



# AGENDA | REGULAR TOWN COUNCIL MEETING

February 13, 2024 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

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

## Town Council and Administration

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

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

Interim Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

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

## COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

## CONSENT AGENDA

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

**CN1 Agreement - Magnet Forensics Software - Digital Evidence Examination**

*Christy Wentzell, Police Captain, Apex Police Department*

**CN2 Annexation No. 773 - 1075 South Hughes Street - Chick-Fil-A - 3.431 acres**

*Allen Coleman, Town Clerk*

**CN3 Annexation No. 775 - 1133 Twin Creek Road - 2.80 acres**

*Allen Coleman, Town Clerk*

**CN4 Annexation No. 776 - Sundance of NC, LLC - Salem Church Road - 2.90 acres**

*Allen Coleman, Town Clerk*

**CN5 Appointments - Environmental Advisory Board (EAB)**

*Allen Coleman, Town Clerk*

**CN6 Appointments - Environmental Advisory Board (EAB) - Chair/Vice-Chair**

*Allen Coleman, Town Clerk*

**CN7 Budget Ordinance Amendment No. 12 - Electric Utility Operations**

*Eric Neumann, Director, Electric Utilities Department*

**CN8 Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch  
Greenway and Capital Project Ordinance Amendment 2024-11**

*Angela Reincke, Parks Planning Project Manager, Parks, Recreation, and Cult. Res. Dept.*

**CN9 Council Meeting Minutes - Various**

*Allen Coleman, Town Clerk*

**CN10 Friendship Village Subdivision - Fee-in-Lieu (FIL)**

*Jonathan K. Jacobs, P.E., CFM, Assistant Director, Water Resources Department*

**CN11 Resolution - Abandon Existing Utility Easements - Primrose School Site**

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

**CN12 Rezoning Case No. 23CZ13 Seymour Mixed Use PUD - Statement and Ordinance**

*June Cowles, Senior Planner, Planning Department*

**CN13 Rezoning Case No. 23CZ14 Salem Street Townhome PUD - Statement an Ordinance**

*Liz Loftin, Senior Planner, Planning Department*

**CN14 Rezoning Case No. 23CZ15 Apex Gateway Ph. 2 Amendment Statement and Ordinance**

*Amanda Bunce, Current Planning Manager, Planning Department*

**CN15 Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance**

*Amanda Bunce, Current Planning Manager, Planning Department*

**CN16 Software License - Gladiator Forensics**

*Christy Wentzell, Police Captain, Apex Police Department*

**CN17 Surplus Badge and Service Weapon - Retiring Sergeant John Jones**

*Joey Best, Police Captain, Apex Police Department*

**CN18 Surplus Vehicles - 1999 GMC C8500 and 2008 International Workstar 7300**

*Steve Maynard, Purchasing and Contracts Manager, Finance Department*

**CN19 Tax Report - December 2023**

*Allen Coleman, Town Clerk*

## **PRESENTATIONS**

**PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards - 2<sup>nd</sup> Quarter**

*Councilmember Terry Mahaffey, Sponsor and*

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

**PR2 Proclamation - Black History Month - February 2024**

*Mayor Jacques K. Gilbert*



**PR3 Wake County 2024 Revaluation Results**

*Nicole Kreiser, Deputy Tax Administrator, Wake County Tax Administration Department*

**REGULAR MEETING AGENDA**

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

**PUBLIC FORUM**

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular Agenda. The Mayor will recognize those who would like to speak at the appropriate time. Large groups are asked to select a representative to speak for the entire group. Comments must be limited to 3 minutes to allow others the opportunity to speak.

**PUBLIC HEARINGS**

**PH1 Unified Development Ordinance (UDO) Amendments - January 2024**

*Amanda Bunce, Current Planning Manager, Planning Department*

**OLD BUSINESS**

**OB1 Ordinance Amendment - Chapter 5 - Article 1 - Section 5 - Automatic Fire Sprinkler System Requirements (Discussion ONLY)**

*Councilmember Terry Mahaffey, Sponsor*

**NEW BUSINESS**

**UPDATES BY TOWN MANAGER**

**CLOSED SESSION**

Council will enter into closed session pursuant to:

**CS1 Demetria John, Assistant Town Manager and Steve Adams, Real Estate and Utilities Acquisition Specialist**

**NCGS § 143-318.11(a)(5)**

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a

contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.”

**CS2 Laurie Hohe, Town Attorney**

**RE: Town of Apex v. Briartac Family, LLC**

**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 Laurie Hohe, Town Attorney**

**NCGS § 143-318.11(a)(3):**

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

**ADJOURNMENT**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Christy Wentzell, Captain

Department(s): Police

### Requested Motion

Motion to approve a license agreement with Magnet Forensics, effective January 1, 2024 through December 31, 2024, to examine digital evidence with mobile, cloud, and digital resources, and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

### Approval Recommended?

Yes

### Item Details

Magnet Forensics software will allow the police department to examine digital evidence from mobile, cloud, computer, and vehicle sources. It is a powerful and intuitive analytical tool that automatically locate and extract case-relevant data. Magnet Forensics has similar capabilities as Cellebrite; however, it primarily functions best on Android and computer systems. Magnet Forensics has been described as the “go-to” forensics tool for many local labs when they need to examine data from multiple sources such as:

COMPUTER: Ingest and analyze data from Windows, Macs, Chromebooks, and Linux-devices with an artifacts-first approach to find the most relevant evidence, media, and chats quickly. Plus, easily process memory with Volatility seamlessly integrated into AXIOM.

MOBILE: Recover and examine data from Android and iOS devices. Plus, AXIOM is the only tool integrated with GrayKey. Automatically validate GrayKey images, leverage keychain and keystore data to decrypt apps, and take advantage of support for category-based extractions.

CLOUD: Acquire and analyze data from social media platforms and cloud services, plus ingest warrant returns and user-generated archives, from sources such as Google, Apple, Microsoft, Facebook, and many more.

VEHICLE: Ingest and analyze vehicle data, such as Berla iVe extractions, and plot geolocation data and other events on the world map. Correlate data between vehicles and other sources that track geolocation data, for example, such as mobile devices.

This software will not be utilized unless written consent is provided by owner and/or a signed court order authorizing the police department to extract data.

#### Attachments

- CN1-A1: Magnet Forensics Quote - Agreement - Magnet Forensics Software - Digital Evidence Examination
- CN1-A2: Magnet Forensics Terms and Conditions - Agreement - Magnet Forensics Software - Digital Evidence Examination
- CN1-A3: Magnet Forensics Product Brief - Agreement - Magnet Forensics Software - Digital Evidence Examination
- CN1-A4: Previous Approved Purchase Order - Agreement - Magnet Forensics Software - Digital Evidence Examination





**Address:**  
 Magnet Forensics, LLC  
 931 Monroe Drive NE  
 Suite A102-340  
 Atlanta, Georgia 30308  
 United States

**Phone:** 519-342-0195  
**E-Mail:** sales@magnetforensics.com

**Quote #:** Q-306592-1  
**Issue Date:** 14 Dec, 2023  
**Expires On:** 14 Jan, 2024

**Bill To**  
 Christy Wentzell  
 Apex Police Department  
 205 Saunders St.  
 Apex, NC 27502  
 US  
 (919) 249-1149  
 christy.wentzell@apexnc.org

**Ship To**  
 Christy Wentzell  
 Apex Police Department  
 205 Saunders St.  
 Apex, North Carolina 27502  
 United States  
 (919) 249-1149  
 christy.wentzell@apexnc.org

**End User**  
 Christy Wentzell  
 Apex Police Department  
 205 Saunders St.  
 Apex North Carolina 27502  
 United States  
 (919) 249-1149  
 christy.wentzell@apexnc.org

PREPARED BY	PHONE	EMAIL	PAYMENT TERM
James Fisher		james.fisher@magnetforensics.com	Net 30

ITEM #	PRODUCT NAME	SMS DATES	UNIT SELLING PRICE	QTY	EXTENDED PRICE
6AX03-1	Magnet AXIOM Term	1 Jan, 2024 to 31 Dec, 2024	USD 5,800.00	1	USD 5,800.00

Sub-Total USD 5,800.00  
 Taxes USD 420.50  
**Grand Total USD 6,220.50**

Prices subject to change upon quote expiry. Accurate sales tax will be calculated at the time of invoicing when applicable. If your company is tax exempt, please provide appropriate support with your signed quote. Hardware may be subject to additional fees related to delivery, import and export.

**Terms & Conditions**

Unless you have an existing written agreement with Magnet Forensics for the products and/or services listed in this quotation, by: (a) signing below, (b) submitting an Order to Magnet Forensics referencing this quotation, or (c) making payment for the products and/or related services listed in this quotation, you agree to the terms and conditions at <http://magnetforensics.com/legal/> applicable to such products and/or services listed in this quotation to the exclusion of any differing or additional terms which may be found on your purchase order or similar document. By signing, you certify that you have the authority to bind your organization.

Magnet Forensics may adjust the software term start and/or end date, without increasing the total software license price, based on the date Magnet Forensics activates the software and provided that the total software license term length does not change.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Name (Print):** \_\_\_\_\_

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

Please sign and email to James Fisher at [james.fisher@magnetforensics.com](mailto:james.fisher@magnetforensics.com)

This End User License Agreement (the “**Agreement**”) is a legal agreement between You and Magnet Forensics with respect to Your license, access and use of the Product. UNLESS YOU HAVE AN EXISTING AGREEMENT WITH MAGNET FORENSICS WHICH SPECIFICALLY GOVERNS YOUR LICENSE, ACCESS, AND USE OF THE PRODUCTS IDENTIFIED IN THE QUOTATION, THEN BY EITHER (A) SUBMITTING AN ORDER FOR THE PRODUCT IDENTIFIED IN THE QUOTATION PROVIDED BY MAGNET FORENSICS OR A MAGNET FORENSICS AUTHORISED RESELLER, (B) INDICATING YOUR ACCEPTANCE OF THE QUOTATION, (C) ACCEPTING DELIVERY OF THE PRODUCT; (D) DOWNLOADING AND/OR INSTALLING THE SOFTWARE, OR (E) USING THE SOFTWARE, YOU ARE REPRESENTING THAT (I) YOU HAVE AUTHORITY TO ACT ON BEHALF OF THE ORGANIZATION WHICH YOU REPRESENT, AND (II) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY, THE TERMS OF THIS AGREEMENT TO THE EXCLUSION OF ANY OTHER TERMS CONTAINED IN A PURCHASE ORDER OR ACKNOWLEDGEMENT OF ANY KIND TO THE QUOTATION BY YOU.

## 1 Definitions

- 1.1 “**Confidential Information**” means any information regardless of form or medium, whether tangible or intangible, including any copies or fixations made thereof that is disclosed by discloser, or to which the recipient is provided access by discloser, that is proprietary or confidential to discloser or its affiliated companies, including, without limitation, information that specifies, concerns or is related to discloser’s intellectual property, Software, Documentation, Product, trade secrets, business operations, finances, customers, technical know-how, prototypes, designs, processes, products, services, or the development, testing or commercial exploitation of any of the foregoing that is either specifically identified as confidential prior to or at the time of its disclosure or that would reasonably be considered by a person knowledgeable in the industry to be proprietary or confidential in nature because of legends or other markings on the information, the circumstances of disclosure or the nature of the information itself. **Confidential Information includes, without limitation, (i) information concerning the methods of use, internal components, features, functions and solutions of GrayKey and VeraKey Products, information found on the Magnet Forensics support website, and (ii) any copies, photographs, or other reproductions of the foregoing, whether or not marked as “confidential” or “proprietary.”**
- 1.2 “**Documentation**” means the electronic, printed or other form of documents that accompany delivery of the Product that provides information about installation, operation, and use of the Product.
- 1.3 “**Hardware**” means the physical components, devices, or equipment provided to you by Magnet Forensics used for the operation of the Software.
- 1.4 “**License Term**” means the time period identified in Your Quotation or if no such period is identified in Your Quotation then for one (1) year commencing on the date the Software is available to You.
- 1.5 “**Magnet Forensics**” has the meaning set out in Section 12.1.
- 1.6 “**Magnet Software**” means the proprietary software of Magnet Forensics.
- 1.7 “**Perpetual License**” means a license purchased with a perpetual License Term as identified in a Quotation.
- 1.8 “**Product**” means the Magnet Forensics supplied products identified in the Quotation, which may include, Hardware, Software, and Support Services.
- 1.9 “**Quotation**” means the quotation provided to You by Magnet Forensics or a Magnet Forensics authorised reseller outlining the terms, conditions, and pricing details for the licensing of Magnet Hardware, Software, and Support Services.
- 1.10 “**Software**” means the Magnet Software and Third Party Software.
- 1.11 “**Support Services**” means the support services included in the Term License or separately purchased as part of the Perpetual License as indicated on Your Quotation and, in each case, described further in Section 4.1.

- 1.12 “**Term License**” means a license purchased with a non-perpetual License Term as identified in a Quotation.
- 1.13 “**Third Party Software**” means the copyrighted, patented or otherwise legally protected software of third parties (including open-source code components) incorporated into the Software.
- 1.14 “**User**” means a single user who uses the Software as permitted by this Agreement or is otherwise provided access to the Software by You.
- 1.15 “**You**”, and “**Your**” means the entity that purchases the license for Software pursuant to this Agreement.

## **2 License Grant**

- 2.1 License. The licensed rights to the Software granted to You by Magnet Forensics are as set out in Schedules A, B, and C (Licensed Rights) to this Agreement, as applicable.

## **3 Fees, Taxes, and Delivery**

- 3.1 Fees. You agree to pay Magnet Forensics all applicable fees identified in the Quotation within thirty (30) days from date of the invoice. Magnet Forensics shall invoice You upon the earlier of: (a) You issuing a purchase order to Magnet Forensics that relates to the Quotation; (b) Your signing the Quotation; and (c) Your written indication, by email or otherwise, of Your approval of the Quotation. If You fail to pay any amount under this Agreement that is due and payable, and such failure remains unremedied for a period of thirty (30) days following written notice of default by Magnet Forensics, in addition to any other rights and remedies available to Magnet Forensics, Magnet Forensics shall be entitled to charge interest on all outstanding amounts at the lesser of 1.5% per month or the maximum rate permitted by law.
- 3.2 Taxes. You are responsible for all taxes relating to Software and services identified in a Quotation (excluding any taxes based on the income of Magnet Forensics). Unless otherwise indicated, all amounts payable by You under this Agreement are exclusive of any tax, duty, levy, or similar government charge. If You are required to withhold any taxes from payments owed under this Agreement, the amount of payment due shall automatically be increased to offset such tax, so that the amount actually remitted to Magnet Forensics shall equal the amount invoiced or otherwise due.
- 3.3 Delivery. Software will be provided by electronic means. Title and risk of loss to tangible products such as Equipment pass to you upon delivery, which occurs when Magnet Forensics places them with a carrier for shipment to you, freight prepaid.

## **4 Support Services**

- 4.1 Support Services. Details of support packages can be found at [www.magnetforensics.com/legal/](http://www.magnetforensics.com/legal/).
- 4.2 Magnet Forensics does not require Your personal data to provide Support Services. If, however, as part of an incident resolution, You wish to provide Magnet Forensics with Your data or information (i.e. video footage, screen shots, case file data), You are solely responsible and liable in connection with the provision of such data to Magnet Forensics, including, without limitation, ensuring that the collection, processing and transfer of such data is in compliance with all applicable laws. Any data You choose to provide to Magnet Forensics in connection with the licensing and/or support of the Software shall be processed and stored in accordance with the confidentiality provisions of this Agreement and the Magnet Forensics Privacy Policy available at <https://www.magnetforensics.com/legal/>.



## 5 Intellectual Property Rights

- 5.1 License Only. Except for the limited license set forth herein, You do not acquire any intellectual property rights to the Product or Documentation under this Agreement, including, without limitation, any right, title or interest in and to patents, copyrights, trademarks, trade names, industrial designs, Magnet Forensics Confidential Information, or trade secrets, whether registered or unregistered. The Software is licensed and not sold. Any rights not expressly granted under this Agreement are reserved by Magnet Forensics.
- 5.2 Feedback. Magnet Forensics shall own all feedback, comments, suggestions, ideas, and concepts that You provide or identify during Your use of the Product and Support Services, and all associated intellectual property rights (collectively the “**Feedback**”). You hereby assign to Magnet Forensics all of Your right, title and interest in Your Feedback. For certainty, Feedback shall not include any of Your data, Confidential Information, or intellectual property.

## 6 Confidentiality

- 6.1 Maintenance of Confidential Information. Subject to applicable law, each party agrees to: (a) keep confidential all Confidential Information disclosed by the other party; (b) only use, reproduce and disclose the Confidential Information to facilitate the use of the Software (in Your case) or support and develop the Software (in Magnet Forensics’ case); and (c) protect the Confidential Information from unauthorized use, reproduction or disclosure in the same manner it protects the confidentiality of similar information of its own, but not less than a reasonable degree of care.
- 6.2 A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided that You promptly notify Magnet Forensics in writing, if notification is permitted by law, and use commercially reasonable efforts to assist Magnet Forensics, at Magnet Forensics’ expense, in opposing such disclosure or obtaining a protective order or other reliable assurance preventing or limiting such disclosure and/or ensuring that confidential treatment will be accorded to any Confidential Information that is disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this Agreement. No further disclosure beyond the scope of such order is allowed.

## 7 Warranties, Exclusions, Disclaimer

- 7.1 Software Warranty. While Your Support Services are active, Magnet Forensics warrants that the Software shall materially conform to the Documentation. If the Software does not materially conform to the Documentation, and you give Magnet Forensics notice while Your Support Services are active, Magnet Forensics will, at its option, attempt to correct, repair, or replace the Software at no additional cost to You. If Magnet Forensics is unable to correct the Software to conform with the warranty stated herein within thirty (30) days, then upon Your request, Magnet Forensics shall, as your sole and exclusive remedy, refund You: (a) a prorated amount of any unused prepaid license fees if You purchased a Term License; or (b) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 7.2 Viruses, Licenses, Support Services. Magnet Forensics (a) has implemented testing practices consistent with industry standards designed to protect against viruses that may impede the Software; (b) includes fully paid-up licenses to any and all Third Party Software incorporated into the Software; and (c) will perform all Support Services in a good and workmanlike manner consistent with industry standards.
- 7.3 EXCLUSIONS. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE EXCLUSIVE WARRANTIES MADE BY MAGNET FORENSICS TO YOU REGARDING THE PRODUCT, AND YOUR SOLE AND EXCLUSIVE REMEDY RESPECTING ANY DEFECTS, NON-CONFORMITIES

OR PROBLEMS WITH THE PRODUCT. EXCEPT AS SET FORTH IN SECTION 7.1 AND 7.2, MAGNET FORENSICS DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, ACCURACY, RELIABILITY, NON-INFRINGEMENT, OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE PRODUCT PROVIDED HEREUNDER. To the maximum extent permitted by law, any implied warranties or conditions relating to the Software that cannot be excluded as set out above are limited to thirty (30) days from the date that the Software is delivered to You.

## **8 Limitation of Liability**

- 8.1 NOTWITHSTANDING ANY OTHER SECTION OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY, STATUTE, LAW, EQUITY, OR OTHERWISE ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY ORDER FOR (A) INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES; (B) LOSS OF PROFITS OR REVENUE (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED); OR (C) LOSS OF TIME, OPPORTUNITY OR ANY DAMAGES RELATING TO THE CORRUPTION OF DATA, LOSS OF THE USE OF DEVICES OR ANY PORTION THEREOF, AND DAMAGES CAUSED BY YOUR FILES, CONNECTED DEVICES, OR DATA COLLECTED BY YOU, EVEN IF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED) WILL NOT EXCEED THE AMOUNT PAID BY YOU FOR THE PRODUCT IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES.
- 8.2 SECTION 8.1 SHALL NOT APPLY TO EITHER PARTY'S LIABILITY IN RELATION TO: (A) INDEMNIFICATION OBLIGATIONS OF EITHER PARTY UNDER SECTION 9 (INDEMNIFICATION) UNDER THIS AGREEMENT; (B) MISAPPROPRIATION OR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; (C) BREACHES OF CONFIDENTIALITY UNDER SECTION 6; AND (D) YOUR PAYMENT OBLIGATIONS TO MAGNET FORENSICS, PROVIDED, HOWEVER, THAT MAGNET FORENSICS' CUMULATIVE LIABILITY UNDER SECTION 9.2 RELATING TO THIRD PARTY SOFTWARE SHALL IN NO EVENT EXCEED THE LESSER OF: THREE TIMES (3X) THE AMOUNT PAID BY YOU FOR THE SOFTWARE IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES AND ONE MILLION USD (\$1,000,000.00 USD).

