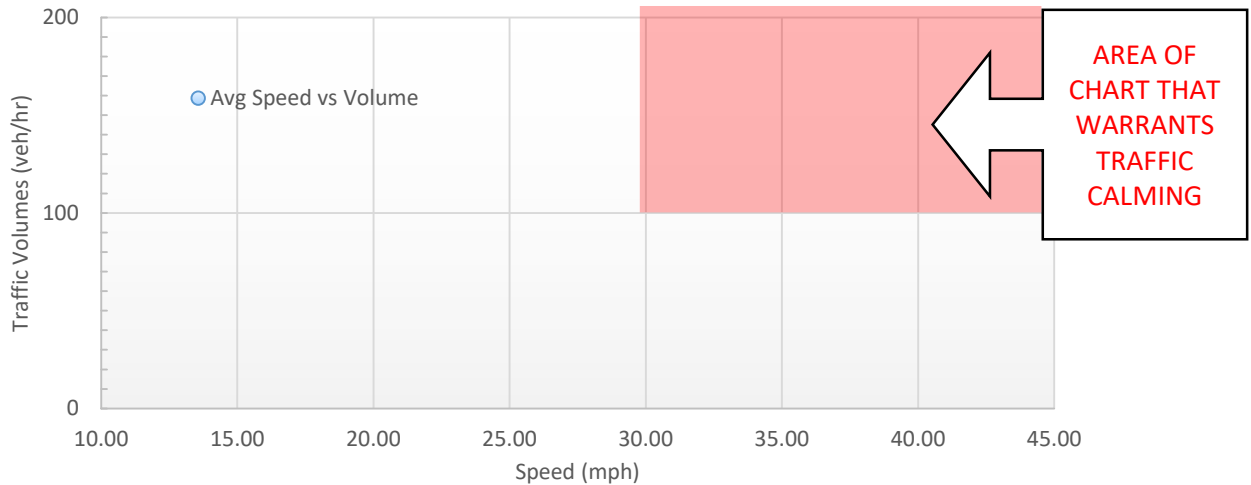
Total Vehicle Count = 2,389 vpd  
 Average Daily Traffic = 269 vpd  
 Posted Speed limit = 25 mph  
 Average Speeds = 23.4 mph  
 85<sup>th</sup> %tile Speed = 29 mph  
 % Speeders (>30mph) = 11.4%  
 % Heavy vehicle speeders = 0.59%

 Traffic counter location

 Zone of detection

### RESULTS OF STUDY

Avg Speed vs Volume (All Hours in the Study)