## **9 Indemnification**

- 9.1 Your Indemnification of Magnet Forensics. You will defend and indemnify Magnet Forensics from and against any third-party claim, cause of action, legal proceeding, cost, award of damages or any other judgment and legal expenses ("Claim") in relation to: (a) any Claim arising from the modification, combination or use of the Software with equipment, software, interfaces, or other materials that are not specifically authorized by Magnet Forensics; and (b) Your collection and use of data resulting from Your use of the Software and any actions You take as a result thereof; and (c) unauthorized use of the Product.
- 9.2 Magnet Forensics Indemnity. Magnet Forensics will defend You from and against any suit brought against you by a third party to the extent the suit alleges that your use of a Product infringes a valid patent in Canada or the United States (an "IP Claim"). Magnet will also pay the damages, costs, and attorneys' fees that are awarded against you in a final, non-appealable court judgment for the IP Claim, or required to be paid by you in a settlement of an IP Claim that Magnet has agreed to in writing. You agree to (i) give prompt notice of the IP Claim to Magnet Forensics; (ii) grant sole control of the defense and settlement of

the IP Claim to Magnet Forensics; and (iii) provide reasonable cooperation to Magnet Forensics and, at Magnet Forensics' request and expense, assistance in the defense or settlement of the IP Claim ("Your Indemnification Obligations") and Magnet Forensics shall not be liable to the extent an IP Claim, or portion thereof, is attributable to Your breach of Your Indemnification Obligations. In the event of an IP Claim, Magnet Forensics may, at its option and expense: (a) obtain for You the right to continue to use the Product; (b) substitute a substantially equivalent non-infringing product; (c) modify the Product to make it non-infringing; or if (a), (b), and (c) are not commercially feasible, then (d) terminate Your license and require that You no longer access and use the Product. If Your license is terminated, You must return or destroy the Product and within 30 days of receipt of all of the Product or certification of destruction thereof, Magnet Forensics shall refund You x) a prorated amount of any unused prepaid license fees if You purchased a Term License; or y) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License. The indemnity obligations under this clause do not extend to Claims arising from or relating to: (aa) any modification to the Product or use in combination with any equipment, software, data or any other materials not authorized by Magnet Forensics where the infringement would not have occurred but for such activity; (bb) use of the Product by You in a manner contrary to the terms of this Agreement where the infringement would not have occurred but for such use; (cc) the continued use of the infringing Product after Magnet Forensics has provided substantially equivalent non-infringing software, a non-infringing modification of the Product, or terminated Your license in accordance with this Agreement; or (dd) custom Product developed at Your request while utilizing Your specifications. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS CLAUSE STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF MAGNET FORENSICS AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

- 9.3 Mutual General Indemnity. Each party will defend and hold harmless the other from and against any Claim arising from any of the following: (a) gross negligence, willful misconduct, fraudulent misrepresentation and fraud by a party; (b) bodily injury or death caused by a party; and (c) breach of confidentiality obligations.

## **10 Term and Termination**

- 10.1 Term of Agreement. This Agreement shall survive for one (1) year after the termination or expiry of Your License Term.
- 10.2 Termination for Convenience. You may terminate this Agreement and Your license for Software at any time upon written notice to Magnet Forensics but You will not be entitled to any refund.
- 10.3 Termination for Breach. Either party may terminate this Agreement and any License Term immediately upon notice to the other if: (a) the other party materially breaches a material term or condition of this Agreement which breach remains unremedied for thirty (30) days following written notice thereof by the other party, or immediately if such breach is not capable of remedy; (b) the other party becomes involved in any legal proceeding concerning its solvency, commences liquidation proceedings, has a receiver or administrator appointed for any of its assets, ceases or threatens to cease operations, or otherwise has a serious and reasonable doubt arise respecting its solvency; or (c) if Magnet Forensics determines in its sole discretion that licensing the Product to You would violate applicable laws. If Your License Term is terminated due to breach by Magnet Forensics under (a) above, where Magnet Forensics is the relevant party under (b) above, or by Magnet Forensics in accordance with (c) above, Magnet Forensics shall refund You: (i) a prorated amount of any unused prepaid License fees if You purchased a Term License; or (ii) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 10.4 Termination/Expiry Obligation. Upon termination or expiry of this Agreement, and, if earlier, termination or expiry of a Term License, free trial or any Beta Period, You shall immediately cease all use and access of the Software and destroy or permanently delete all copies of the Software in Your possession along with any Documentation delivered to You or derivative works made therefrom.

- 10.5 Request for Information for Compliance. Upon request of Magnet Forensics, You agree to provide reasonable information on a timely basis to confirm Your compliance with the license rights and restrictions to the Product. Your failure to comply with this Section 10.5 will be deemed to be a material breach of this Agreement.

## **11 Compliance with Export Laws and Ethical Conduct**

- 11.1 You shall not export any Product, Documentation, or Confidential Information unless You comply with all applicable international trade laws (“ITR”). Further, You warrant (a) You are not now and have never been on any Restricted Party List or any sanctions list in the countries in which You conduct business; and (b) You understand and abide by ITR laws administered by the country in which You conducts business. You agree not to engage in any action in any way that would cause Magnet Forensics to violate ITR laws of the country in which it conducts business, including providing Magnet Forensics Product, Documentation, or Confidential Information to any person in any country subject to comprehensive sanctions by the U.S., Canada, the UK, EU, the EU member state and Singapore or any person on a Restricted Party List. You agree to indemnify Magnet Forensics to the extent Your actions or inactions have caused Magnet Forensics to violate ITR laws and the ITR of the country in which it conducts business. You agree to maintain a sanctions compliance policy and controls to ensure compliance with the applicable economic sanctions and upon request provide a Magnet Forensics with a copy of such policy.
- 11.2 If the Software is being licensed by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then, as a commercial item, the Government’s rights in the Software will be only as set forth: (a) in this Agreement; or (b) as provided in FAR 12.212 (Computer Software) and (for Department of Defense use or disclosure) DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), whichever set of rights provided in (a) or (b) are the more restrictive.
- 11.3 Throughout Your use of the Product, You agree to comply with the Magnet Forensics Business Code of Conduct found at <https://www.magnetforensics.com/legal>. Failure to comply with the Business Code of Conduct may result in the suspension or termination of access to the Software, as outlined in this Agreement.

## **12 Magnet Forensics Entity, Governing Law**

- 12.1 “Magnet Forensics” means:
- a) Where Your “Bill To” address identified on the Quotation is in Canada, Magnet Forensics Inc., with an office at 2220 University Avenue East, Suite 300, Waterloo, Ontario, Canada N2K 0A8.
  - b) Where Your “Bill To” address identified on the Quotation is in France, Magnet Forensics SA, with an office at c/o WeWork 33 Rue La Fayette Paris, France 75009.
  - c) Where Your “Bill To” address identified on the Quotation is in Germany, Magnet Forensics GmbH, with a registered office at c/o Eversheds Sutherland (Services) GmbH, Brienner Strabe 12, 80333 Munich, Germany.
  - d) Where Your “Bill To” address identified on the Quotation is anywhere other than in Canada, France, and Germany, Magnet Forensics, LLC, with an office at c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.
- 12.2 Governing Law. This Agreement is governed by and construed under, excluding any body of law governing conflicts of laws, the laws of: (a) England, where Your “Bill To” address identified on the Quotation is in Europe, Greenland or the UK; Ontario, Canada, where Your “Bill To” address identified on the Quotation is in Canada, or (c) Delaware, U.S., where Your “Bill To” address identified on the Quotation is anywhere else. You irrevocably waive any objection on the grounds of venue, forum non-conveniens or



## END USER LICENSE AGREEMENT

any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

### 13 General Provisions

- 13.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, promises, assurances, warranties, representations, and understandings relating to the subject matter hereof. Your additional or different terms and conditions, whether on Your purchase order or otherwise, shall not apply.
- 13.2 Force Majeure. Neither party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations.
- 13.3 Waiver. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.
- 13.4 Notices. Any notices, reports or other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail, courier, facsimile or electronic mail. For notices to You, Magnet Forensics shall send such notice to Your "Bill To" Address. For notice to Magnet Forensics, You shall send such notice to Attn: Legal Department, Magnet Forensics, with an office at 300 Colonial Center Pkwy, Suite 130, Roswell, GA 30076, United States.
- 13.5 Assignment. You shall not assign or transfer this Agreement (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control) without the prior written consent of Magnet Forensics, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties hereto and their respective lawful successors and permitted assigns. Any purported assignment in violation of this Section 13.5 shall be null and void.
- 13.6 Survival. Section 6 (Confidentiality), Section 8 (Limitation of Liability), Section 9 (Indemnification), and any other provision of this Agreement which by its nature would survive the termination or expiration of this Agreement shall do so.
- 13.7 Electronic Execution. The parties agree to the use of electronic communication in order to enter into this Agreement, Quotations, purchase orders and any other notices or records. You hereby waive any rights or requirements under any laws in any jurisdiction which require an original, non-electronic signature or delivery or retention of non-electronic records, to the extent permitted under applicable law.
- 13.8 Invalidity. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement shall continue in full force and effect.

**END OF AGREEMENT**



**Schedule A – Licensed Rights for All Products****1 Definitions.**

- 1.1 **“Case License”** means the Software is subject to a license fee that is based on granting access to the Software for a single source (i.e. single hard drive or image file).
- 1.2 **“CLS License” or “LLS License”** means the Software is subject to a license fee that is calculated based on the number of concurrent usage virtual license Keys identified in the Quotation as available at any one time to be downloaded by Users. CLS (Cloud License Server) virtual license Keys are hosted in an online, cloud-based environment whereas LLS (Local License Server) virtual license Keys are hosted on Your premises.
- 1.3 **“Dongle”** means a USB device provisioned with the Software.
- 1.4 **“Dongle License”** means the Software is subject to a license fee that is calculated per Dongle.
- 1.5 **“Enterprise License”** means the Software is subject to a license fee that is calculated based on a maximum number of Software installs and/or concurrent Users as set out in the Quotation.
- 1.6 **“Instance”** means a copy of the Software that a User is authorized to use. The maximum number of Instances per User are stated in the Quotation.
- 1.7 **“Key”** means the license key provided to You by Magnet Forensics to permit access to and use of the Software to a User.
- 1.8 **“Machine”** means each hardware machine or hardware unit on which the Software is used.
- 1.9 **“Machine License”** means the Software is subject to a license fee that is calculated per Machine.

**2 License Grant.** Magnet Forensics hereby grants to You a limited, non-exclusive, revocable, non-transferable, non-sublicensable license to use the Software on Your internal business networks for the number of Users, installs, and/or Instances and License Term indicated in Your Quotation in accordance with the terms set forth in this Agreement and the Documentation. Your license only permits you to possess and use the Software in object code form. For certainty: (a) academic licenses are granted for academic, non-commercial use only; (b) licenses for Magnet AUTOMATE products are licensed on a per ‘control node’ and ‘agent node’ basis; (c) Machine Licenses are solely permitted for use of the Software on the Machine on which such Software is first installed and by the original User; and (d) Dongle Licenses are for use on Machines only (and not for use in cloud or other virtual environments), and cannot be shared between individual Users. For further certainty: (i) Enterprise Licenses, CLS Licenses and LLS Licenses allow for concurrent Users of the Software as indicated in Your Quotation; and (ii) a unique key code is issued for a Case License tied to the original single source, with requirements for additional single sources requiring an add-on purchase. It is Your responsibility to fully comply with all applicable laws in using and handling the Software and any additional third-party license terms applicable to Third Party Software.

**3 Restrictions.** You shall not and shall ensure that Users shall not:

- 3.2 copy, reproduce, or modify the Product or any part thereof, including, but not limited to, combining with other software or hardware other than as authorized by Magnet Forensics in writing;
- 3.3 enhance, improve, alter, create derivative works, reverse engineer, disassemble, deconstruct, impair, translate, decrypt, reverse compile or convert into human readable form the Software or any part thereof;
- 3.4 distribute, lend, assign, license, sublicense, lease, pledge, rent, transfer, sell or otherwise provide access to the Software, in whole or in part, to any third party;
- 3.5 use any Product on a time sharing, service bureau, application services provider (ASP), rental or other similar basis;

- 3.6 remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Software;
- 3.7 circumvent or disable copyright protection mechanisms or license management mechanisms;
- 3.8 photograph or record any of the Product's components, whether internal, external or as digitally displayed;
- 3.9 use the Product to provide services to third parties (including technical or training services), or otherwise publicly display or market the Software, for the purposes of Your commercial gain;
- 3.10 use the Product in conjunction with other software or hardware, except as authorized in writing by Magnet Forensics;
- 3.11 use the Product in any unlawful manner or to violate any rights of a third party; or
- 3.12 authorise, permit or otherwise acquiesce in any other party engaging in any of the activities set forth in 1.3.1 – 1.3.6 above, or attempting to do so.

For the purposes of this provision "copy" and "reproduce" shall not include: (A) making additional copies of the Software for Your own use, as long as only one copy may be used at any one time in accordance with the Documentation; or (B) making one back-up copy of the Software.

- 4 Restrictions Applicable to Consultant Licenses.** Notwithstanding Section 1.3.8, if Your license is identified in a Quotation as a "consultant license", You may use the Software in relation to Your provision of forensic analysis services to a third party for commercial gain, subject to Your compliance with all other terms of this Agreement and the payment of all applicable fees, provided that the following additional restrictions shall apply:
  - 4.2 You shall be solely responsible for Your services, including any use or operation of the Software (both separately or in combination with any other software), to provide such services, and, as Magnet Forensics expressly disclaims all liability for any claims, losses or damages relating to Your services, You agree to indemnify Magnet Forensics against all such claims, losses and damages;
  - 4.3 You shall not permit Your customers to use the Software (with the exception of using the Portable Case functionality);
  - 4.4 You shall not use the Software to provide digital forensics training to third parties (including instructions on how to use the Software), unless You have first obtained Magnet Forensics' express written permission;
  - 4.5 You shall not, whether in an agreement for Your services or otherwise, in any way modify, negate or override any terms and conditions of the protections afforded to Magnet Forensics under this Agreement;
  - 4.6 You shall not engage in deceptive, misleading, illegal or unethical practices that might reasonably be detrimental to Magnet Forensics or its products or services;
  - 4.7 You shall not make any representations, warranties or guarantees about Magnet Forensics or its products and services except as expressly set out in this Agreement; and
  - 4.8 where You wish to publicize, market or otherwise promote the use of the Software in Your services, You must do so in a manner consistent with Magnet Forensics' External Marketing Policy (located at [https://www.magnetforensics.com/wp-content/uploads/2022/11/MagnetForensics\\_BrandGuidelines.pdf](https://www.magnetforensics.com/wp-content/uploads/2022/11/MagnetForensics_BrandGuidelines.pdf)) and any other marketing and trademark requirements set out by Magnet Forensics from time to time. Any use of Magnet Forensics' Trademarks shall remain unchanged and give legal notice of such trademark status.
- 5 Beta Software.** If You have requested use of or have access to Software or features that are identified by Magnet Forensics as pre-commercial, preview release, evaluation, pilot, "alpha", or "beta" software ("Beta Software"), the license rights set out above with respect to Your use of such Beta Software apply



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only to the extent necessary to enable You and the Users to test and provide Feedback to Magnet Forensics regarding the Beta Software. You acknowledge and agree that Magnet Forensics may terminate Your use of Beta Software at any time and may include technical measures in the Beta Software that renders it inoperable and You agree that You will not circumvent such technical measures. You further acknowledge and agree that the Beta Software is provided “AS IS” with none of the representations, warranties, or indemnities provided in the Agreement. In consideration of the grant of license for the Beta Software, You agree that You will provide Magnet Forensics with Feedback on Beta Software as Magnet Forensics reasonably requests without any compensation.

- 6 Trial Licenses.** If Your License is indicated as a Trial License on the Quotation (“Trial License”), the license rights set out above with respect to Your use of such Trial License apply only for the time period authorised by Magnet Forensics (“Trial Period”) and solely to the extent necessary to enable You and the Users to test the Product in order to identify if the Product is suitable for purchase from Magnet Forensics. Additionally, the Product underlying the Trial License or delivered to you as a Free Tool is provided “AS IS” with none of the representations, warranties or indemnities provided in the Agreement. Notwithstanding the Trial Period, Magnet Forensics may terminate Your Trial License at any time and require that You cease using the Software.



**Schedule B – Additional VeraKey Terms and Conditions****1 Definitions.**

- 1.1 **“Authorized Country”** means a country in which Magnet Forensics has authorized use of the VeraKey as set out in the Documentation.
- 1.2 **“Authorized User(s)”** means employees who are authorized by You to access or use the Product and Software. You agree to limit the number of Authorized Users to those employees who perform extractions in the normal course of their employment.
- 1.3 **“Authorized Device”** means mobile devices (a) owned and controlled by you; (b) if you are retained to perform an Investigation by a third party, owned by such third party; or (c) owned by an individual that has expressly, voluntarily, and specifically authorized you in writing, without coercion or threat of reprisal, to perform an Extraction of their mobile device.
- 1.4 **“Extraction”** means the use of the Product to extract data from an Authorized Device.

**2 License Restrictions.** If You are licensing the VeraKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 You may only use the VeraKey Product in an Authorized Country for Extractions on Authorized Devices in aid of an official investigation of corporate malfeasance including (a) fraud, (b) bribery, (c) theft, (d) antitrust violation, (e) sabotage, (f) breach of confidentiality obligations, (g) securities violation, (h) IP infringement or misappropriation of intellectual property, (i) as part of or in response to an official government investigation or request for product of documentation (FDA, SEC, FTC, OSHA, etc.), (j) as part of a legally compelled production of documents by a court of competent jurisdiction, (k) in defense of a criminal charge filed in a court of competent jurisdiction, where such investigation is made in response to an official complaint supported by reasonable evidence (each, an “Investigation”) and for no other purpose (“Authorized Extraction(s)”). You agree not to use the Product to screen, audit, spot-check, or otherwise discover instances of corporate malfeasance or violation of corporate policy. Prior to performing an Extraction, Magnet Forensics may require that you or your Authorized User(s) certify that the contemplated Extraction meets the above definition of an Authorized Extraction. You warrant that any certification materials submitted as part of Your Authorized Extraction certification responsibilities are true and correct in all material respects.
- 2.2 To the extent legally practicable, Authorized Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Authorized Devices.
- 2.3 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.4 You agree to designate an employee with senior management and oversight responsibilities within your organization to act as Your “Primary Authorized User.” The Primary Authorized User will be notified each time an extraction is performed on the device and shall supervise use and security of the Product and Software. You agree to require the Primary Authorized User, as part of their employment obligations, to monitor the use of and ensure the security of the Product. The Primary Authorized User is not permitted to perform Extractions. You shall notify Magnet Forensics in writing the name and user information associated with the Primary Authorized User, and within thirty (30)

calendar days following a change of the Primary Authorized User's employment status such that the Primary Authorized User ceases to be tasked by the Licensee to oversee the use and security of the Product and Software.

- 2.5 You will conduct, at your expense, background checks on your employees (including but not limited to Authorized Users) and those of your agents and subcontractors who will have access (whether physical, remote, or otherwise) to Magnet Products or Software. You will not permit your employees, agents, or an (including the personnel of any of its agents or subcontractors) that have been convicted of a felony crime or has agreed to or entered into a pretrial diversion or similar program in connection with a felony crime to have access to: (a) Magnet Forensics Confidential Information; (b) the secure environment in which the Product is stored; (c) the Product, the Software, or any associated materials.
- 2.6 You covenant and agree to keep the Product in a physically secure environment at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.7 Magnet Forensics may use third-party monitoring tools to ensure that You comply with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

**3 Warranty Disclaimer.** Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that the Authorized Device may become damaged and/or Authorized Device data may be unrecoverable when used with the Product or Software, in particular for Authorized Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Authorized Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on an Authorized Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.

#### **4 Violations of License Restrictions.**

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule B.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

**5 Heightened Confidentiality Obligations.** The VeraKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the VeraKey Product (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein,



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at all times exercising the highest duty of care. Receiving Party agrees to restrict access to VeraKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the VeraKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

- 6 Excess Use of Licenses.** If You use the Product in excess of the license quantities or levels stated in Your Quote, Magnet Forensics reserves the right to invoice You for such excess use based on the then current list price of the minimum add-on package required to bring Your use into compliance and you agree to pay such invoice in accordance with Section 3 of the Agreement.

**Schedule C – Additional GrayKey Terms and Conditions****1 Definitions.**

- 1.2 “**Authorized Location**” means the authorized physical locations specified in the Quotation or that Licensee has otherwise registered with Magnet Forensics and that Magnet Forensics has approved in writing.
- 1.3 “**Authorized User(s)**” means collectively, employees, agents or contractors who are authorized by You to access or use the Product and Software.
- 1.4 “**Device**” means a mobile device.
- 1.5 “**Extraction**” means the use of the Product to extract data from a Device.

**2 License Restrictions.** If You are licensing the GrayKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.2 To the extent legally practicable, Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Devices.
- 2.3 If Your use of the Product is restricted to the Authorized Location identified in Your Quotation, You covenant and agree to keep the Product in a physically secure environment within the Authorized Location at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.4 Magnet Forensics may use third-party monitoring tools to ensure that You are in compliance with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

**3 Warranty Disclaimer.** Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that a Device may become damaged and/or Device data may be unrecoverable when used with the Product or Software, in particular for Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on a Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.



**4 Violations of License Restrictions.**

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule C.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

**5 Heightened Confidentiality Obligations.** The GrayKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the GrayKey Products (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein, at all times exercising the highest duty of care. Receiving Party agrees to restrict access to GrayKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the GrayKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

# MAGNET AXIOM™

## Recover & Analyze Your Evidence in One Case

Examine digital evidence from mobile, cloud, computer, and vehicle sources, alongside third-party extractions all in one case file. Use powerful and intuitive analytical tools to automatically surface case-relevant evidence quickly.

Magnet AXIOM is purpose-built to recover, process, and analyze digital evidence from a variety of sources regardless of whether you use AXIOM or third-party tools to acquire your data.



### MOBILE

Process and analyze iOS and Android extractions, with direct GrayKey integration and support for third-party tools like UFED, Oxygen, and more.



### COMPUTER

Recover evidence from Windows, Mac, Chrome, and Linux devices. Analyze RAM, browser history, deleted files, and more.



### CLOUD

Analyze data from warrant returns, user-generated archives, live cloud services, and open-sources (OSINT) with artifact support.



### VEHICLE

Analyze vehicle data with support for Berla iVe extractions and dedicated artifacts. Easily plot geolocation data on the World Map.

### ARTIFACT SUPPORT

Dedicated artifact support provided for the most popular and relevant sources. All your sources, in one case file.



# MAGNET AXIOM™

The advanced parsing and carving techniques of Magnet AXIOM get the most data from each evidence source. Magnet AXIOM is designed to surface relevant data for your investigation. Plus, built-in analytics tools automatically generate insights that could lead to important breakthroughs in your examinations.

## AUTOMATICALLY SURFACE MORE EVIDENCE WITH ANALYTICS TOOLS

### Media Explorer

Filter out icons and non-relevant images with Magnet.AI. Hitstack similar images, add hash sets, and automatically grade and blur CSAM.

### Connections

Quickly piece together how artifacts, people, or even devices relate to each other. Find and visualize data across your sources.

### Timeline

Timeline does the heavy lifting so you can rapidly learn and validate what happened leading up to or following an incident.

### Cloud Insights Dashboard

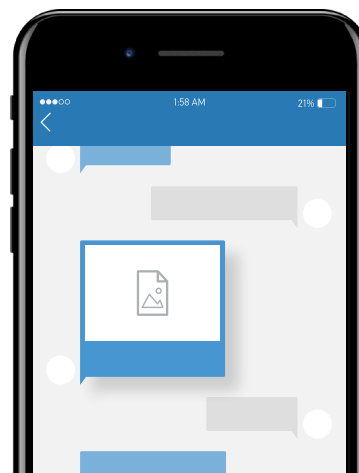
Cloud account information is automatically surfaced in the Cloud Insights Dashboard, uncovering new sources of evidence.

## PURPOSE-BUILT REPORTING AND CASE SHARING

Magnet AXIOM offers flexible export options, including portable case, enabling you to choose and share the data that is most relevant to your case. Plus, you can improve the efficiency and consistency of reporting agency-wide with export templates.

## TRY MAGNET AXIOM FOR FREE

Get a 30-day trial of Magnet AXIOM and see for yourself how it can help you find the evidence that matters, faster.



Learn more at [magnetaxiom.com](https://magnetaxiom.com)

Book a demo today, call us at 1-844-638-7884 or email [sales@magnetforensics.com](mailto:sales@magnetforensics.com)



Ship To

TOWN OF APEX  
POLICE DEPARTMENT  
205 SAUNDERS ST  
APEX, NC 27502

Bill To

TOWN OF APEX  
ACCOUNTS PAYABLE  
PO BOX 250  
APEX, NC 27502

**Purchase Order**

No. 2023-00000619

DATE 12/20/2022

VENDOR NO. 6684

Vendor

MAGNET FORENSICS USA, INC  
PO BOX 83283  
CHICAGO, IL 60691-0283



PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, SHIPPERS, BILL OF LADING AND CORRESPONDENCE

**DELIVER BY  
FREIGHT TERMS**

PAGE 1 of 1

**ORIGINATOR:** Steve Maynard

REFERENCE #

QTY	UNIT	DESCRIPTION	VENDOR PART #	UNIT COST	TOTAL COST
1.0000	Each	Computer Software/Supply - Magnet AXIOM Term (12 month) 10-5100 44509 - Software License & Maintenance 5,410.00	6AZ03-1	5,410.0000	\$5,410.00
1.0000	Each	Freight / Misc. Order Charges 10-5100 44509 - Software License & Maintenance 25.00		25.0000	\$25.00

Purchase Order terms and conditions: <http://www.apexnc.org/terms>.

SUBTOTAL \$5,435.00

SALES TAX \$0.00

TOTAL DUE \$5,435.00

Special Instructions

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT. Purchased by Steve Maynard



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 3.431 acres, located at 1075 South Hughes Street, Chick-Fil-A, Annexation No. 773 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

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

### Attachments

- CN2-A1: Resolution Directing the Town Clerk to Investigate Petition
  - Certificate of Sufficiency by the Town Clerk
  - Resolution Setting Date of Public Hearing
- CN2-A2: Legal Description - Annexation No. 773
- CN2-A3: Aerial Map - Annexation No. 773
- CN2-A4: Plat Map - Annexation No. 773
- CN2-A5: Annexation Petition - Annexation No. 773





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

Annexation Petition No. 773  
1075 South Hughes Street – Chick-Fil-A – 3.431 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 13th day of February, 2024.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition No. 773  
1075 South Hughes Street – Chick-Fil-A – 3.431 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 13th day of February, 2024.

\_\_\_\_\_  
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. 773  
1075 South Hughes Street – Chick-Fil-A – 3.431 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 27th day of February, 2024.

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 13th day of February, 2024.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Allen L. Coleman, Town Clerk

Attachment: Legal Description

### 3.431 ACRE ANNEXATION TRACT

Beginning at a concrete monument being located at the right of way intersection of the north right of way of South Hughes St. and the east right or way of Apex Peakway having NC. Grid coordinates of N: 715,811.3829 and E: 2,046,204.7261; thence along Apex Peakway N 22°16'40" W for 98.98 feet to a concrete monument; thence along a curve concave to the east having a radius of 918.64 feet, an arc of 460.89 feet and a chord of N 26°08'51" E for 456.07 feet to an iron pin; thence leaving said right of way and following the common line of Hack (TMS. 0741667003) the following: S 48°37'44" E for 155.15 feet; S 48°37'44" E for 16.52 feet; S 20°56'20" W for 74.11 feet; S 00°51'32" E for 44.60 feet; S 44°40'45" E for 51.58 feet; S 56°34'25" E for 27.28 feet; S 54°45'40" E for 28.16 feet; S 49°43'03" E for 105.93 feet; S 48°11'50" W for 159.84 feet; S 14°42'36" W for 78.39 feet; S 30°17'24" E for 42.43 feet to an iron pin located on the north right of way of South Hughes St.; thence along Hughes St. N 75°18'24" W for 322.21 feet to the Point of Beginning. Said tract contains 3.431 or 149,467 square feet more or less







Line Table		
Line #	Length	Direction
L1	98.98	N22°16'40"W
L4	55.16	S21°55'44"W
L5	125.01	N14°44'12"E
L6	125.03	N75°14'20"W
L7	125.04	S14°42'36"W
L8	155.15	S48°37'44"E
L9	16.52	S48°37'44"E
L10	74.11	S20°56'20"W
L11	44.60	S0°51'32"E
L12	51.58	S44°40'45"E
L13	27.28	S56°34'25"E
L14	28.16	S54°45'40"E
L15	105.93	S49°43'03"E
L16	159.84	S48°11'50"W
L17	78.39	S14°42'36"W
L18	42.43	S30°17'24"E
L19	83.77	N50°12'55"E
L20	34.93	N52°22'40"E
L21	75.38	S62°50'35"E

SITE DATA TABLE:	
PART TMS # 0741665093	ZONED: PUD-CZ (#08CZ14)
147,507 SQ.FT.	3.386 ACRES
SETBACK: 5' FROM BUFFER	
PART TMS # 0741665093	ZONED: PUD-CZ (#08CZ14)
269,664 SQ.FT.	6.191 ACRES
SETBACK: 5' FROM BUFFER	

**ZONING INFORMATION:**  
ZONED: PUD-CZ (#08CZ14)

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	460.89	918.64	28°44'45"	S26°06'51"W	456.07
C2	12.94	918.64	0°48'25"	S40°55'26"W	12.94
C3	16.76	734.38	1°18'27"	N47°40'52"E	16.76
C4	156.14	2212.57	4°02'36"	S50°21'23"W	156.11

**SURVEYOR'S NOTES:**

1.) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF NORTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. THIS PROPERTY IS NOT LOCATED WITHIN A DESIGNATED FLOOD HAZARD AREA.

2.) ZONING PROVIDED BY THE APPROPRIATE GOVERNMENTAL AGENCY: TO BE USED FOR INFORMATIONAL PURPOSES ONLY.

3.) THE WORDS "CERTIFY", "CERTIFIES" OR "CERTIFICATION" AS USED HEREIN ARE UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR, BASED UPON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SUCH, DO NOT CONSTITUTE A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.

**FLOOD INFORMATION:**

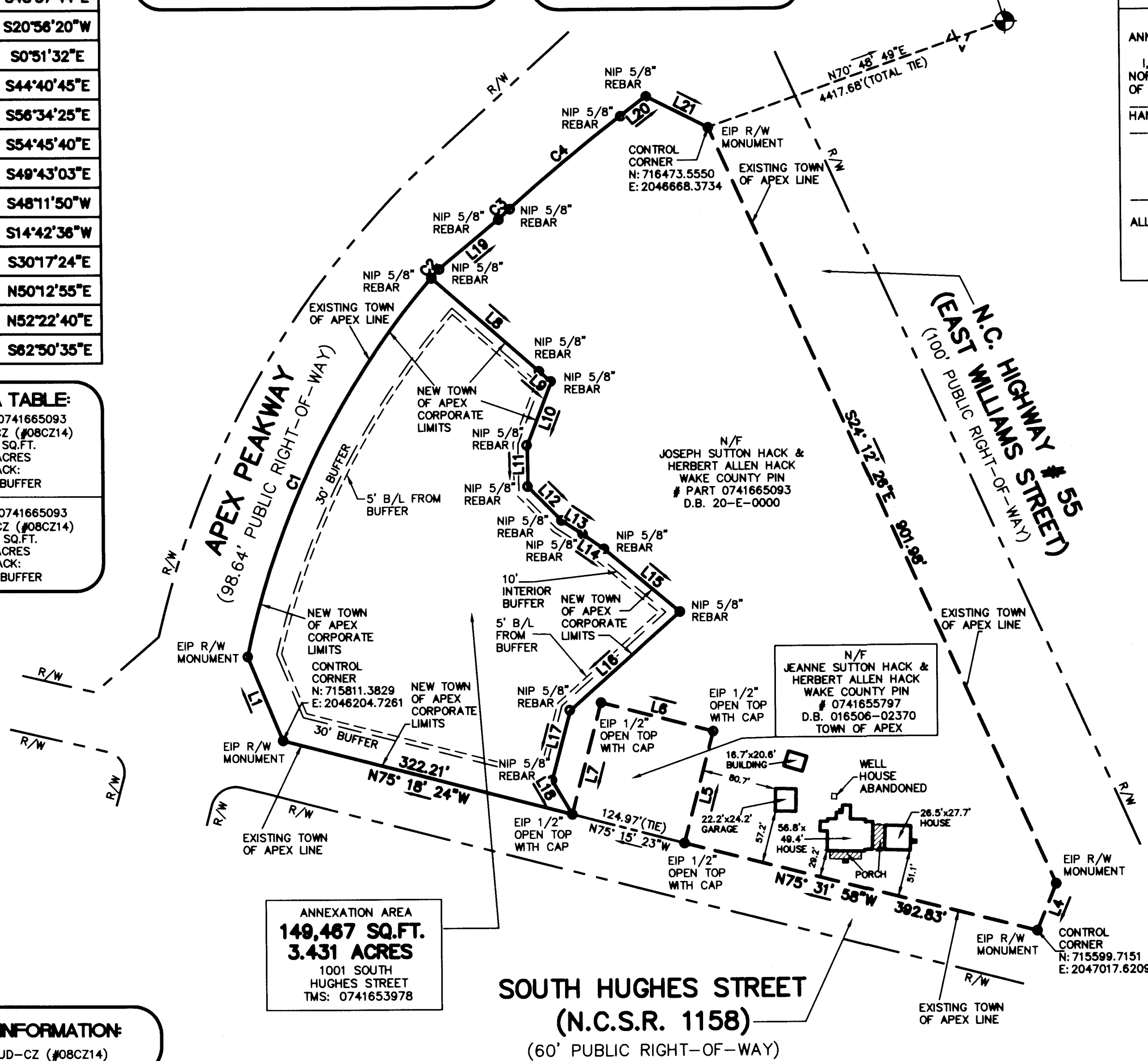
THIS PROPERTY IS LOCATED IN FLOOD ZONE "X"

PER NFIP FIRM COMMUNITY PANEL NO. 3720074100J EFFECTIVE DATE: 5-2-2006.

**LEGEND:**

- NIP NEW IRON PIN (5/8" REBAR)
- EIP EXISTING IRON PIN
- R/W RIGHT-OF-WAY

MONUMENT "VIOLET"  
N: 717925.4000  
E: 2050840.6700



ANNEXATION AREA  
**149,467 SQ.FT.**  
**3.431 ACRES**  
1001 SOUTH HUGHES STREET  
TMS: 0741653978

**SOUTH HUGHES STREET (N.C.S.R. 1158)**  
(60' PUBLIC RIGHT-OF-WAY)

PROPERTY INFORMATION		REASON(S) FOR ANNEXATION (SELECT ALL THAT APPLY)	
TOTAL ACREAGE TO BE ANNEXED: <u>3.386</u>	NEED WATER SERVICE DUE TO WELL FAILURE	<input type="checkbox"/>	
POPULATION OF ACREAGE TO BE ANNEXED: <u>0</u>	NEED SEWER SERVICE DUE TO SEPTIC SYSTEM FAILURE	<input type="checkbox"/>	
EXISTING # OF HOUSING UNITS: <u>1</u>	WATER CONSTRUCTION (NEW CONSTRUCTION)	<input checked="" type="checkbox"/>	
PROPOSED # OF HOUSING UNITS: <u>1</u>	SEWER SERVICE (NEW CONSTRUCTION)	<input checked="" type="checkbox"/>	
ZONING DISTRICT #: <u>PUD-CZ</u>	RECEIVE TOWN SERVICES	<input checked="" type="checkbox"/>	

**CERTIFICATE OF SURVEY AND ACCURACY:**

I, JAMES R. FREELAND, certify that this plat was drawn under my supervision from an actual survey made under my supervision, (deed description recorded in Book 16506, page 2370) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book N/A, page N/A; that the ratio of precision or positional accuracy as calculated is 10,000; that this plat was prepared in accordance with N.C.G.S. 547-30(f)(11) as amended. Witness my original signature, license number and seal this 26th day of January, A.D., 2024.

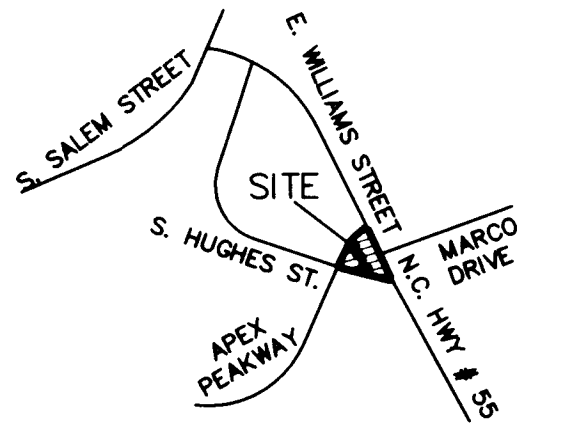
Seal or Stamp  
Professional Land Surveyor  
License No. L2836

ANNEXATION #  
I, ALLEN COLEMAN, CMC, NCCCC, 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, NCCCC, TOWN CLERK  
-SEAL-

**SETBACKS:**

- SOUTH HUGHES STREET: 5' FROM ESTABLISHED BUFFER
- APEX PEAKWAY: 5' FROM ESTABLISHED BUFFER
- UNDIST. PERIMETER: 10' FROM ESTABLISHED BUFFER
- DIST. PERIMETER: 5' FROM ESTABLISHED BUFFER
- INTERNAL PL: 0'



VICINITY MAP (NOT TO SCALE)

**ANNEXATION AREA:**  
**149,467 SQ.FT.**  
**3.431 ACRES**

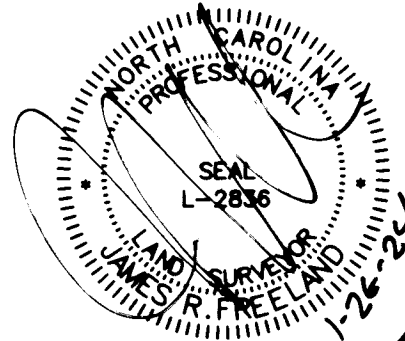
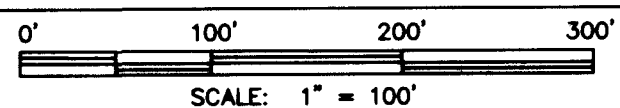
**OWNER INFORMATION:**  
JOSEPH SUTTON HACK & HERBERT ALLEN HACK  
1340 HARDING PLACE  
CHARLOTTE, NC 28204  
(704) 405-9400  
jirvin@cp-nc.com; lchillers@cp-nc.com

**BASIS OF BEARINGS:**  
BASIS OF BEARINGS BASED ON GPS "RTK" OBSERVATION OF NCGS MONUMENT "VIOLET" NAD 83 (2007) - NAVD 88



FREELAND & ASSOCIATES, INC.  
323 WEST STONE AVE.  
GREENVILLE S.C. 29609  
TEL. (864) 271-4924 FAX: (864) 233-0315  
EMAIL: info@freeland-associates.com

DRAWN: CF	PARTY CHIEF: CJ	CHECKED: JCC
REF. PLAT BOOK: BM2008-535 & BM 2023-1927		
REF. DEED BOOK: 16506-2370		
WAKE COUNTY PIN: 0741665093 & BM2007 PG2419		
DATE OF SURVEY: 8-9-2023		
DATE DRAWN: 11-14-2023		
DRAWING NO: 77488-ANNEXATION		
DATE OF LAST REVISION:		



PLS: JAMES R. FREELAND  
NO: L2836  
COA: C-0478

STATE OF NORTH CAROLINA  
TOWN OF APEX  
WHITE OAK TOWNSHIP  
WAKE COUNTY

**ANNEXATION MAP FOR THE TOWN OF APEX**

SITE ADDRESS:  
1001 SOUTH HUGHES STREET  
APEX, NC 27502

# 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

Hack, Herbert Allen

Owner Name (Please Print)

704-405-9400

Phone

Hack, Joseph Sutton

Owner Name (Please Print)

704-405-9400

Phone

0741653978

Property PIN or Deed Book & Page #

jhack2018@gmail.com

E-mail Address

0741653978

Property PIN or Deed Book & Page #

jhack2018@gmail.com

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

## SURVEYOR INFORMATION

Surveyor: Freeland & Associates, Inc.

Phone: 864-271-4924

Fax: \_\_\_\_\_

E-mail Address: jclark@freelandsc.com

## ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>3.431</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>0</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>1</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 #: NN 2023-023

Submittal Date: 11/20/23

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Herbert Allen Hack \_\_\_\_\_

Please Print

Herbert Allen Hack  
Signature

Joseph Sutton Hack \_\_\_\_\_

Please Print

Herbert Allen Hack  
Signature

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

Joseph Sutton Hack  
Signature

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

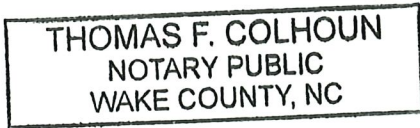
\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Thomas F. Colhoun, a Notary Public for the above State and County, this the 20 day of November, 2023.