## Traffic Calming Study Date: 6/7/2023 – 6/16/2023

Study by: Sajid Hassan

Location: Woodall Crest Dr south of Apex Barbecue

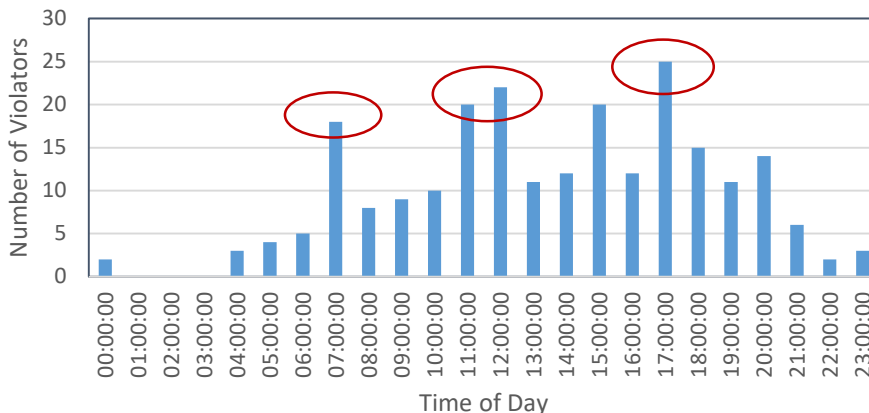
### TRAFFIC CALMING CRITERIA

- Posted speed is 25 miles per hour - **MET**
- Roadway is not a Collector Street or Thoroughfare – **NOT MET**
- The average speed exceeds 30 miles per hour during any one-hour period in which the number of vehicles meets or exceeds 100. – **NOT MET**
- The data collected to determine average speed may be based on an average of 100 vehicles per hour or more over multiple days.- **NOT MET**
- Installation of traffic calming devices along the street is not anticipated to create unacceptable delays in emergency response times for residences served by the street in the judgment of the Town’s Police Chief and Fire Chief.- **Not Applicable**

### RECOMMENDATIONS

- TEMPORARY SPEED HUMPS **ARE NOT** SUGGESTED BASED ON TRAFFIC VOLUME AND SPEED CRITERIA
  - Per the UDO, traffic calming devices (speed humps) are not warranted based on traffic volume and speed data gathered from the traffic study.
  - Average speeds were observed to be typical on residential streets in Apex.
  - 85<sup>th</sup> percentile speeds were observed to be higher than what’s typical on residential streets in Apex.
  - Number of excessive speeding violations (above 30 mph) was observed to be significant (2.2%).
  - Truck traffic speeding was not seen to be a significant underlying issue (0.59% of speeders were large vehicles).
- Traffic staff **RECOMMENDS enforcement strategies** due to presence of speeders (over 30 mph). Recommend targeted enforcement of morning, lunch, afternoon, and delivery peak times:

Time of Day Violations (>30 mph)



1. 7AM – 8AM
2. 11AM – 1PM
3. 5PM – 6PM

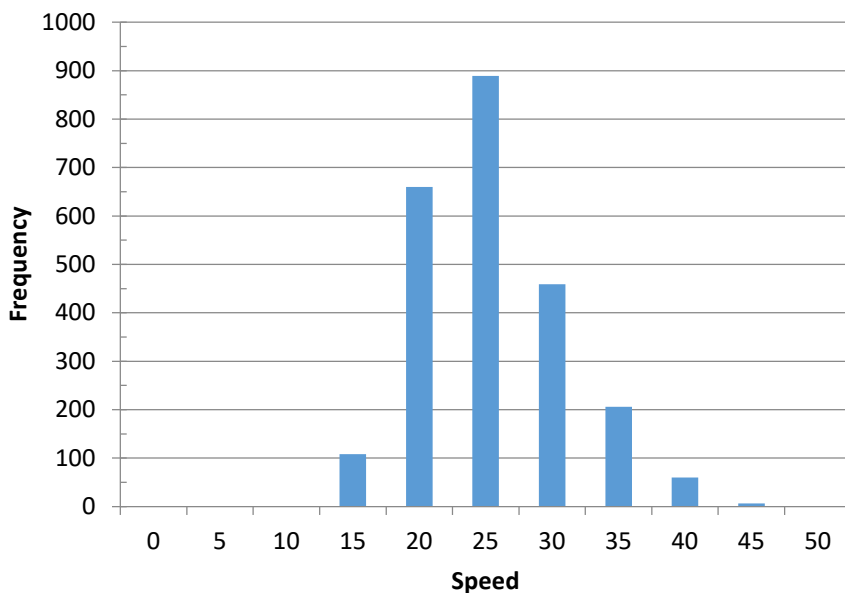
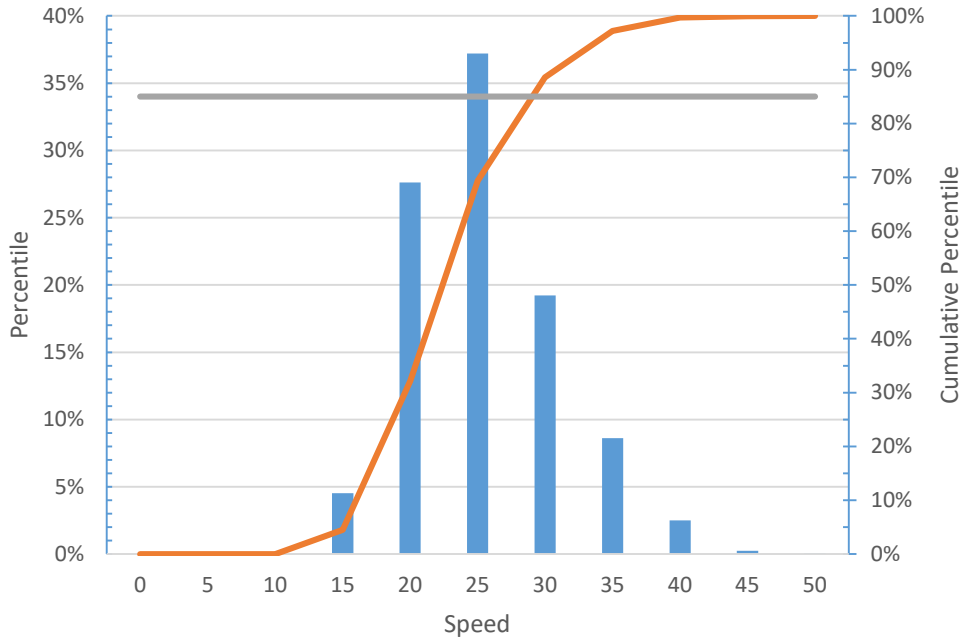