Thomas F. Colhoun  
Notary Public

SEAL



My Commission Expires: Oct. 25, 2025

COMPLETE IF A CORPORATION:

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

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

SEAL

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

Attest:

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

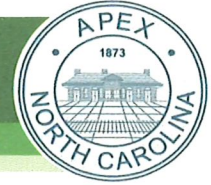
STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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: \_\_\_\_\_



**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:** [GEOCIVIX \(IDT Plans\)](#)

- 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 [GeoCivix](#).
- **REVIEW BY STAFF:** The Planning 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) 18"x24" Mylar annexation plats to the Planning Department 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 Planning Department, 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 Program Coordinator Jessica Sloan at 919-372-7478 or [jessica.sloan@apexnc.org](mailto:jessica.sloan@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

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: \_\_\_\_\_

**FOR APPLICANT USE ONLY**  
**PLEASE DO NOT INCLUDE THIS CHECKLIST WITH YOUR APPLICATION SUBMITTAL**

COMMON ACRONYMS/DEFINITIONS			
<a href="#">GeoCivix (IDT)</a>	Electronic Plan Review	<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			
Planning Department	(919) 249-3426	Water Resources (Utilities)	(919) 372-7478
Development Services	(919) 249-3394	Clerk’s Office	(919) 249-1260

#	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**  
 11/20/2023  
**COLLECTION STATION**  
 eSuites  
**RECEIVED FROM**  
 Lillie Childers  
**DESCRIPTION**  
 Annexation #773 Chick-fil-a (Broadstone) - 2023-00000023 online payment

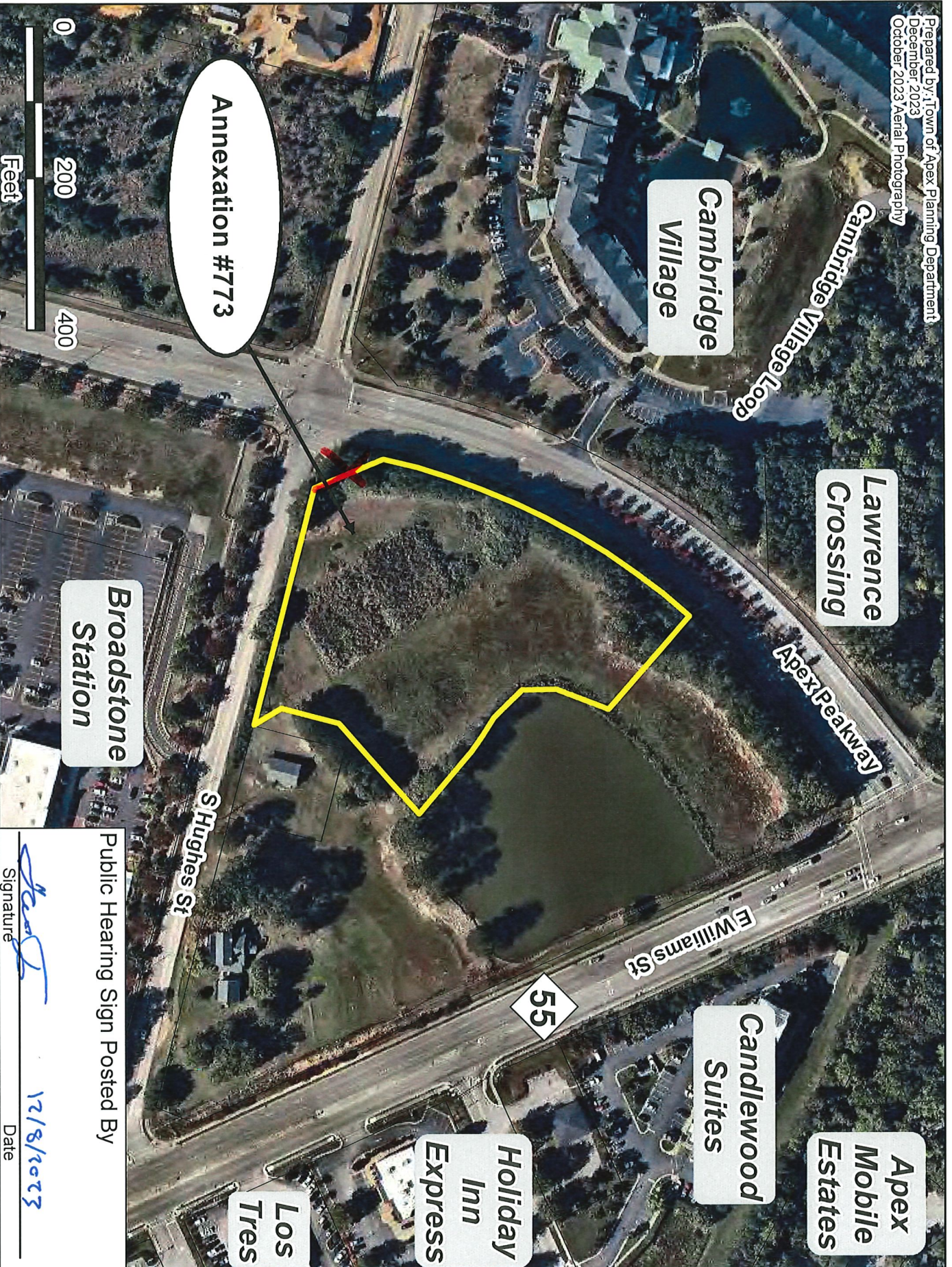
**TOWN OF APEX**  
 P O BOX 250  
 APEX, NC 27502  
 (919) 362-8676 - Utility Payments  
 (919) 249-3418 - Permits Only  
 (919) 249-3426 - Planning & Zoning Only

**BATCH NO.**  
 2024-00001378  
**RECEIPT NO.**  
 2024-00094127  
**CASHIER**  
 Lauren Sisson

PAYMENT CODE	RECEIPT DESCRIPTION	TRANSACTION AMOUNT						
PPC	PROJECT PLANNING CENTER FEES Annexation #773 Chick-fil-a (Broadstone) - 2023-00000023 online payment  <table border="1" data-bbox="451 674 1144 737"> <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>						

Customer Copy





Annexation #773

Cambridge Village

Cambridge Village Loop

Lawrence Crossing

Apex Parkway

E Williams St

55

Candlewood Suites

Apex Mobile Estates

Holiday Inn Express

Los Tres

Broadstone Station

Hughes St

Public Hearing Sign Posted By

*[Signature]*  
Signature

12/8/2023  
Date



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 2.80 acres, located at 1133 Twin Creek Road, Annexation No. 775 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 - Annexation No. 775
- CN3-A3: Aerial Map - Annexation No. 775
- CN3-A4: Plat Map - Annexation No. 775
- CN3-A5: Annexation Petition - Annexation No. 775





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

Annexation Petition No. 775  
1133 Twin Creek Road – 2.80 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 13th day of February, 2024.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk





CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition No. 775  
1133 Twin Creek Road – 2.80 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 13th day of February, 2024.

\_\_\_\_\_  
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. 775  
1133 Twin Creek Road – 2.80 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 27th day of February, 2024.

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 13th day of February, 2024.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Allen L. Coleman, Town Clerk

Attachment: Legal Description

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

Lying and being in Town of Apex ETJ, White Oak Township, Wake County, North Carolina, and described more fully as follows to wit:

BEGINNING at a point on or near the western right of way of NCSR 3028 (Twin Creek Road) bearing NAD 83 (2011) coordinate values of North 732,658.11 feet, East 2,041,535.89 feet by others (B.M. 2017, Pg. 1294); thence South 89° 16' 18" East, 30.00 feet to a point; thence South 00° 42' 41" West, 396.32 feet to a point; thence North 85° 03' 04" West, 94.63 feet to a point; thence North 58° 51' 31" West, 336.04 feet to a point; thence North 00° 46' 10" East, 219.25 feet to a point; thence South 89° 16' 18" East, 353.90 feet to the BEGINNING, containing 2.8 total acres more or less.

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

- Legend
- R/W - Right of Way
  - Pin - Parcel Identification Number
  - NCSR - North Carolina Secondary Road
  - 1133 - Street Address
  - Property Line (not surveyed)
  - Property Line (not surveyed)
  - Approximate Right of Way Line (not surveyed)
  - Easement (not surveyed)
  - Buffer (not surveyed)
  - Existing Town of Apex Corporate Limits (not surveyed)

**SURVEYOR NOTES:**

1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE COURSE OF THIS SURVEY.
2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
5. AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
6. CURRENT PROPERTY ZONING: RR (RURAL RESIDENTIAL).
7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY.
8. SUBJECT PROPERTY ADDRESS: 1133 TOWN CREEK ROAD, APEX, NC 27502

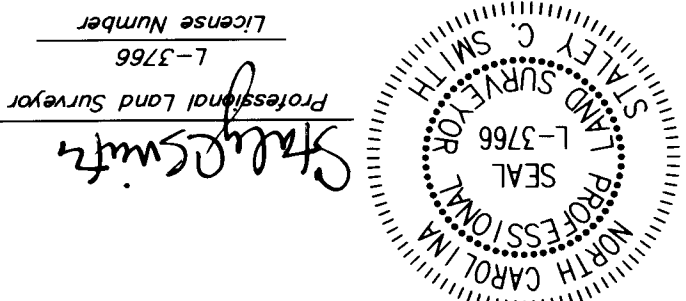
ANNEXATION #

ALLEN COLEMAN, CMC, NCCCO, TOWN CLERK

Apex, North Carolina

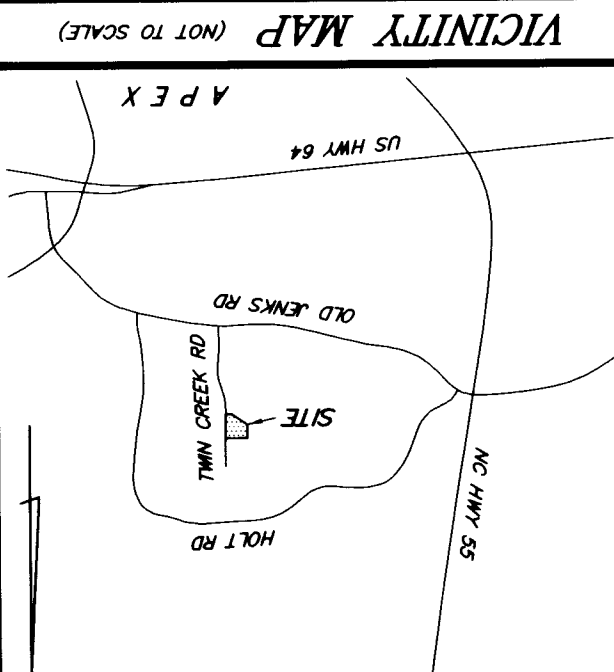
I, ALLEN COLEMAN, CMC, NCCCO, TOWN CLERK, certify this is a true and exact map of annexation adopted by the Town Council, I set my hand and seal of the Town of Apex, 2024.

ALLEN COLEMAN, CMC, NCCCO, TOWN CLERK



I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ASSISTANT SURVEYOR MADE UNDER MY SUPERVISION AS RECORDED IN DEED BOOK 6581, PAGE 436 DEED BOOK 16691, PAGE 2461 BOOK OF MAPS 2017, PAGE 85 THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 N.C.A.C. 56.1800) THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30(J). THIS 10TH DAY OF JANUARY, A.D., 2024.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL



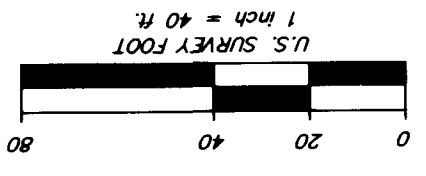
**ANNEXATION MAP for the TOWN OF APEX**

**KAREN R. NEWSOME**  
TOWN OF APEX ETJ, WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

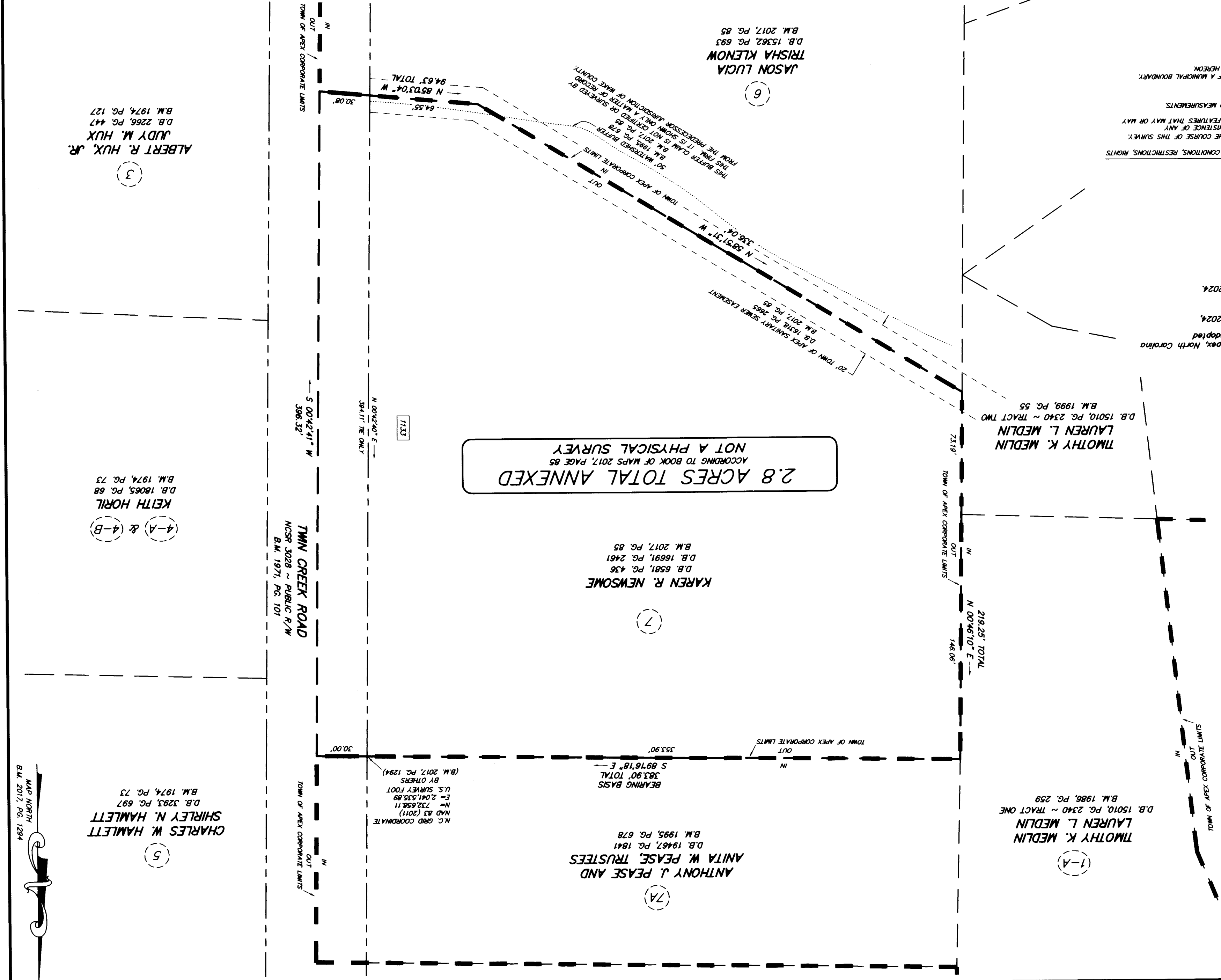
**Smith & Smith, P.A.**  
SURVEYORS, P.A.  
P.O. BOX 457  
1133 TOWN CREEK ROAD  
APEX, NC 27502  
FIRM LICENSE NO. C-0155  
APEX, N.C. 27502 (919) 362-7111

**LISTED OWNER**  
JESSE RANDALL NEWSOME  
KAREN R. NEWSOME  
APEX, NC 27502  
PIN 0743-12-3570

**DATE** JANUARY 9, 2024  
**SCALE** 1" = 40'  
**DRAWN BY** MBH  
**PROJ. NO.** 2024-02



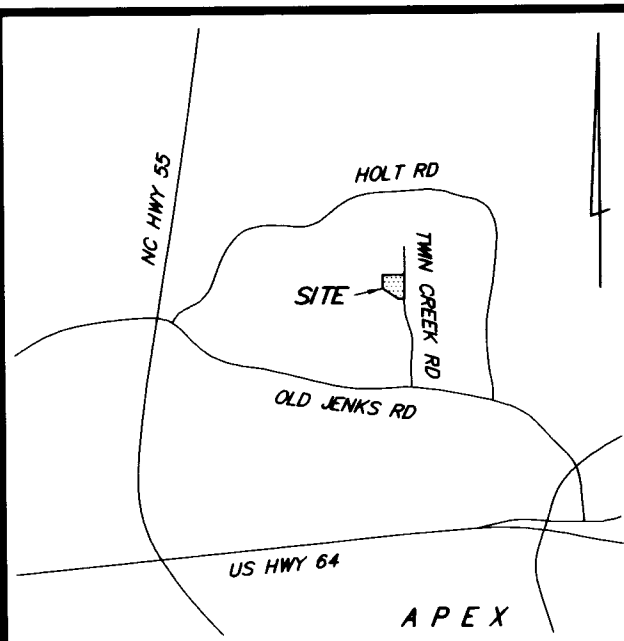
**2.8 ACRES TOTAL ANNEXED**  
ACCORDING TO BOOK OF MAPS 2017, PAGE 85  
NOT A PHYSICAL SURVEY



4-A & 4-B  
KEITH HORILL  
D.B. 18065, PG. 68  
B.M. 1974, PG. 73

5  
CHARLES W. HAMLETT  
D.B. 3293, PG. 697  
B.M. 1974, PG. 73

3  
ALBERT R. HUX, JR.  
JUDY M. HUX  
D.B. 2266, PG. 447  
B.M. 1974, PG. 127



VICINITY MAP (NOT TO SCALE)

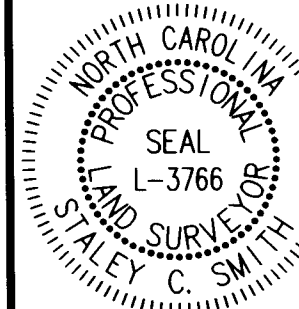
I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:

DEED BOOK 6581, PAGE 436  
 DEED BOOK 16691, PAGE 2461  
 BOOK OF MAPS 2017, PAGE 85

THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56 .1600)

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

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 10TH DAY OF JANUARY, A.D., 2024.



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

ANNEXATION # \_\_\_\_\_

I, ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK, Apex, North Carolina certify this is a true and exact map of annexation adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_, 2024.

ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK

SURVEYOR NOTES:

- THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
- NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
- THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
- ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
- AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
- CURRENT PROPERTY ZONING: RR (RURAL RESIDENTIAL)
- THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.
- SUBJECT PROPERTY ADDRESS: 1133 TWIN CREEK ROAD APEX, NC 27502

Legend

- R/W - Right Of Way
- PI# - Parcel Identification Number
- NCSR - North Carolina Secondary Road
- 1133 - Street Address
- Property Line (not surveyed)
- Property Line (not surveyed)
- Approximate Right Of Way Line (not surveyed)
- Easement (not surveyed)
- Buffer (not surveyed)
- Existing Town of Apex Corporate Limits (not surveyed)

RECORDED IN BOOK OF MAPS **2024**, PAGE \_\_\_\_\_

1-A  
**TIMOTHY K. MEDLIN**  
**LAUREN L. MEDLIN**  
 D.B. 15010, PG. 2340 ~ TRACT ONE  
 B.M. 1986, PG. 259

**TIMOTHY K. MEDLIN**  
**LAUREN L. MEDLIN**  
 D.B. 15010, PG. 2340 ~ TRACT TWO  
 B.M. 1999, PG. 55

7A  
**ANTHONY J. PEASE AND**  
**ANITA W. PEASE, TRUSTEES**  
 D.B. 19467, PG. 1841  
 B.M. 1995, PG. 678

7  
**KAREN R. NEWSOME**  
 D.B. 6581, PG. 436  
 D.B. 16691, PG. 2461  
 B.M. 2017, PG. 85

**2.8 ACRES TOTAL ANNEXED**  
 ACCORDING TO BOOK OF MAPS 2017, PAGE 85  
 NOT A PHYSICAL SURVEY

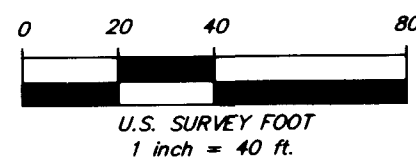
6  
**JASON LUCIA**  
**TRISHA KLENOW**  
 D.B. 15362, PG. 693  
 B.M. 2017, PG. 85

5  
**CHARLES W. HAMLETT**  
**SHIRLEY N. HAMLETT**  
 D.B. 3293, PG. 697  
 B.M. 1974, PG. 73

4-A & 4-B  
**KEITH HORIL**  
 D.B. 18065, PG. 68  
 B.M. 1974, PG. 73

3  
**ALBERT R. HUX, JR.**  
**JUDY M. HUX**  
 D.B. 2266, PG. 447  
 B.M. 1974, PG. 127

N.C. GRID COORDINATE  
 NAD 83 (2011)  
 N= 732,658.11  
 E= 2,041,535.89  
 U.S. SURVEY FOOT  
 BY OTHERS  
 (B.M. 2017, PG. 1294)



ANNEXATION MAP for the TOWN OF APEX  
**KAREN R. NEWSOME**  
 TOWN OF APEX ET AL, WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

<b>LISTED OWNER</b> (NOT A TITLE VERIFICATION) JESSE RANDALL NEWSOME KAREN R. NEWSOME 1133 TWIN CREEK ROAD APEX, NC 27502 PIN 0743-12-3570		<b>DATE</b> JANUARY 9, 2024 <b>SCALE</b> 1" = 40' <b>DRAWN BY</b> WGH <b>PROJ. NO.</b> 2024-02
--	--	---

P.O. BOX 457  
 APEX, N.C. 27502  
 (919) 362-7111  
 FIRM LICENSE No. C-0155



# PETITION FOR VOLUNTARY ANNEXATION

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

Application #: Annexation #775 Submittal Date: 1-10-2024  
 Fee Paid: \$ 200.00 Check #: 7612

## 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

<u>KAREN R. NEWSOME</u> Owner Name (Please Print)	<u>0743-12-3570</u> Property PIN or Deed Book & Page #
<u>919 961 4372</u> Phone	<u>karenapex@nc.rr.com</u> 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: SMITH & SMITH SURVEYORS, P.A.  
 Phone: 919 362 7111 Fax: n/a  
 E-mail Address: staley@smithandsmithsurveyors

## ANNEXATION SUMMARY CHART

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>2.8</u>	Need water service due to well failure <input checked="" type="checkbox"/>
Population of acreage to be annexed: <u>less than 4</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>0</u>	Sewer service (new construction) <input type="checkbox"/>
Zoning District*: <u>RA</u>	Receive Town Services <input 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 #: Annexation #775

Submittal Date: 1-10-2024

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Karen R. Newsome  
Please Print

Karen R. Newsome  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

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

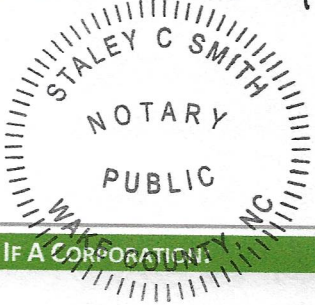
\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, STALEY C. SMITH, a Notary Public for the above State and County,  
this the 10th day of January, 2024.

Staley C. Smith  
Notary Public

SEAL



My Commission Expires: 10/6/2026

COMPLETE IF A CORPORATION:

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

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

SEAL

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

\_\_\_\_\_  
President (Signature)

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

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

SEAL

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

**PETITION FOR VOLUNTARY ANNEXATION**

Application #: Annexation #775

Submittal Date: 1-10-2024

**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: \_\_\_\_\_



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 2.90 acres, Sundance of NC, LLC, located on Salem Church Road, Annexation No. 776 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. 776
- CN4-A3: Aerial Map - Annexation No. 776
- CN4-A4: Plat Map - Annexation No. 776
- CN4-A5: Annexation Petition - Annexation No. 776





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

Annexation Petition No. 776  
Sundance of NC LLC – Salem Church Road – 2.90 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 13th day of February, 2024.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen L. Coleman, CMC, NCCCC  
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition No. 776  
Sundance of NC LLC – Salem Church Road – 2.90 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 13th day of February, 2024.

\_\_\_\_\_  
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. 776  
Sundance of NC LLC – Salem Church Road – 2.90 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 27th day of February, 2024.

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 13th day of February, 2024.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Allen L. Coleman, Town Clerk

Attachment: Legal Description

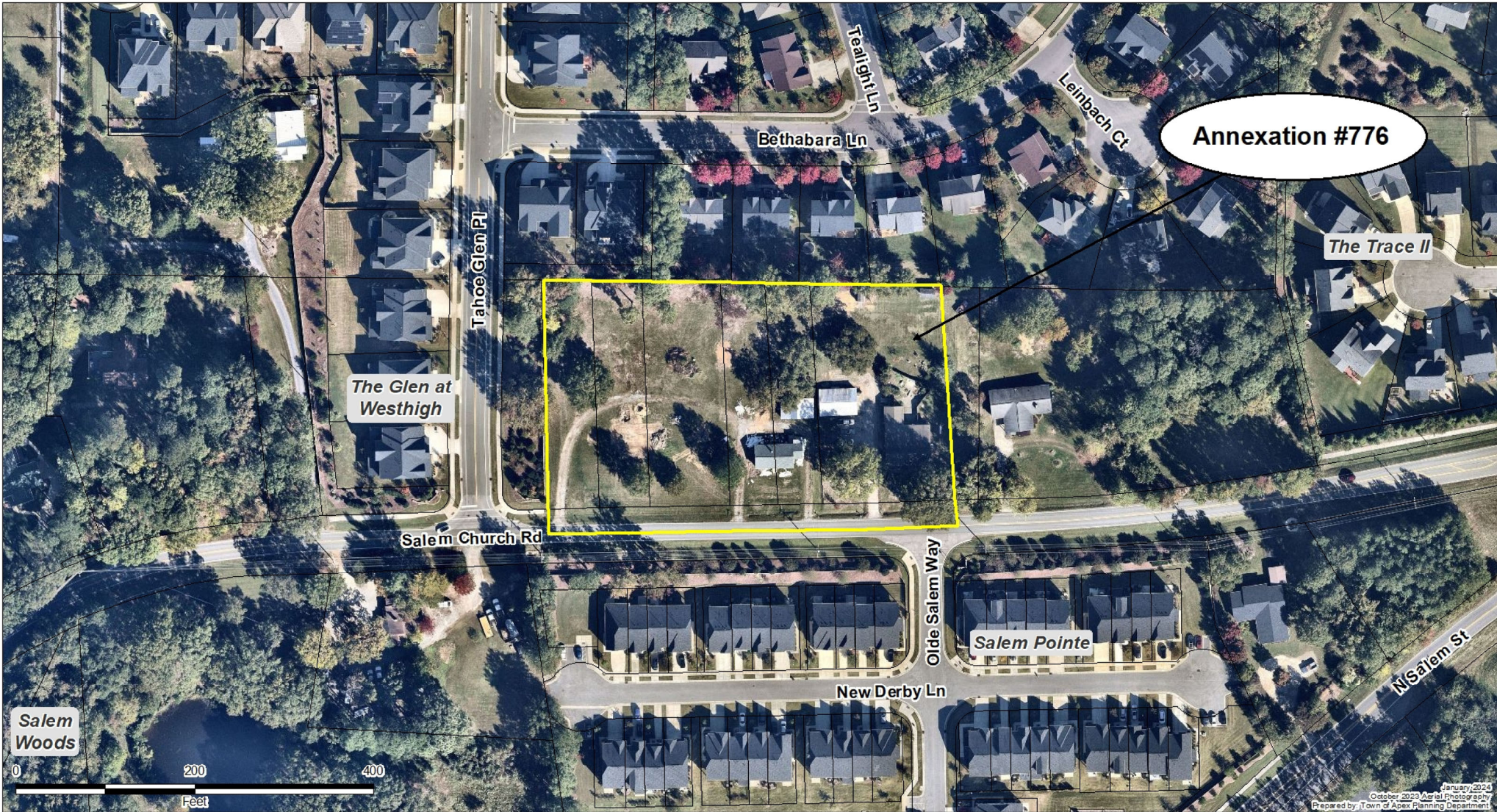
Smith & Smith Surveyors, P.A.  
P.O. Box 457  
Apex, N.C. 27502  
(919) 362-7111  
Firm License No. C-0155

Lying and being in 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.

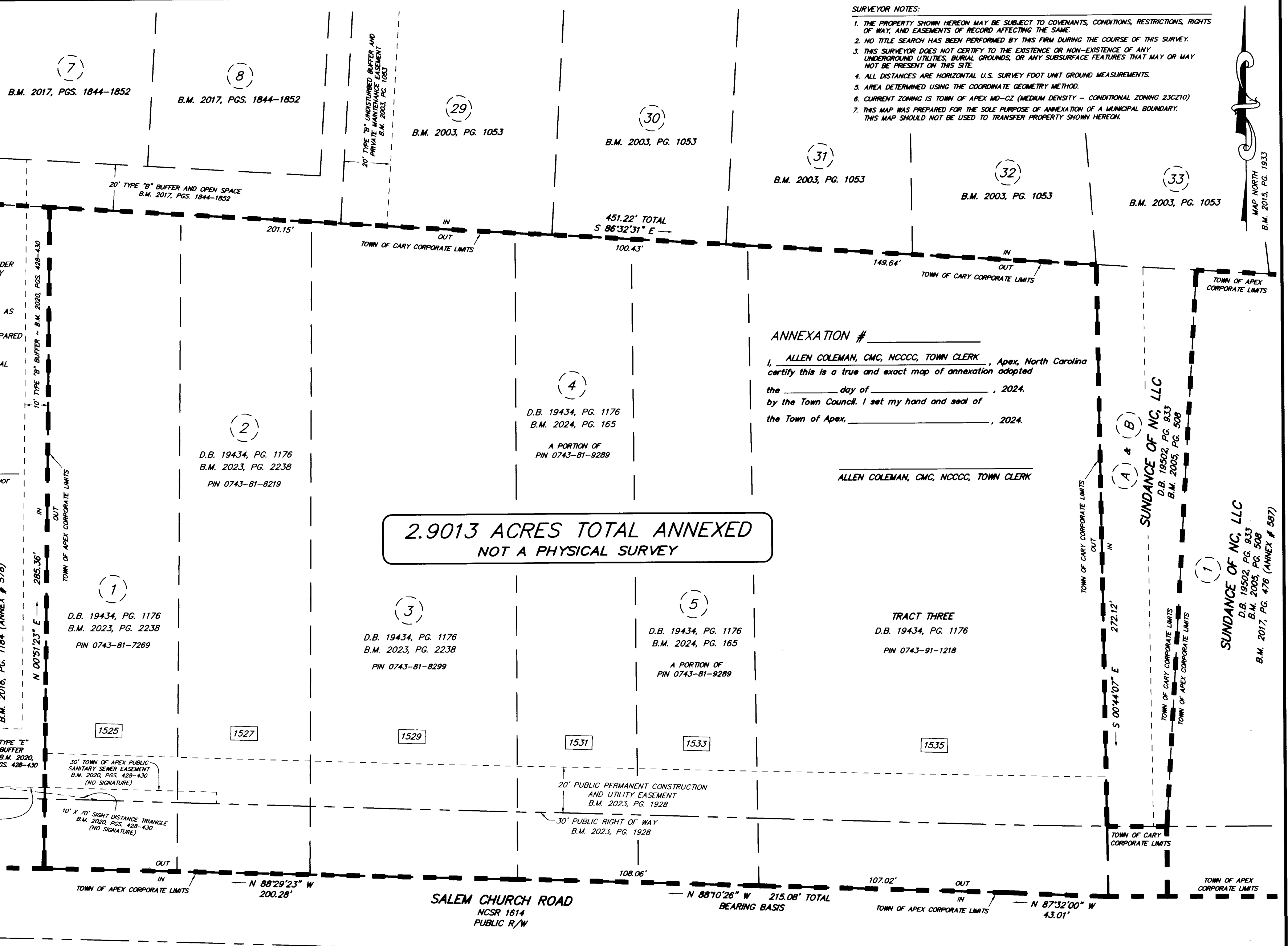
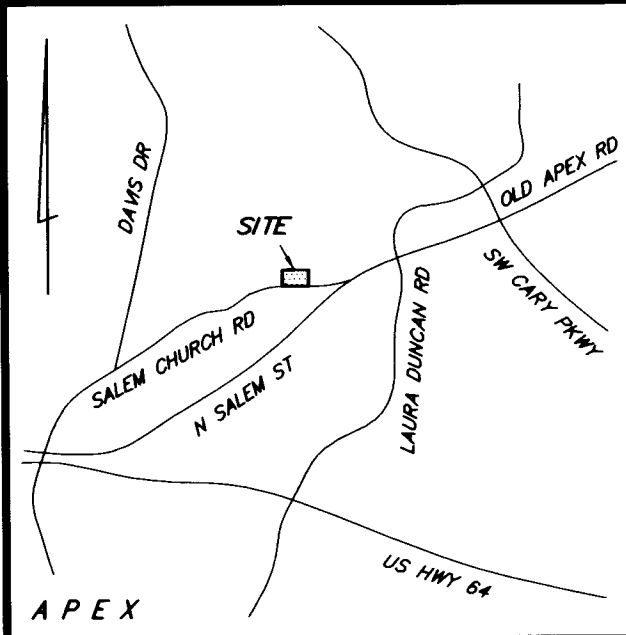
This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.





Annexation #776





- SURVEYOR NOTES:**
1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
  2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
  3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
  4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
  5. AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
  6. CURRENT ZONING IS TOWN OF APEX MD-CZ (MEDIUM DENSITY - CONDITIONAL ZONING 23CZ10)
  7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.

I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN AGRUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:  
 D.B. 19434, PG. 1176  
 THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30(j) AS AMENDED.  
 WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 23RD DAY OF JANUARY, A.D., 2024.



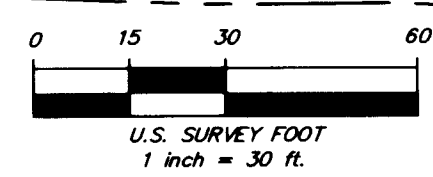
**ANNEXATION # \_\_\_\_\_**  
 I, ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK, Apex, North Carolina certify this is a true and exact map of annexation adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_, 2024.  
ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK

**2.9013 ACRES TOTAL ANNEXED  
 NOT A PHYSICAL SURVEY**

SALEM CHURCH COURT, LLC  
 D.B. 19277, PG. 2605

SALEM POINTE OWNERS ASSOCIATION, INC.  
 D.B. 17411, PG. 1651  
 B.M. 2017, PG. 270  
 B.M. 2015, PG. 1933 (ANNEX # 552)

- Legend**
- XXX - Street Address (Typical)
  - R/W - Right Of Way (Approximate)
  - PIN - Parcel Identification Number
  - NCSR - North Carolina Secondary Road
  - — — — — Property Line (not surveyed)
  - — — — — Property Line (not surveyed)
  - - - - - Approximate Right Of Way Line (not surveyed)
  - - - - - Easement (not surveyed)
  - — — — — Existing Town of Apex Corporate Limits (not surveyed)
  - — — — — Existing Town of Cary Corporate Limits (not surveyed)



OLDE SALEM WAY  
 50' PUBLIC R/W  
 B.M. 2017, PG. 270

**ANNEXATION MAP for the TOWN OF APEX**  
**SUNDANCE OF NC, LLC**  
 TOWN OF APEX ETJ, CARY TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

<b>LISTED OWNER</b> (NOT A TITLE VERIFICATION) SUNDANCE OF NC, LLC 505 E CHATHAM ST APEX, NC 27502 PIN 0743-81-7269 0743-81-8219 0743-81-8299 0743-81-9289 0743-91-1218	<b>Smith &amp; Smith, Surveyors, P.A.</b> P.O. BOX 457 APEX, N.C. 27502 (919) 362-7111 FIRM LICENSE No. C-0155	<b>DATE</b> JANUARY 23, 2024 <b>SCALE</b> 1" = 30' <b>DRAWN BY</b> WHB <b>PROJ. NO.</b> 2023-34
--	--	--

PETITION FOR VOLUNTARY ANNEXATION

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

Application #: Annexation # 776  
Fee Paid: \$ 200.00

Submittal Date: 1-23-2024  
Check #: 19290

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

SUNDANCE OF NC LLC  
Owner Name (Please Print)  
843 458 4353  
Phone

D.B. 1943A, PG. 1176  
Property PIN or Deed Book & Page #  
crhelton1@gmail.com  
E-mail Address

\_\_\_\_\_  
Owner Name (Please Print)  
\_\_\_\_\_  
Phone

\_\_\_\_\_  
Property PIN or Deed Book & Page #  
\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Owner Name (Please Print)  
\_\_\_\_\_  
Phone

\_\_\_\_\_  
Property PIN or Deed Book & Page #  
\_\_\_\_\_  
E-mail Address

SURVEYOR INFORMATION

Surveyor: SMITH & SMITH SURVEYORS, P.A.  
Phone: 919 362-7111 Fax: N/A  
E-mail Address: staley@smithandsmithsurveyors.net

ANNEXATION SUMMARY CHART

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>approx. 2.9 ac.</u>	Need water service due to well failure <input type="checkbox"/>
Population of acreage to be annexed: <u>0</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>0</u>	Water service (new construction) <input type="checkbox"/>
Proposed # of housing units: <u>8</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>MD-CZ</u>	Receive Town Services <input 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 #: Annexation #776

Submittal Date: 1-23-2024

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 #: Annexation # 776

Submittal Date: 1-23-2024

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, SUNDANCE OF NC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23<sup>rd</sup> day of JANUARY, 2024.

Name of Limited Liability Company SUNDANCE OF NC LLC

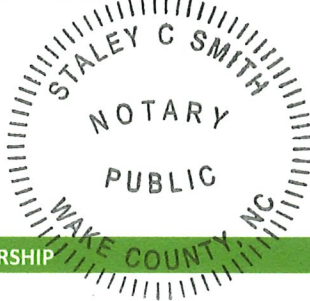
By: *Carl R Helton*  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, STALEY C. SMITH, a Notary Public for the above State and County, this the 23<sup>rd</sup> day of JANUARY, 2024.

*Staley C. Smith*  
Notary Public

SEAL



My Commission Expires: 10/6/26

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: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

A. Motion to reappoint the following Apex Environmental Advisory Board (EAB) members each for a three-year (3) term expiring December 31, 2026:

EAB-001 - Suzanne Mason - reappointment for 2<sup>nd</sup> Term

EAB-003 - Katie Schaaf - reappointment for 3<sup>rd</sup> Term

EAB-004 - Patrick Adams - reappointment for 2<sup>nd</sup> Term

B. Motion to appoint Njeri Moller to the Apex Environmental Advisory Board (EAB) for a three-year (3) term expiring December 31, 2026:

EAB-008 - Njeri Moller - appointment for 1<sup>st</sup> Term

### Approval Recommended?

Mayor Jacques K. Gilbert recommends Patrick Adams, Suzanne Mason, and Katie Schaaf for reappointment consideration and to appoint Njeri Moller to the Apex Environmental Advisory Board (EAB)

This recommendation is supported by EAB Chair Suzanne Mason and Vice-Chair Jason Maynard.

### Item Details

The Town Clerk's Office received a total of nine (9) candidates for appointment consideration to the Environmental Advisory Board (EAB). Listed below, in alphabetical order, are the candidates and their respective applications are attached. All nine (9) candidates are eligible for appointment; however, the Environmental Advisory Board only has four (4) vacancies:

- Danielson, Matthew
- Deeley, Cathy
- Elias, Daniel
- Longo, Marcie
- Mihaliak, Charles

- Moller, Njeri
- Patel, Tanha
- Sharma, Aditi
- Tischler, Halle

On Thursday, January 18<sup>th</sup>, 2024, the Apex Environmental Advisory Board (EAB) nominated through a ballot process, and selected Marci Longo to be considered for Greg Reger's seat. Following the meeting, Councilmember Gantt expressed his interest in Njeri Moller and her experience working at the Environmental Protection Agency (EPA) would bring a wealth of knowledge and experience to the Town's Environmental Advisory Board (EAB) as well as help diversify the Board. Mayor, Jacques K. Gilbert concurred.

The public is invited to re-watch the Environmental Advisory Board meeting from January 18, 2024, on the Town's Youtube Channel via the following link: <https://www.youtube.com/c/TownofApexGov>. The nomination process begins at 1 hour and 12 minutes and 6 seconds.