## Traffic Calming Study Date: 6/7/2023 – 6/16/2023

Study by: Sajid Hassan

Location: Woodall Crest Dr south of Apex BBQ

### SPEED DISTRIBUTION



**WOODALL ESTATES - RESIDENT POLL FOR BIKE LANES ALONG WOODALL CREST DRIVE  
(APEX BBQ ROAD TO ASPEN RIVER LANE)**

Timestamp	Please vote for your preference below:	One vote per household. Please provide your address.	Only homeowners in Woodall Estates can vote, please provide your first and last name.
8/11/2023 9:37:11	Painted lines with additional Bike Lane markings.	1936 Hray Meadow Dr	Tabitha Smith
8/11/2023 9:39:49	Painted lines with additional Bike Lane markings.	1933 Metta Mill Lane, Apex NC 27502	Swati Mehta
8/11/2023 9:49:47	Painted lines with additional Bike Lane markings.	1914 Woodall Crest Drive	Karyn Davis
8/11/2023 9:52:42	Painted lines with additional Bike Lane markings.	1688 Mint River Dr, Apex, NC 27502.	Srikanth Singamsetty
8/11/2023 9:54:18	Painted lines with additional Bike Lane markings.	1680 Mint River Drive	Mary Kearney
8/11/2023 9:56:22	Painted lines with additional Bike Lane markings.	1880 Woodall Crest Dr.	Jeff Hogan
8/11/2023 9:56:29	Painted lines as proposed in the photograph below.	1908 Metta Mill Ln	Anthony & Toni Koytek
8/11/2023 9:58:46	Painted lines with additional Bike Lane markings.	1917 Metta Mill Lane, Apex, NC 27502	Unnati Ojha
8/11/2023 9:59:19	Painted lines as proposed in the photograph below.	1940 Metta Mill Lane, Apex, NC 27502	Bobby Stroup
8/11/2023 10:10:06	Painted lines as proposed in the photograph below.	1925 Metta Mill Ln, Apex NC 27502	Shibu Vachery
8/11/2023 10:14:56	Painted lines with additional Bike Lane markings.	1927 Gray Meadow Drive , Apex NC 27502	Mahesh Pillai
8/11/2023 10:25:20	Painted lines as proposed in the photograph below.	1876 Woodall Crest Drive	Michael O'Brien
8/11/2023 10:54:52	Painted lines with additional Bike Lane markings.	1920 Gray Meadow Dr. Apex, NC 27502	Sahejman Kahlon
8/11/2023 11:57:55	Painted lines as proposed in the photograph below.	dsifonte@yahoo.com 1909 METTA MILL LN	Danny Sifonte
8/11/2023 12:15:00	Painted lines with additional Bike Lane markings.	1906 Woodall Crest Dr, Apex NC 27502	Shengbo Hou
8/11/2023 13:13:24	Painted lines with additional Bike Lane markings.	1684 Mint River Drive	Philip Issler
8/11/2023 15:11:20	Painted lines with additional Bike Lane markings.	1944 Metta Mill Lane, Apex, NC 27502	Leslie Hooper
8/11/2023 15:58:39	Painted lines with additional Bike Lane markings.	1923 Gray Meadow Dr.	Shawn Haney
8/11/2023 18:31:50	Painted lines with additional Bike Lane markings.	1924 metta mill ln	Anish unni
8/11/2023 20:20:52	Painted lines as proposed in the photograph below.	1894 Woodall Crest Dr	Igor Tikhonov
8/12/2023 8:22:44	Painted lines with additional Bike Lane markings.	1939 gray meadow drive	Joe Fleming
8/13/2023 10:28:25	Painted lines with additional Bike Lane markings.	1936 Metta Mill Lane	Matt Albrecht
8/14/2023 11:26:31	Painted lines with additional Bike Lane markings.	1931 Gray Meadow Drive	Darren Hoch
8/15/2023 09:22:27	Painted lines as proposed in the photograph below.	1901 Woodall Crest Drive	Nouni Wise
8/16/2023 10:32:42	Painted lines as proposed in the photograph below.	1940 Gray Meadow Drive	Dr. Jean Price