#### Attachments

- CN5-A1: Danielson, Matthew - Appointments - Environmental Advisory Board
- CN5-A2: Deeley, Cathy - Appointments - Environmental Advisory Board
- CN5-A3: Elias, Daniel - Appointments - Environmental Advisory Board
- CN5-A4: Longo, Marcie - Appointments - Environmental Advisory Board
- CN5-A5: Mihaliak, Charles - Appointments - Environmental Advisory Board
- CN5-A6: Moller, Njeri - Appointments - Environmental Advisory Board
- CN5-A7: Patel, Tanha - Appointments - Environmental Advisory Board
- CN5-A8: Sharma, Aditi - Appointments - Environmental Advisory Board
- CN5-A9: Tischler, Halle - Appointments - Environmental Advisory Board



**Entry #:** 615 - Environmental Advisory Board **Status:** Submitted **Submitted:** 1/2/2024 11:59 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

**Original Submittal**

**I'm interested in serving on...**

Environmental Advisory Board

**Are you affiliated with the development community (developer's engineer, developer, etc.)?**

Yes

**How did you hear about this opportunity to serve?**

Friend / Neighbor

**Candidate Contact Information**

---

**Legal Name**

Matthew Danielson

**Preferred First Name**

**Address**

479 Clark Creek Lane, Cary, North Carolina 27519

**Do you live within the Apex town limits?**

Yes

**Do you live within the town's extra-territorial jurisdiction (ETJ)?**

No

**Email**

matthewdanielson919@gmail.com

**Mobile Phone**

(919) 522-9837

**Alternate Phone (work/home)**

**Background Information**

---

**Current Employer**

AMH

**Current Job Title**

Director - Land Acquisition

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

It is crucial we protect our environment while still allowing for growth. This balance requires input from all stakeholders to implement policies to will continue to protect our area put not so restrictive as to prevent necessary development. We can build and protect at the same time.

I am in the development community. That does not mean I do not care about the environment. In fact, I was a board member of WakeUp Wake County, whose mission "...is to ensure healthy and sustainable communities for all residents in the region by educating both citizens and policy-makers..." If anything, I am uniquely qualified to understand the concerns of many sides and help facilitate workable solutions.

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

I have a Masters Degree in Public Administration so I understand the complexities of local government. I have made presentations if front of 1,000+ jurisdictional boards and neighborhood meetings.

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

Planning and Zoning Board - Town of Cary 2003-2005

# Environmental Advisory Board

*Advisory Board Interest Form*

## Candidate Contact Information

---

**Legal Name**

Cathy Deeley

**Preferred First Name**

**Address**

2508 Whistling Quail Run, Apex, North Carolina 27502

**Email**

cd458@aol.com

**Mobile Phone**

(919) 363-2508

**Alternate Phone (work/home)**

**Do you live within the Apex town limits?**

No

## Background Information

---

**Current Employer**

N/A

**Current Job Title**

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

I have lived in the same home for 25 years and have seen the area grow, and some of the impacts made to the area as development has increased. I believe that some of the environmental impacts have been negatives impacted the area. I would like to preserve as much as possible the existing natural beauty of the area. .

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

I have personal experience in regards to maintaining private utilities such as wells and septic.

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

N/A



# Environmental Advisory Board

Advisory Board Interest Form

## Candidate Contact Information

---

**Legal Name**

Daniel A Elias

**Preferred First Name**

**Address**

1843 Elderbank Drive, Apex, North Carolina 27502

**Email**

daniel.a.elias@me.com

**Mobile Phone**

(323) 646-8880

**Alternate Phone (work/home)**

**Do you live within the Apex town limits?**

Yes

## Background Information

---

**Current Employer**

Fluence Energy

**Current Job Title**

Senior Environmental Manager

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

I am very proud to live in the town of Apex. As an environmental professional with a great deal of sustainability, environmental management and clean energy experience, I believe I have a lot to bring to the Environmental Advisory Board.

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

MA in Environmental Policy.

Skilled with:

Organizational Management

Team Leadership

Working with government entities

Collaborating with power companies

LEED Green Associate

Certified Environmental Manager (CEM)

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

I have not served on town boards, commissions or committees.

**Entry #:** 607 - Environmental Advisory Board **Status:** Submitted **Submitted:** 12/30/2023 5:23 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

**Original Submittal**

**I'm interested in serving on...**

Environmental Advisory Board

**Are you affiliated with the development community (developer's engineer, developer, etc.)?**

No

**How did you hear about this opportunity to serve?**

Facebook

**Candidate Contact Information**

---

**Legal Name**

Marcie Longo

**Preferred First Name**

**Address**

1114 Blackburn Road, Apex, North Carolina 27502

**Do you live within the Apex town limits?**

Yes

**Do you live within the town's extra-territorial jurisdiction (ETJ)?**

No

**Email**

longomh@gmail.com

**Mobile Phone**

(919) 656-7148

**Alternate Phone (work/home)**

**Background Information**

---

**Current Employer**

I am currently at home and stay busy with two special needs kids.

**Current Job Title**

Mom

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

When I saw there was a vacancy for this position, I was immediately interested. First and foremost, I am an environmentalist. I am most interested in how we can sustainably and efficiently manage record-breaking population growth and development in Apex. I am also particularly interested in involving our citizens, and especially children, in environmentally friendly learning opportunities and events. I love the Town of Apex and I would be happy to work on a committee that manages environmental resources in a way that promotes a positive reflection on, and reputation for the community.

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

- Master of Science in Environmental Management, University of Maryland
- Bachelor of Science in Natural Resources, NC State University
- Eight years of professional experience working for environmental/engineering firms in the Raleigh/Durham area where I performed hundreds of risk-based Phase I Environmental Site Assessments, wetland delineations, and a large-scale Environmental Impact Statement, as required by the National Environmental Policy Act, for the National Defense Supply Center in Richmond, VA.
- Spoke in front of the NC General Assembly to support why hydraulic fracturing for natural gas would have a negative overall impact on the state's environmental health and economy.
- Volunteered as a Mentor for 3 years with the EnvironMentors program. This is a program with a mission to mentor and motivate high school students from communities underrepresented in the sciences as they plan and conduct environmental research, and execute experiments to support their research.

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

I was recently asked to serve as a Board Member for the Haddon Hall Community Homeowner's Association for this upcoming year, starting in 2024.

**Entry #:** 604 - Environmental Advisory Board **Status:** Submitted **Submitted:** 12/24/2023 9:38 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

**Original Submittal**

**I'm interested in serving on...**

Environmental Advisory Board

**Are you affiliated with the development community (developer's engineer, developer, etc.)?**

No

**How did you hear about this opportunity to serve?**

Town Employee / Elected Official

**Candidate Contact Information**

---

**Legal Name**

Charles Mihaliak

**Preferred First Name**

Chick

**Address**

1267 Horsham Way, Apex, North Carolina 27502

**Do you live within the Apex town limits?**

Yes

**Do you live within the town's extra-territorial jurisdiction (ETJ)?**

No

**Email**

cmihaliak@yahoo.com

**Mobile Phone**

(919) 802-3085

**Alternate Phone (work/home)**

**Background Information**

---

**Current Employer**

Syngenta (retired)

**Current Job Title**

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

I have been wanting to give back to the community. Now that I'm retired I have time to commit. I also have a strong interest in working to balance environmental and growth demands in Aoex and the surrounding areas

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

Ph.D. In biology with a focus in ecology. My career has centered on sustainable food production so I am familiar with many of the challenges and issues that the committee will discuss.

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

I have not previously served



**Entry #:** 603 - Environmental Advisory Board **Status:** Submitted **Submitted:** 12/22/2023 12:28 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

**Original Submittal**

**I'm interested in serving on...**

Environmental Advisory Board

**Are you affiliated with the development community (developer's engineer, developer, etc.)?**

No

**How did you hear about this opportunity to serve?**

Instagram

**Candidate Contact Information**

---

**Legal Name**

Njeri Moeller

**Preferred First Name**

**Address**

1325 Soaring Silo Way, Apex, North Carolina 27502

**Do you live within the Apex town limits?**

Yes

**Do you live within the town's extra-territorial jurisdiction (ETJ)?**

No

**Email**

njericc@gmail.com

**Mobile Phone**

(480) 277-7705

**Alternate Phone (work/home)**

**Background Information**

---

**Current Employer**

U.S. Environmental Protection Agency

**Current Job Title**

environmental engineer

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

I would like to serve on environmental advisory board because I have a passion for the environment. I am interested in all matters involving environmental quality especially as it pertains to air quality in North Carolina. Since I moved to Apex in 2020, I would like to be involved in decisions that involve protecting its natural resources.in Apex.

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

- Bachelors and Masters degree in chemical engineering
- Worked for EPA for over 6 years in air quality
- Primary job responsibilities include air quality policy writing to reduce air toxics emissions around the nation

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

n/a

**Entry #:** 578 - Environmental Advisory Board    **Status:** Reviewed    **Submitted:** 8/20/2023 1:03 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

### Original Submittal

#### I'm interested in serving on...

Environmental Advisory Board

#### Are you affiliated with the development community (developer's engineer, developer, etc.)?

No

#### How did you hear about this opportunity to serve?

Town Website

### Candidate Contact Information

---

#### Legal Name

Tanha Patel

#### Preferred First Name

#### Address

804 Trendy Ln, Apex, North Carolina 27502

#### Do you live within the Apex town limits?

Yes

#### Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

#### Email

tpatel2101@gmail.com

#### Mobile Phone

(434) 386-7112

#### Alternate Phone (work/home)

### Background Information

---

#### Current Employer

CDC Foundation

#### Current Job Title

Senior Technical Advisor - Evaluation

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

I am passionate about giving back to my community and am looking for a way to support the Town of Apex be as strategic in planning and sustaining the community as possible. Climate change is such a major public health threat that we are facing and I want to be able to contribute in my small way to support our environment. Paying attention to our environment and building our communities in a way that will be sustainable over time is vital to addressing climate change. I am interested in learning more about what the Town of Apex is doing and can do to further support those efforts.

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

I have a Masters in Public Health and have been working with state, national, and foundation funded public health programs for over 12 years, building their capacity to be data-driven. I often have to work with various stakeholders and agencies to understand the public health issue and work towards coordinating with each other more seamlessly to meet the common goals. I believe this background and experience will be important for the Environmental Advisory Board. Based on the previous meetings, it seems like it is getting important for the EAB to stay engaged with other Advisory Boards and serve more in a cross-functioning capacity. This is something that I have been doing professionally as an Evaluator, bringing various organizational units together to achieve the large organizational mission/vision. I can see how EAB will need to work in a similar fashion in the future and would love to be able to support the board in this transition.

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

Have not served before.

**Entry #:** 557 - Environmental Advisory Board      **Status:** Submitted      **Submitted:** 3/4/2023 7:23 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

**Original Submittal**

**I'm interested in serving on...**

Environmental Advisory Board

**Are you affiliated with the development community (developer's engineer, developer, etc.)?**

No

**How did you hear about this opportunity to serve?**

Town Website

**Candidate Contact Information**

---

**Legal Name**

Aditi Sharma

**Preferred First Name**

**Address**

516 pointe grove ln, Apex, North Carolina 27523

**Do you live within the Apex town limits?**

Yes

**Do you live within the town's extra-territorial jurisdiction (ETJ)?**

No

**Email**

aditi.srma@gmail.com

**Mobile Phone**

(484) 702-2038

**Alternate Phone (work/home)**

**Background Information**

---

**Current Employer**

Accenture LLC

**Current Job Title**

Managing Director

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

I am passionate about environmental issues and focused on sustainability.

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

Lean Data and Analytics SME



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

NA

# Environmental Advisory Board

*Advisory Board Interest Form*

## Candidate Contact Information

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**Legal Name**

Halle M Tischler

**Preferred First Name**

**Address**

2894 Angelica Rose Way, Apex, North Carolina 27502

**Email**

halle@wildflowerltd.com

**Mobile Phone**

(954) 770-2258

**Alternate Phone (work/home)**

**Do you live within the Apex town limits?**

Yes

## Background Information

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**Current Employer**

Self, Wildflower Landscape Design & Drafting, LLC

**Current Job Title**

Landscape Architect, Owner

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

I am very passionate about plants, natural habitats and design, and with all of the new development coming to Apex, I'd love the opportunity to have a voice that can advocate for native plants and wildlife and impact development in a positive way.

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

I am a registered landscape architect with 11 years of on the job experience including a plethora of time spent working as a liaison between design specialties and the City (within State of Florida) to get permits approved and respond to City comments. I am extremely proficient in AutoCAD.

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

None

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to confirm the following leadership positions on the Environmental Advisory Board (EAB) for calendar year 2024:

- Suzanne Mason, Chair of the Environmental Advisory Board (EAB)
- John Garrison, Vice-Chair of the Environmental Advisory Board (EAB)

### Approval Recommended?

Mayor Jacques K. Gilbert recommends both Suzanne Mason for Chair and John Garrison for Vice-Chair for appointment consideration to the Apex Environmental Advisory Board (EAB)

### Item Details

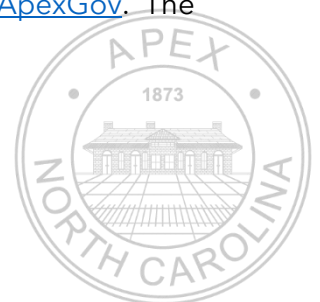
On Thursday, January 18, 2024, the Apex Environmental Advisory Board (EAB) unanimously (8-0) voted to nominate Suzanne Mason to the Chair position for calendar year 2024. Subsequently, the Apex Environmental Advisory Board voted to nominate John Garrison to the Vice-Chair position for calendar year 2024.

The current EAB members were reminded that this vote was a recommendation to the Mayor and the Town Council continues to hold the final appointing authority.

The public is invited to re-watch the Environmental Advisory Board meeting from January 18, 2024, on the Town's Youtube Channel via the following link: <https://www.youtube.com/c/TownofApexGov>. The nomination process begins at 1 hour and 6 minutes and 24 seconds.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Eric Neumann, Director

Department(s): Electric

### Requested Motion

Motion to adopt Budget Ordinance Amendment No. 12 allocating additional funds for expansion of Apex's electric utility distribution system

### Approval Recommended?

Yes

### Item Details

The Electric Utility is requesting additional funds for system expansion as approved development begins construction. Electric has forecasted potential expenses through June 30<sup>th</sup> and anticipates some offset with developer fees. The budget amendment revenues include increased allocations for interest earned and developer fees.

Increased material costs and development progress has strained the budget. Warehouse staff has placed large orders for inventory and projects, all of which is coming in at post COVID prices. Large developments in the southern part of Apex have depleted much of our inventory due to project scope.

### Attachments

- CN7-A1: Budget Ordinance Amendment 12 - Budget Ordinance Amendment No. 12 - Electric Utility Operations





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# Town of Apex

## Budget Ordinance Amendment No. 12

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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:

### **Electric Utility Fund**

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

30-0000-36100: Interest Earned	132,000
30-0000-35511: Underground Primary	1,000,000
<b>Total Revenues</b>	<b>\$1,132,000</b>

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

30-8300-47300: Capital Outlay - Improvements	1,132,000
<b>Total Expenditures</b>	<b>\$1,132,000</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 13th day of February, 2024.

Attest:

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Jacques K. Gilbert, Mayor

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Allen L. Coleman, CMC, NCCCC  
Town Clerk



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

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

Department(s): Parks, Recreation & Cultural Resources

### Requested Motion

Motion to award a construction contract with Hollins Construction Services, Inc (HCS) for Reedy Branch Greenway (Sweetwater Gap) construction and adopt corresponding Capital Project Ordinance Amendment 2024-11, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

### Approval Recommended?

Yes

### Item Details

The Reedy Branch Greenway project is the completion of a segment of trail and boardwalk within the Sweetwater development that was not constructed with the rest of the greenway due to timing for FEMA approval of a Certified Letter of Map Revision (CLOMR). Sealed bids were received and opened on January 23, 2024. It is the recommendation of staff that the contract be awarded to Hollins Construction Services, Inc as the lowest responsible bidder.

The developer has paid fees-in-lieu of dedication as well as received credit for construction of greenway within the project as defined in the Sweetwater PUD approval. Capital Project Ordinance Amendment No. 2024-11 allocates subdivision recreation fees paid by the developer for expenditure within the project fund.

### **Bid Summary (Responsive Bids):**

Hollins Construction Services, Co	\$462,193.00
Lanier Construction	\$492,050.00
Beluca, LLC.	\$700,320.00
Black Diamond Designs, Inc.	\$601,186.14
Cinderella Partners	\$492,381.37

### Attachments

- CN8-A1: Construction Contract - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11
- CN8-A2: Bid Certification - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11

- CN-8-A3: Notice of Award - Hollins Construction Services, Co. - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11
- CN8-A4: Bid Tab - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11
- CN8-A5: Recommendation of Award - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11
- CN8-A6: Capital Project Ordinance Amendment # 2024-11 - Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11



# TOWN OF APEX GREENWAY CONSTRUCTION CONTRACT

FOR

Construction of Reedy Branch Greenway (Sweetwater Gap)  
Apex, NC 27502

## SCOPE OF WORK

Construct Reedy Branch Greenway (Sweetwater Gap) in accordance with Plans titled "Construction Plans Reedy Branch Greenway (Sweetwater Gap)" dated October 4, 2023 including the following sheets: (See below) by WithersRavenel.

- **0 Coversheet**
- **4 -Plan and Profile Sheet 37+90 to 47+50**
- **8- Construction Details**
- **9- Construction Details**

THIS GREENWAY CONSTRUCTION CONTRACT is entered into this the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between, \_\_\_\_\_, a \_\_\_\_\_ Corporation with its principal business offices located at \_\_\_\_\_ (the “Contractor”), and the Town of Apex, a municipal corporation of the State of North Carolina, (the “Town”). Town and Contractor may collectively be referred to as “Parties” hereinafter.

**WITNESSETH:**

WHEREAS, Town is engaged in the planning and operation of public greenways which require construction, installation, evaluation, testing, and other related services; and

WHEREAS, the professional services of contractors from time to time are needed by the Town for the services as described above; and

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

WHEREAS, the Town has complied with Article 8 of Chapter 143 of the North Carolina General Statutes in announcing its need for services of the nature described in this Contract through a “Request for Proposal” and associated advertisement.

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

**1. DEFINITIONS**

- A. “Change Order” is a written order to the Contractor authorizing a change in the Contract.
- B. “Contract Documents” is defined in Section 2 of this Contract.
- C. “Contractor” is the entity performing construction services pursuant to this Contract.
- D. “Final Acceptance” is the date on which the Town accepts the construction as totally complete. This includes inspection and acceptance of the Work by the Town and the Special Inspector.
- E. “Inspection” means the examination of Work completed or in progress to determine its compliance with the Contract Documents.
- F. “Liquidated damages” is the amount stated in this Contract reasonably estimated in advance to cover the consequential damages associated with the Town’s loss in not being able to use the Project for its intended purposes at the end of the Contract’s completion date by reason of failure of the Contractor to complete the Work within the time specified. Liquidated damages does not include the Town’s extended contract administration costs (including but not limited to, additional fees for architectural and engineering services, testing services, inspection services, commissioning services, etc.), such other damages directly resulting from delays caused solely by the Contractor,

or consequential damages that the Town identified in the bid documents that may be impacted by any delay caused solely by the Contractor (e.g. delays in start other projects that are dependent on the completion of this Project, extension of leases and/or maintenance agreements for other facilities).

- G. "Project" is the total construction Work to be performed under the Contract Documents by the Contractor and the Contractor's subcontractors.
- H. "Special Inspector" is the entity who inspects materials, installation, fabrication, erection, placement of components and connections requiring special expertise to ensure compliance with the approved Construction Documents and referenced standards, and/or provides geotechnical inspection services.
- I. "Subcontractor" shall be an entity that has entered into a direct contract with the Contractor, and includes an entity that furnishes materials designed in accordance with plans and specifications covered by the Contract Documents but does not include an entity furnishing materials not requiring the design described above.
- J. "Surety" means the bonding company which is bound with and for the Contractor, and which engages to be responsible for the Contractor and the Contractor's acceptable performance of the Work.
- K. "Time of Completion" is the consecutive calendar days measured from the date established in the written Notice to Proceed.
- L. "Town" is the Town of Apex
- M. "Written Notice" is defined as notice in writing delivered to either the Contractor or Town as identified in the Contract Documents, in person or by registered by mail.
- N. "Work", when used as a noun, includes the materials, labor, and workmanship of the Contractor.

## 2. SCOPE OF SERVICES.

The Contractor agrees to provide all materials, equipment, machinery, tools, apparatus, power, sanitary facilities, water, means of transportation, incidentals, and labor necessary for the proper and lawful construction of the Reedy Branch Greenway (Sweetwater Gap), located at the Sweetwater Subdivision, Apex, NC. Materials shall be new and of the quality specified. Construction shall include, but not necessarily be limited to, the following:

- A. Concrete Greenway Trail
- B. Fencing
- C. Retaining Walls
- D. Boardwalks
- E. Bridges
- F. Erosion Control & Grading
- G. Storm Drainage
- H. Miscellaneous Concrete

Said construction will be performed in accordance with the "Contract Documents." The term "Contract Documents" includes this Contract and the following which are hereby incorporated into this Contract as fully contained herein:

- A. Plan sheets titled "Construction Plans Reedy Branch Greenway (Sweetwater Gap)", dated October 4, 2023 including the following sheets: Coversheet, 4 – Plan and Profile Sheet 37+90 to 47+50, 8-9 Construction Details by WithersRavenel.
- B. Construction drawings titled "Construction Plans Reedy Branch Greenway (Sweetwater Gap)", dated October 4, 2023.