**POLL SUMMARY**

**TOTAL LOTS - 51  
TOTAL POLL RESPONSES - 25  
IN FAVOR OF BIKE LANES - 17  
IN FAVOR OF NO BIKE LANES - 8  
68% IN FAVOR OF BIKE LANES  
32% IN FAVOR OF NO BIKE LANES**

**VERIFIED BY:  
CHRIS JOHNSON, PE  
8-16-23**

# Woodall Estates - Bike Lane Poll

Sorry to have to ask you to vote again, but after submitting the first set of results I was informed that they would not accept the poll results without a corresponding name and address for each vote. I thought the address alone would be sufficient for their verification purposes. The poll options have not changed, only the answers after the selections.

Please vote for your preference regarding whether or not to have painted bike lane markings on Woodall Crest Drive between Apex BBQ and Aspen River. One vote per household.

At this time, the road will be painted according to the photo below with a double yellow line down the middle and unmarked bike lanes on each side. As pictured, this is considered a traffic calming feature as it would narrow the lane in which a vehicle can drive. Adding the additional bike lane markings between the white lines and the curb would be an additional traffic calming feature according to the Apex transportation department.

- Without the additional bike lane markings, a vehicle *could* park on Woodall Crest Drive but it would mean that passing vehicles would have to cross the yellow line in order to pass.
- With the additional bike lane markings there would be no parking on Woodall Crest Drive between Apex BBQ and Aspen River.

These bike lanes will connect Apex BBQ to South Salem Street by extending down Aspen River Lane. To the north, the bike lanes will provide a connection to the existing roadside path along Apex BBQ which will eventually extend between S. Salem and Olive Chapel Road (including links to the Apex Nature Park and Beaver Creek Greenway). S. Salem is also anticipated to eventually include bicycle accommodations which would link the neighborhoods to downtown Apex.

In addition to painting the road, the Apex Transportation Department is planning on adding striped crosswalks across Woodall Crest at Apex BBQ and across Metta Mill and Grey Meadow. They are considering another crossing across Woodall Crest at Aspen River, but it is not part of the current plan. As a neighborhood, we intend to continue to advocate for safer pedestrian crossings and traffic calming measures. If you wish to be included in future meetings and discussions related to traffic safety in Woodall Estates, please include your email address.

[Sign in to Google](#) to save your progress. [Learn more](#)

\* Indicates required question



Please vote for your preference below: \*

- Painted lines as proposed in the photograph below.
- Painted lines with additional Bike Lane markings.

One vote per household. Please provide your address. \*

Your answer

Only homeowners in Woodall Estates can vote, please provide your first and last name. \*

Your answer

I wish to be part future meetings related to Woodall Estates traffic safety. Type in your email address below.

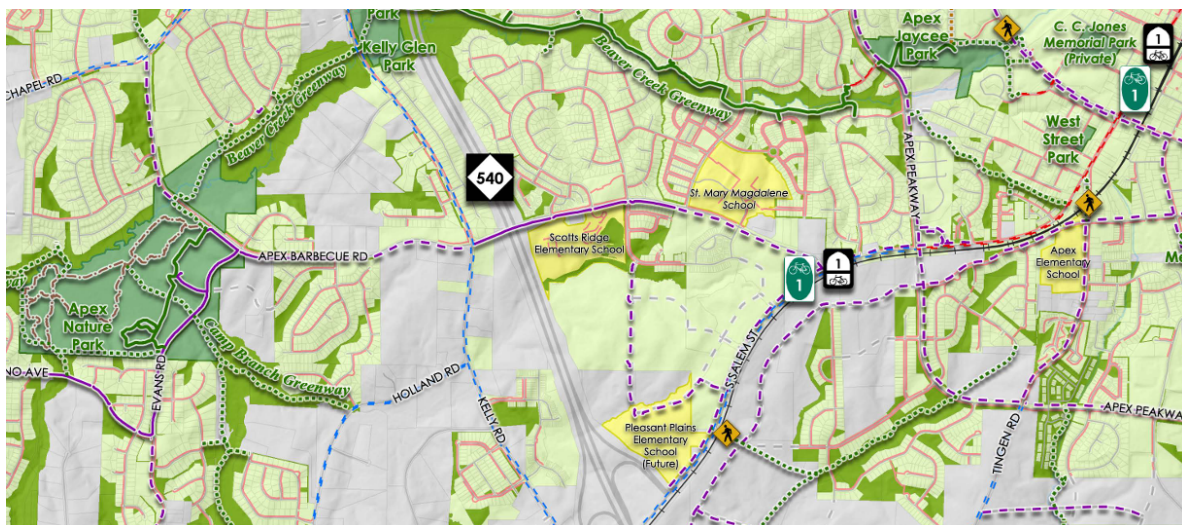
Your answer



### Current Plan - Woodall Crest Drive (no additional bike lane markings)



### Bike Path Map



Submit

Clear form

Never submit passwords through Google Forms.