- C. Bid Advertisement
- D. Town of Apex Standard Specifications and Standard Details (incorporated by reference)
- E. Bid Form
- F. MWBE Guidelines
- G. MWBE Forms
- H. Reedy Branch Greenway Construction Contract
- I. Notice of Award
- J. Notice to Proceed
- K. Special Provisions
- L. Special Construction General
- M. CLOMR Permit
- N. Sediment and Erosion Control Permit
- O. Addenda:
  - 1. No. \_\_\_\_\_ Dated: \_\_\_\_\_
  - 2. No. \_\_\_\_\_ Dated: \_\_\_\_\_
  - 3. No. \_\_\_\_\_ Dated: \_\_\_\_\_
  - 4. No. \_\_\_\_\_ Dated: \_\_\_\_\_
  - 5. No. \_\_\_\_\_ Dated: \_\_\_\_\_
- P. Certificate(s) of Insurance

Contractor shall maintain at its job office a complete set of the plans, drawings, and specifications for the Work which shall be available for use by the Town.

**3. TIME OF COMMENCEMENT AND COMPLETION.**

- A. Contractor shall commence the work required in this Contract upon the issuance of a Notice to Proceed, and the Contractor shall complete the entire Work within 180 days consecutive calendar days of the issuance of the Notice to Proceed (“Time of Completion”). For each day in excess thereof, liquidated damages, reasonably estimated in advance to cover the losses to be incurred by the Town by reason of failure of Contractor to complete the Work within the time specified, such time being of the essence in this Contract and a material consideration thereof, shall be assessed in the amount of \$1,000.00 per calendar day. If Contractor has not satisfactorily completed the work within the times specified in the Contract Documents, the Town may declare such delay a material breach of contract and default and may pursue all available remedies outlined in the Contract Documents as well as all other available legal and equitable remedies. Any changes to the schedule(s) provided in the Contract Documents must be agreed to in writing by the Town and the Contractor.
- B. If the Contractor is delayed at any time in the progress of his work by any act or negligence of the Town; Contractor’s separate contractor or subcontractor; by changes ordered in the Work; by abnormal weather conditions; by any causes beyond the Contractor's control or by other causes deemed justifiable by Town, then the contract time may be reasonably extended in a written order from the Town upon written request from the Contractor. Request for extension of time shall be made in writing to the Town within twenty (20) days following the cause of delay. In case of continuing cause for delay, the Contractor shall notify the Town, with copies to the Town of the delay within twenty (20) days of the beginning of the delay and only one claim is necessary.

- C. For the purpose of determining the extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the Contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where Work is performed and on daily weather logs kept on the job site by the Contractor reflecting the effect of the weather on the progress of the Work and initialed by Town's representative.
- D. Time extensions for weather delays, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are beyond the control of the Town do not entitle the Contractor to compensable damages for delays. Any Contractor claim for compensable damages for delays is limited to delays caused solely by the Town or its agents. Contractor caused delays shall be accounted for before Town caused delays in the case of concurrent delays.
- E. Contractor shall notify its Surety in writing of any granted extension of time.

**4. CONSIDERATION AND PAYMENT OF SERVICES.**

In consideration of the above services, the Town will pay the Contractor, subject to additions and deductions as provided in the Contract Documents, as follows:

Total Sum: \_\_\_\_\_ (\$ \_\_\_\_\_).

Summary of Contract Award:

Base Bid: \$ \_\_\_\_\_  
 Alternate 1: \$ \_\_\_\_\_  
 Alternate 2: \$ \_\_\_\_\_  
 Total: \$ \_\_\_\_\_

- A. No later than the fifth day of the month, the Contractor shall submit application for payment reflecting work completed during the preceding calendar month to the Town Representative identified in Section 31 of this Contract. The request shall be in the form agreed upon between Contractor and the Town but shall show substantially the value of the work completed and materials delivered to the site during the period since the last payment and shall sum up the financial status of the Contract with following information:
  - 1. Total of Contract including change orders.
  - 2. Value of work completed to date.
  - 3. Less retainage, as defined below.
  - 4. Less previous payments.
  - 5. Current amount due.

- B. Prior to submitting the first pay application, Contractor shall prepare for the Town a schedule showing a breakdown of the Contract price into values of the various parts of the Work, arranged so as to facilitate payments to subcontractors.
- C. When payment is made on account of stored materials and equipment, such materials must be stored on the Town's property, and the requests for payments shall be accompanied by invoices or bills of sale or other evidence to establish the Town's title to such materials and equipment. Such payments will be made only for materials that have been customized or fabricated specifically for this Project. Raw materials or commodity products costs may not be submitted. Responsibility for such stored materials and equipment shall remain with the Contractor regardless of title of ownership. Such stored materials and equipment shall not be removed from the Town's property. Should the space for storage on-site be limited, the Contractor, at its option, shall be permitted to store such materials and/or equipment in a suitable space off-site. Should the Contractor desire to include any such materials or equipment in its application for payment, they must be stored in the name of the Town in an independent, licensed, bonded warehouse approved by the Town and located as close to the site as possible. The warehouse selected must be approved by the Contractor's bonding and insurance companies; the material to be paid for shall be assigned to the Town. Upon approval by the Town of the storage facilities and materials and equipment, payment therefore will be made. Responsibility for such stored materials and equipment shall remain with the Contractor. Such stored materials and equipment shall not be moved except for transportation to the Project site.
- D. Retainage: In accordance with N.C.G.S 143-134.1, for projects costing more than \$100,000.00, the Town may withhold a percentage of payment until the Project has been satisfactorily completed. Retainage on periodic and final payment for this Project shall be as follows:
- a. Retainage withheld shall not exceed 5% at any time.
  - b. The same terms shall apply to the general contractor and subcontractors alike.
  - c. Following 50% completion of the Project, the Town, with written consent from the Surety, shall not retain further retainage if the Contractor continues to perform satisfactorily and any nonconforming work identified in writing prior to that time has been corrected by the Contractor and accepted by the Town. The Project shall be deemed 50% complete when the Contractor's gross Project invoices, excluding the value of materials stored off-site, equal or exceed 50% of the value of the Contract, except the value of materials stored on-site shall not exceed 20% of the Contractor's gross Project invoices for the purpose of determining whether the Project is 50% complete.
  - d. If the Town determines that the Contractor is not performing satisfactorily, the Town may reinstate retainage for each subsequent periodic payment application up to 5%. Following 50% completion of the Project, Town is authorized to withhold additional retainage not to exceed 5% from a subsequent periodic payment application if the amount of total retainage withheld falls below 2.5%, through the completion of the Project.
- E. If the pay application is approved by the Town, the Town will process all pay applications within 30 days after receipt from the Contractor. Town has the right to require the Contractor to produce for inspection all of Contractor's records and charges to verify the accuracy of all applications for payment. Town shall pay Contractor's invoices at times set forth above unless a bona fide dispute exists between Town and Contractor concerning the accuracy of said invoice or the services covered thereby.

## **5. FINAL PAYMENT.**

- A. Upon completion, the Contractor shall submit satisfactory evidence that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full. Final payment will be made within forty-five (45) days after acceptance of all work by the Town and after receipt of the final pay request which shall include the Contractor's affidavit, sworn and notarized, in the following form:

"This is to certify that all costs of materials, equipment, labor, subcontracted work, and all else entering into the accomplishment of this contract, including payrolls, have been paid in full, and no claims or liens exist against Contractor in connection with this Contract."

The Town may withhold payment for any of the following reasons:

1. Faulty or defective work not corrected.
2. The unpaid balance remaining on the Contract is not sufficient to complete the work in the sole judgement and discretion of the Town.
3. To provide a sufficient contract balance to cover liquidated damages that will be assessed.
4. Evidence that subcontractors have not been paid.

- B. Prior to submitting request for final payment to the Town, Contractor shall provide the following:

1. Warranties and bonds, guarantees, maintenance agreements, as-built drawings, certificates of inspection or approval from agencies having jurisdiction.
2. List of minority business subcontractors and material suppliers showing breakdown of contract amounts and total actual payments to subcontractors and material suppliers.
3. Contractor's affidavit of payment to material suppliers and subcontractors.
4. Consent of Surety to final Payment.
5. Certificates of state agencies (if any) required by law.

## 6. CONSTRUCTION SUPERVISION AND SCHEDULE

- A. Throughout the progress of the Work, the Contractor shall keep at the job site, a competent superintendent and supervisory staff satisfactory to the Town. The superintendent and supervisory staff shall not be changed without the consent of the Town unless said superintendent ceases to be employed by the Contractor or ceases to be competent as determined by the Contractor or Town. The superintendent and other staff designated by the Contractor in writing shall have authority to act on behalf of the Contractor, and instructions, directions or notices given to the superintendent shall be as binding as if given to the Contractor. However, directions, instructions, and notices shall be confirmed in writing.
- B. Contractor shall examine and study the drawings and specifications and fully understand the Project design and shall provide constant and efficient supervision to the Work. Should Contractor discover any discrepancies of any sort in the drawings or specifications, Contractor shall report them to the Town without delay. Contractor will not be held responsible for discrepancies in the drawings and/or specifications but shall be held responsible to report them should they become known to Contractor.
- C. Contractor is required to attend job site progress conferences as called by the Town. The Contractor shall be represented at these job progress conferences by both home office and

Project personnel. These representatives shall have authority to act on behalf of the Contractor. These meetings shall be open to subcontractors, material suppliers and any others who can contribute toward maintaining required job progress. It shall be the principal purpose of these meetings, or conferences, to effect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the Project on schedule and to complete the Project within the specified contract time. The Contractor shall be prepared to assess progress of the Work as required in the Contract Documents and to recommend remedial measures for correction of progress as may be appropriate. The Contractor shall turn over a copy of his daily reports to the Town at the job site progress conference. Town will determine daily report format.

- D. Contractor shall prepare the Project construction schedule which shall graphically show all outstanding features of the Work required to construct the Project from start to finish and within the allotted time established in the Contract. Contractor shall maintain a Project progress schedule for the Town and shall notify the Town of any requested changes in the Project schedule.
- E. The Project construction schedule shall indicate the estimated starting and completion dates for each major element of the Work by area and shall schedule dates for all outstanding features, including but not limited to the placing of orders for materials, the manufacture and delivery of material, the testing and the installation of materials, supplies and equipment, and all Work activities to be performed by the Contractor. The Contractor shall allow sufficient time in his schedule for all required inspections. Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.
- F. The Contractor is responsible for its Work activities and will notify Town of any required changes to its Work. If any Work activities are behind schedule the Contractor shall, in writing, describe what measures will be taken to bring each such activity back on schedule and to ensure that the Contract completion date is not exceeded. A plan of action and recovery schedule shall be developed and submitted to the Town by the Contractor, when (1) the Contractor indicates delays, that are in the opinion of the Town, of sufficient magnitude that the Contractor's ability to complete the Work by the scheduled completion is brought into question; (2) the updated construction schedule is thirty (30) days behind the planned or baseline schedule and no legitimate time extensions, as determined by the Town, are in process; or (3) the Contractor desires to make changes in the sequencing of Work or the planned duration of future activities which in the opinion of the Town, are of a major nature. The plan of action, when required shall be submitted to the Town for review within two (2) business days of the Contractor receiving the Town's written demand. The recovery schedule, when required, shall be submitted to the Town within five (5) calendar days of the Contractor's receiving the Town's written demand. Failure to provide an updated construction schedule or a recovery schedule may be grounds for rejection of payment applications or withholding of funds.
- G. The proposed Project construction schedule shall be presented to the Town no later than fifteen (15) calendar days after the issuance of the written Notice to Proceed. No application for payment will be reviewed or paid until this schedule is accepted by the Town.

## **7. USE OF PREMISES.**

- A. Contractor shall confine its apparatus, the storage of materials and the operations of its workers to limits indicated by law, ordinances, permits or directions of the Town and shall not exceed those established limits in its operations.
- B. Contractor shall enforce the Town's instructions regarding signs, advertisements, fires and smoking.
- C. No firearms, any type of alcoholic beverages, or drugs (other than those prescribed by a physician) will be permitted at the job site.

## **8. PROTECTION OF WORK, PROPERTY AND THE PUBLIC.**

- A. The Contractor shall be responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by the Town, and by laws or ordinances governing such conditions. Contractor shall be responsible for any damage to the Town's property, or of that of others on the job, by them, their personnel, or their subcontractors, and shall pay for or repair any such damages. Contractor shall be responsible for and pay for any damages caused to the Town.
- B. The Contractor shall provide cover and protect all portions of the Project being constructed when the Work is not in progress as needed, provide and set all temporary roofs, covers, and all other materials necessary to protect all the Work on the Project, whether set by the Contractor, or any of the subcontractors. Any Work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to the Town.
- C. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from the Town.
- D. The Contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around same. Contractor shall barricade all walks, roads, etc., as directed by the Town to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the Work shall be well barricaded and properly lighted at night.
- E. The Contractor shall provide all necessary safety measures for the protection of all persons on the job and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the Work. Contractor shall clearly mark or post signs warning of hazards existing and shall barricade excavations and similar hazards. Contractor shall protect against damage or injury resulting from falling materials and shall maintain all protective devices and signs throughout the progress of the Work.
- F. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, *Federal Register*), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.



- G. The Contractor shall designate a responsible person of its organization as safety officer/inspector to inspect the Project site for unsafe health and safety hazards, to report these hazards to the Contractor for correction, and whose duties also include accident prevention on the Project, and to provide other safety and health measures on the Project site as required by the terms and conditions of the Contract Documents. The name of the safety inspector shall be made known to the Town at the time of the preconstruction conference and in all cases prior to any Work starting on the Project.
- H. In the event of emergency affecting the safety of life, the protection of Work, or the safety of adjoining properties, the Contractor is hereby authorized to act at Contractor's own discretion, without further authorization from anyone, to prevent such threatened injury or damage.
- I. Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall be borne by the Contractor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

## 9. UTILITIES.

Contractor shall provide necessary and adequate facilities for water, electricity, gas, oil, sewer and other utility services which may be necessary and required for completion of the Project including all utilities required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical and electrical systems. Any permanent meters installed shall be listed in the Contractor's name until Work has a Final Acceptance. The Contractor will be solely responsible for all utility costs prior to Final Acceptance. Contractor shall contact all affected utility companies prior to bid to determine their requirements to provide temporary and permanent service and include all costs associated with providing those services in their bid. Coordination of the Work of the utility companies during construction is the sole responsibility of the Contractor.

## 10. CHANGE ORDERS.

- A. In the event Town has changes in the Work not covered by the Contract, these changes will not invalidate or relieve Contractor from any guarantee it has given in this Contract. These changes will not relieve the Surety or Sureties of any bonds and all extra Work shall be performed under the conditions of this Contract. Except in an emergency endangering life or property, changes in Work shall *not* proceed without a Change Order approved by the Town. Contractor shall provide a complete breakdown of all labor and material costs with the Change Order request. The breakdown shall include the Contractor's allowance for overhead and profit not to exceed 10% of the net cost of the change with Work provided directly by the Contractor. For purposes of this Contract, "net cost" shall mean the difference between all proper cost additions and deductions. No claim for adjustments of the contract price shall be valid unless the procedure outlined in this section is followed. Any Work performed pursuant to an approved change order shall be governed by the terms of this Contract.
- B. The Parties agree that there are two methods that may be utilized to determine the cost of changes:
  - 1. If unit prices are quoted in the proposal or bid and the additional work is covered by those unit prices, or can be subsequently agreed to by the Parties, the cost of the change shall be computed by application of the unit prices based on quantities. If this method is used no additional allowances shall be made for overhead and profit.

2. If the additional work is not covered by unit prices, unit prices were not provided in the proposal or bid, or the Parties mutually agree, then Town and Contractor may negotiate and agree upon the value of the change prior to the issuance of the Change Order and the Change Order shall identify the corresponding lump sum adjustment to the contract price.
- C. In the event concealed conditions are discovered in the performance of the Work below grade, or in the event concealed or unknown conditions in an existing structure vary from the conditions indicated in the Contract Documents, the contract sum and time for completion may be adjusted by Change Order upon claim by either party made within thirty (30) days after the condition has been identified. The cost shall be determined by one of the methods outlined in this Contract.
  - D. Change Orders shall be submitted by the Contractor for the Town's review and approval. Contractor shall provide all applicable supporting data and information. Delay in approval of a Change Order due to Contractor's failure to submit proper documentation shall not be grounds for a time extension or basis of a claim. The Town shall respond to the Contractor's proposal within fourteen calendar (14) days of receipt of the proposal. If accepted, the Town shall prepare the Change Order for the Contractor's signature. The Town shall execute the approved Change Order within seven (7) days of receipt from the Contractor. The Contractor shall notify its bonding company that the Contract has been changed by the amount of the Change Order and provide a copy of the approved Change Order to the Surety. In the event a Change Order cannot be agreed upon by the Parties, nothing in this Contract shall preclude the Town from performing, or having performed, the Work requested in a Change Order.

## **11. MINOR CHANGES.**

The Town may order minor changes in the Work not involving an adjustment in the Contract sum or Time for Completion, and not inconsistent with the intent of the Contract Documents. Such changes shall be executed by written order and shall be binding on the Contractor and subject to the terms of this Contract.

## **12. INSPECTION OF THE WORK.**

- A. It is a condition of this Contract that the Work shall be subject to inspection during normal working hours and during any time Work is in preparation and progress by the Town or a Special Inspector designated by the Town, and those persons required by state law to test Work for official approval. The Contractor shall therefore provide safe access to the Work at all times for such inspections.
- B. All Work shall be inspected by the Town or Special Inspector (if applicable) prior to being covered by the Contractor. Contractor shall give a minimum two weeks' notice of needed inspections unless otherwise agreed to by all parties. If an inspection fails, all costs associated with additional re-inspections shall be borne by the Contractor.
- C. Where special inspection or testing is required by virtue of any state laws, instructions of the Town, specifications, or codes, the Contractor shall give adequate notice to the Town of the time set for such inspection or test. Such special tests or inspections will be made in the presence of the Town's representative, and it shall be the Contractor's responsibility to serve ample notice of such tests.

- D. All laboratory tests shall be paid by the Town unless provided otherwise in the Contract Documents, except the Contractor shall pay for laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with Contract Documents where materials have tested deficient except when the testing laboratory did not follow the appropriate ASTM testing procedures.
- E. Should any Work be covered up or concealed prior to inspection and approval by the Town or Special Inspector, such Work shall be uncovered or exposed for inspection, if requested by the Town. Inspection of the Work will be made upon notice from the Contractor that the Work has been uncovered or exposed. In the event Work has been covered or concealed, all costs involved in uncovering, repairing, replacing, recovering and restoring to design condition said Work will be paid by the Contractor.

### **13. TOWN'S RIGHT TO PERFORM WORK.**

If at any point during the performance or progress of the work, or during the period of guarantee, Contractor fails to perform the Work in a satisfactory manner or to perform in accordance with the terms of this Contract, the Town, after seven (7) days' written notice to the Contractor from the Town, may perform or have performed that portion of the Work. The cost of the associated Work may be deducted from any amounts due or that become due to the Contractor. In the event the cost of such performance exceeds the amount due the Contractor, then the Contractor or the Surety (if applicable), or both, shall be liable for and shall pay to the Town the amount of the excess.

### **14. UNCORRECTED FAULTY WORK**

Should the correction of faulty or damaged Work be considered inadvisable by the Town, the Work will not be corrected and the Town shall be reimbursed by the Contractor for the devaluation of the Project as a result of the faulty Work. A change order will be issued to reflect the reduction in Contract sum.

### **15. FINAL INSPECTION AND FINAL ACCEPTANCE**

- A. Upon notification from the Contractor that the Project is complete and ready for inspection, the Town shall complete a final inspection to verify that the Project is complete. The Contractor shall schedule the final inspection at a time and date acceptable to the Town.
- B. Upon final inspection, the Town shall, if job conditions warrant, record a list of items that are found to be incomplete or not in accordance with the Contract Documents. At the conclusion of the Town's final inspection, the Town shall make one of the following determinations:
  - 1. That the Project is completed and accepted.
  - 2. That the Project will be accepted subject to the correction of any identified discrepancies or faulty construction.
  - 3. That the Project is not complete and a date for another final inspection will be established.

The date of Final Acceptance will establish the beginning of the guarantees and warranties period and the termination of utility cost to the Contractor. No liquidated damages will be assessed after this date.

## **16. CORRECTION OF WORK PRIOR TO FINAL PAYMENT**

- A. Any Work, materials, fabricated items or other parts of the Work which are not in accordance with the Contract shall be promptly removed from the Work site by the Contractor and shall be immediately replaced by new Work in accordance with the Contract Documents at no additional cost to the Town. Work or property of other contractors or the Town, damaged or destroyed by virtue of such faulty Work, shall be made good at the expense of the Contractor.
- B. Correction of faulty Work described above shall commence within twenty-four (24) hours after receipt of notice from the Town, and shall make satisfactory progress, as determined by the Town, until completed.
- C. Should Contractor fail to proceed with the corrections in a timely fashion Town may complete the Work in accordance with this Contract.