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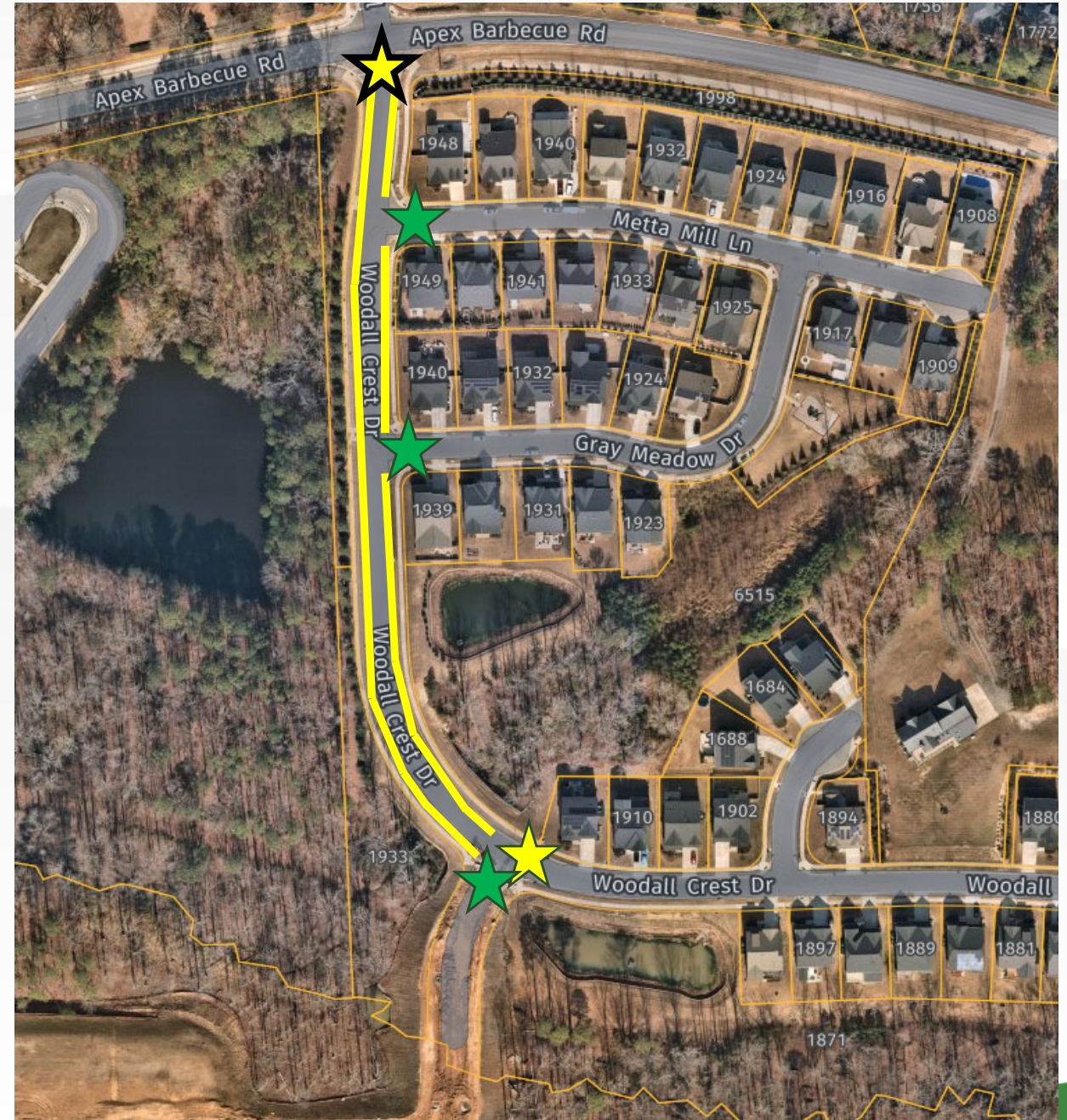
## Engineering Recommendations

Designate bike lanes along Woodall Crest Drive between Apex Barbecue Road and Aspen River Lane with planned Major Collector Street lane markings

★ Add stop bars & crosswalks at existing stopped approaches to Woodall Crest Drive and Aspen River Lane

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★ Enhance Shared Use Path crosswalk to high visibility at existing stopped approach to Apex Barbecue Rd



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Services

### Requested Motion

Possible motion to enter into closed session pursuant to NCGS 143-318.11(a)(3) to preserve attorney-client privilege.

### Approval Recommended?

N/A

### Item Details

#### **NCGS § 143-318.11(a)(3)**

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

### Attachments

- N/A



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for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: August 22, 2023

## Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

### Requested Motion

Possible motion to enter into closed session pursuant to NCGS § 143-318.11(a)(6) to consider a personnel matter.

### Approval Recommended?

N/A

### Item Details

#### **NCGS § 143-318.11(a)(6)**

“To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee”

### Attachments

- N/A



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### Attachments

- N/A