## **17. CORRECTION OF WORK AFTER FINAL PAYMENT**

Neither the final payment or use of the premises by the Town, nor any provision of the Contract, nor any other act or instrument of the Town, shall relieve the Contractor from responsibility for negligence, or faulty material or workmanship, or failure to comply with the drawings and specifications. Contractor shall correct or make good any defects due thereto and repair any damage resulting there from, which may appear during the guarantee period following Final Acceptance of the Work. The Town will report any defects as they may appear to the Contractor and establish a time limit for completion of corrections by the Contractor. The Town will be the judge as to the responsibility for correction of defects.

## **18. MINORITY BUSINESS PARTICIPATION**

Contractor is required to identify participation of Minority and Women-Owned Business Enterprises (MWBE) in its proposal and document how that participation is achieved. There is a verifiable goal of ten percent (10%) for participation by minority businesses in the total value of work for the Project. Contractor shall comply with the document titled "Guidelines For Recruitment and Selection of Minority Businesses For Participation In Reedy Branch Greenway (Sweetwater Gap) Construction Contract", including associated Affidavits and Appendices which are hereby incorporated herein.

## **19. APPLICABILITY OF LAWS AND REGULATIONS.**

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

Contractor shall obtain all required permits and inspections and shall give all notices required by law in performance of this Project. In the event Contractor observes that any drawings or specifications are not in compliance with any such rules, laws, or regulations, Contractor shall promptly notify the Town in writing. Contractor shall not perform any Work knowing it to be contrary to any laws, ordinances, codes, rules or regulations.

All Work under this Contract shall be performed in accordance with the North Carolina Building Code and all other applicable state or national codes.

**20. E-VERIFY COMPLIANCE.**

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

**21. QUALITY AND WORKERSHIP.**

Contractor shall provide services in accordance with all governing agency regulations and shall be held to the same standard and shall exercise the same degree of care, skill and judgment in the performance of services for Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina. Contractor hereby certifies that Contractor is a licensed general contractor as defined by N.C.G.S. 87-1.

**22. SURETY.**

If at any time after the execution of this Contract and the surety bonds included in the Contract Documents for the faithful performance of the Contract, the Town shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the Work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the Town so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the Town. In such event no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the Town.

**23. BOND REQUIREMENTS.**

Within ten (10) days of the award of the Contract, Contractor shall provide the Town of Apex with a contract payment bond and a contract performance bond executed by a surety company authorized to do business in North Carolina, each in an amount equal to 100 percent of the amount of the Contract. All bonds shall be in conformity with N.C.G.S. 44A-33 and countersigned by an authorizing agent of the bonding company.

Failure on the part of the Contractor to file acceptable bonds within the required timeframe shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding award of the Contract. Award may then be made to the next lowest responsible bidder or the Work may be re-advertised.

**24. CONTRACTOR'S WARRANTIES.**

The Contractor, in executing this Contract, unconditionally guarantees the materials and workmanship against defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the Final Acceptance of the Work by the Town and shall replace all such defective materials or workmanship without cost to the Town. In the case where materials or equipment carry a manufacturer’s warranty for any period in excess of twelve (12) months, then the manufacturer’s warranty shall apply for that specific equipment or material. During the manufacturer’s warranty period the Contractor shall be responsible for the replacement of such defective equipment or materials.

Nothing in this section shall preclude the Town from bringing an action for latent defects caused by the negligence of the Contractor which is concealed, hidden, or not readily apparent to the Town at the time of Final Acceptance, in accordance with applicable law. Guarantees that are stipulated in the specifications or drawings shall govern those particular materials or equipment.

**25. CODES AND STANDARDS.**

Wherever reference is made to codes, standard specifications, or other data published by regulating agencies it shall be understood that said reference is to the latest edition published prior to the date of the Contract Documents. These regulating agencies include, but are not limited to, North Carolina state building codes, federal specifications, national electric codes, ASTM specifications and various institute specifications.

## **26. INDEMNIFICATION.**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Town and its agents, consultants, elected officials, and employees, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance or failure of performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, the Contractor's subcontractor, or the agents of either the Contractor or the Contractor's subcontractor. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

## **27. INSURANCE.**

Work under this Contract shall not begin until the Contractor has obtained all required insurance set forth below and verifying certificates of insurance have been provided to the Town. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this Contract. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or eliminated without written notice, by certified mail, to the Town of such alteration or cancellation. Notwithstanding the foregoing, neither the requirement of Contractor to have sufficient insurance nor the requirement that Town is named as an additional insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law.

### **a. Worker's Compensation and Employer's Liability**

The Contractor shall provide and maintain, until Final Acceptance, Worker's compensation insurance, as required by law, as well as employer's liability coverage with a minimum limit of \$1,000,000.

### **b. Public Liability and Property Damage**

The Contractor shall provide and maintain, until Final Acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this Contract, whether such operations be by the Contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Commercial General Liability:



Each Occurrence: Two Million (\$2,000,000)  
General Aggregate: Four Million (\$4,000,000)  
Products-Completed/Operations Aggregate: Four Million (\$4,000,000)

Such coverage for completed operations must be maintained for at least two (2) years following Final Acceptance of the Work performed under the Contract.

c. **Commercial Automobile Liability Coverage**

The Contractor shall purchase and maintain, until Final Acceptance, commercial automobile liability insurance as follows:

Combined Single Limit Per Accident: Two Million (\$2,000,000) for bodily injury, death of any person, and property damage covering vehicles owned, non-owned, and hired by Contractor and used during construction.

d. **Property Insurance (Builder's Risk/Installation Floater)**

The Contractor shall purchase and maintain property insurance until Final Acceptance, upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Town, the Contractor, the subcontractors and sub-subcontractors in the Work and shall insure against the perils of fire, wind, rain, flood, extended coverage, and vandalism and malicious mischief. If the Town is damaged by failure of the Contractor to purchase or maintain such insurance, then the Contractor shall bear all reasonable costs properly attributable thereto; the Contractor shall obtain and maintain similar property insurance on portions of the Work stored off the site when request for payment per articles so includes such portions.

e. **Environmental Pollution Liability**

If the Work includes the use or release of pollutants Contractor shall maintain Environmental Pollution Liability in the following minimum amounts:

Each Occurrence: Two Million (\$1,000,000)  
Aggregate: Four Million (\$4,000,000)

f. **Deductible**

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Contractor.

**g. Other Insurance**

The Contractor shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

Commercial General Liability and Commercial Automobile Liability limits can be satisfied under a combination of Primary and Umbrella/Excess Liability Insurance policies.

Waiver of Subrogation is required on General Liability, Auto Liability, Worker's Compensation and Umbrella policies.

Town of Apex is to be named as Additional Insured on General Liability and Automobile Liability policies.

**h. Proof of Carriage**

The Contractor shall furnish the Town with satisfactory proof of carriage of the insurance required before approval of the insurance is granted by the Town.

**28. SUBCONTRACTORS.**

Contractor shall be fully responsible for Contractor's own acts or omissions as well as those of any subcontractor retained to perform services pursuant to this Contract. Contractor acknowledges that no contractual relationship exists between the subcontractor and the Town in regards to this Contract and that the subcontractor is acting as an agent or employee of the Contractor. Contractor acknowledges that the terms of this Contract apply to each subcontractor as it does to the Contractor and Contractor will take whatever steps necessary to bind all subcontractors working on this Project to these terms.

**29. DEFAULT.**

In the event the Contractor fails to begin the Work pursuant to the Contract Documents within the time specified, or the progress of the Work is not maintained on schedule, or the Work is not completed within the time specified, or fails to perform the Work with sufficient staff and equipment or with sufficient materials to ensure the prompt completion of said Work, or shall perform the Work unsuitably or shall discontinue the prosecution of the Work, or if the Contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency, or allow any final judgment to stand against Contractor unsatisfied for a period of forty-eight (48) hours, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the Work in an acceptable manner, the Town may give notice in writing, sent by certified mail, return receipt requested, to the Contractor and its surety of such delay, neglect or default, specifying the same, and if the Contractor within a period of seven (7) days after such notice shall not proceed in accordance with the notice, then the Town shall, declare this Contract in default. Upon a declaration of default the following shall apply:

The Surety shall promptly take over the Work and complete the performance of this Contract in the manner and within the time frame specified. In the event the Surety shall fail to take over the Work to be done under this Contract within seven (7) days after being so notified and notify the Town in

writing, sent by certified mail, return receipt requested, that it is taking the same over and stating that it will diligently pursue and complete the same, the Town shall have full power and authority, without violating the Contract, to take the prosecution of the Work out of the hands of said Contractor, to appropriate or use any or all contract materials and equipment on the grounds as may be suitable and acceptable and may enter into an agreement, either by public letting or negotiation, for the completion of said Contract according to the terms and provisions thereof or use such other methods as in Town’s opinion shall be required for the completion of said Contract in an acceptable manner. All costs and charges incurred by the Town, together with the costs of completing the Work under Contract, shall be deducted from any monies due or which may become due said Contractor and Surety. In the event the expense shall exceed the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Town the amount of said excess.

**30. TERMINATION FOR CONVENIENCE.**

Town shall have the right to terminate this Contract for the Town’s convenience upon thirty (30) days written notice to Contractor. Contractor shall terminate performance of services on a schedule acceptable to the Town. Unless otherwise notified, upon termination Contractor shall discontinue all Work and the placement of orders for materials and supplies in connection with this Contract.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the Work completed in conformity with this Contract; plus, (2) such other costs actually incurred by Contractor as are permitted by the Contract and approved by Town. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Contract. Contractor shall not be entitled to any claim or claim of lien against Town for any additional compensation or damages in the event of such termination and payment.

**31. NOTICE.**

Any formal notice, demand, or request required by or made in connection with this Contract shall be deemed properly made if delivered in writing in person by registered mail to the address specified below.

<p>TO CONTRACTOR:</p>	<p>TO TOWN:</p> <p style="text-align: right;">Town of Apex Attn: Angela Reincke PO Box 250 Apex, NC 27502 Angela.Reincke@apexnc.org</p>
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**32. NONWAIVER FOR BREACH.**

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

**33. CONSTRUCTION.**

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

**34. NO REPRESENTATIONS.**

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

**35. SEVERABILITY.**

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

**36. COUNTERPARTS.**

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

**37. MODIFICATION.**

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

**38. BINDING EFFECT.**

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

**39. ASSIGNMENT.**

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

**40. INDEPENDENT CONTRACTOR.**

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

**41. NON-APPROPRIATION.**

Notwithstanding any other provisions of this Contract, the parties agree that payments due hereunder from the Town are from appropriations and monies from the Town Council and any other governmental entities.

In the event sufficient appropriations or monies are not made available to the Town to pay the terms of this Contract for any fiscal year, this Contract shall terminate immediately without further obligation of the Town.

**42. IRAN DIVESTMENT ACT CERTIFICATION.**

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

**43. ANTI-HUMAN TRAFFICKING.**

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

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

**Contractor:** \_\_\_\_\_

**Town of Apex**

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
Shawn Purvis, Interim Town Manager

\_\_\_\_\_  
Signature

Attest:

\_\_\_\_\_  
Title

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

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

Attest:

\_\_\_\_\_  
Secretary (if a corporation)

\_\_\_\_\_  
Antwan Morrison, Finance Director

Reedy Branch Greenway  
Sweetwater Gap  
Bid Opening

Bid	Bidder Name	Bid Amount (as from bid form) (Prior to tabulation of actual numbers)	Alternate Price (Prior to tabulation of actual numbers)	Total Base Bid + Alternate	Addendum 1-3	GC License #	Bid Bond	DBE Form
1	Hollins Construction, Co.*	\$462,193.00			Y	L.69738	N/A	N/A
2	Lanier Construction	\$492,050.00			Y	L.18152	N/A	N/A
3	Beluca, LLC.	\$700,320.00			Y	L.100934	N/A	N/A
4	Black Diamond Designs, Inc.	\$601,186.14			N	L.100100	N/A	N/A
5	Cinderella Partners	\$492,381.37			Y	L.78482	N/A	N/A
<b>DocuSigned by:</b>								

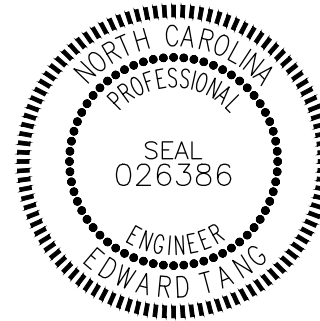
*Edward Tang*  
Edward Tang, PE  
4A74E8C7C43D4CD...

1/29/2024

Date

\*Denotes that a mathematical error was found when the bid tabulations were checked

This is to certify bids tabulated herein were received on the above date at the Town of Apex Senior Center at 63 N. Hunter Street, Apex, NC 27502







**NOTICE OF AWARD**  
**Reedy Branch (Sweetwater Gap) Greenway**  
**Construction**

To: Tony Hollins  
Hollins Construction Services, Co.

The Town has considered the Bid received from you on January 23, 2024 for the above described Work in response to the Advertisement for Bids and information for this project.

You are hereby notified that your bid has been accepted.

As stipulated in the Instructions to Bidders, you are required to furnish the required Insurance Certificate along with an executed copy of the Contract within ten calendar days from the date of this Notice to you.

If you fail to furnish said documents within ten days from the date of this Notice, the Town will be entitled to consider all your rights arising out of the Town's acceptance of your Bid as abandoned. The Town will be entitled to such other rights as may be granted by law.

TOWN OF APEX

BY: \_\_\_\_\_ DATE  
Shawn Purvis, Interim Town Manager

**ACCEPTANCE OF NOTICE**

Receipt is hereby acknowledged by:

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



BID PROPOSAL  
GENERAL CONSTRUCTION  
Reedy Branch Greenway (Sweetwater Gap)

ITEMIZED BID TAB

ITEM NUMBER	ITEM DESCRIPTION	QUANTITY	UNIT	BELUCA, LLC		BLACK DIAMOND DESIGNS INC.		CINDERALLA PARTNERS		HOLLINS CONSTRUCTION CO.		LANIER CONSTRUCTION CO.	
				UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
<b>SITE PREPARATION</b>													
1	Mobilization	1	LS	\$109,000.00	\$109,000.00	\$53,500.00	\$53,500.00	\$7,435.00	\$7,435.00	\$20,000.00	\$20,000.00	\$23,000.00	\$23,000.00
2	Construction Staking	1	LS	\$20,000.00	\$20,000.00	\$18,000.00	\$18,000.00	\$9,665.50	\$9,665.50	\$15,000.00	\$15,000.00	\$9,000.00	\$9,000.00
3	Clearing and Grubbing	1	LS	\$6,500.00	\$6,500.00	\$8,600.00	\$8,600.00	\$8,922.00	\$8,922.00	\$4,000.00	\$4,000.00	\$6,000.00	\$6,000.00
4	Seeding and Mulching	1	LS	\$10,000.00	\$10,000.00	\$14,000.00	\$14,000.00	\$8,061.77	\$8,061.77	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00
5	Refresh Existing Construction Entrance @ Lowland St	1	EA	\$3,500.00	\$3,500.00	\$7,800.00	\$7,800.00	\$3,717.50	\$3,717.50	\$3,000.00	\$3,000.00	\$20,000.00	\$20,000.00
6	Comprehensive Grading	1	LS	\$85,000.00	\$85,000.00	\$14,580.00	\$14,580.00	\$16,208.30	\$16,208.30	\$50,000.00	\$50,000.00	\$55,000.00	\$55,000.00
7	Undercut Allowance	100	CY	\$120.00	\$12,000.00	\$42.00	\$4,200.00	\$52.04	\$5,204.00	\$60.00	\$6,000.00	\$50.00	\$5,000.00
<b>EROSION CONTROL</b>													
8	Construction Entrance	1	EA	\$3,000.00	\$3,000.00	\$5,300.00	\$5,300.00	\$7,435.00	\$7,435.00	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00
9	Combination Silt Fence/Tree Fence	1,000	LF	\$6.50	\$6,500.00	\$7.40	\$7,400.00	\$10.40	\$10,400.00	\$5.00	\$5,000.00	\$5.00	\$5,000.00
10	Slope Matting	225	SY	\$8.00	\$1,800.00	\$11.45	\$2,576.25	\$7.44	\$1,674.00	\$5.00	\$1,125.00	\$8.00	\$1,800.00
11	Silt Fence Outlet	2	EA	\$180.00	\$360.00	\$400.00	\$800.00	\$1,190.00	\$2,380.00	\$600.00	\$1,200.00	\$250.00	\$500.00
12	Erosion Control Matting	1	LS	\$30,000.00	\$30,000.00	\$5,650.00	\$5,650.00	\$3,717.50	\$3,717.50	\$4,000.00	\$4,000.00	\$5,000.00	\$5,000.00
<b>STRUCTURES</b>													
13	10' Wide Wooden Boardwalk (All Inclusive Design, Permitting and Construction)	1	LS	\$330,000.00	\$330,000.00	\$405,150.00	\$405,150.00	\$339,036.00	\$339,036.00	\$275,000.00	\$275,000.00	\$300,000.00	\$300,000.00
<b>CONCRETE</b>													
14	10' x 10' x 0.5' (3000 PSI) Concrete Approach Slab	2	EA	\$4,700.00	\$9,400.00	\$2,250.00	\$4,500.00	\$1,934.00	\$3,868.00	\$3,000.00	\$6,000.00	\$3,500.00	\$7,000.00
15	10' Wide Concrete Greenway Trail	278	SY	\$220.00	\$61,160.00	\$94.38	\$26,237.64	\$199.95	\$55,586.10	\$156.00	\$43,368.00	\$125.00	\$34,750.00
16	MH Adjustments	3	EA	\$3,300.00	\$9,900.00	\$2,130.75	\$6,392.25	\$1,784.40	\$5,353.20	\$5,500.00	\$16,500.00	\$2,500.00	\$7,500.00
<b>PROJECT CLOSEOUT</b>													
17	As-Built Drawings	1	LS	\$2,200.00	\$2,200.00	\$16,500.00	\$16,500.00	\$3,717.50	\$3,717.50	\$5,000.00	\$5,000.00	\$6,000.00	\$6,000.00
<b>TOTAL BID PRICE</b>				\$700,320.00		\$601,186.14		\$492,381.37		\$462,193.00		\$492,050.00	

\*Bid has math error for LTs #14, 15, and 16. WR spoke with the contractor and confirmed the unit prices listed for each LI are correct and that the bid total should be \$462,193.00 as shown above.



January 29, 2024

Ms. Angela Reincke  
Town of Apex  
53 Hunter Street  
Apex, North Carolina 27502

RE: Reedy Branch Greenway (Sweetwater Gap)  
Bid Results and Recommendation of Award  
WR Project No. 23-0070-006

Dear Ms. Reincke:

Bids were received for the subject project on Tuesday January 23rd, at 2:00 pm at Town of Apex Senior Center. Five (5) bidders provided bids for the project. Two (2) bidders were present during the bid opening with three (3) bids being delivered to the Town.

The apparent low bidder at the bid opening was:

Hollins Construction Services, Inc. (HCS)  
3650 Rogers Rd #320  
Wake Forest, NC 27587

Upon review of all bids and preparing the bid tabulation, WithersRavenel found three (3) multiplication errors within HCS's bid that resulted in the actual bid total being \$312.00 less than submitted in the bid package. This did not affect HCS being the lowest bidder. WithersRavenel confirmed the unit prices with HCS and agreed upon the corrected new total bid price as shown below:

**The total base bid amount is \$462,193.00.**

We recommend awarding the contract to the apparent low bidder, Hollins Construction Services, Inc. in the amount of **\$462,193.00.**

If you need further information, please do not hesitate to call.

Sincerely,

Edward Tang, P.E.  
Senior Technical Consultant

Attachment:

1. Certified Bid Tabulation



# Town of Apex

## CAPITAL PROJECT ORDINANCE AMENDMENT 2024-11

### 67 - Recreation Capital Project Fund

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

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

0011-35710: Reedy Branch Greenway: Subdivision Recreation Fees	<b>445,634</b>
<b>Total Revenues</b>	<b>\$445,634</b>

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

67-9200-0011-47300: Capital Outlay Improvements	445,634
<b>Total Expenditures</b>	<b>\$445,634</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 13th day of February, 2024.

Attest:

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

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

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerks Office

### Requested Motion

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

- January 16, 2024 - Town Council Work Session Minutes
- January 23, 2024 - Regular Town Council Minutes
- February 3, 2024 - Special Town Council Meeting Minutes
- February 4, 2024 - Special 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

- CN9-A1: **DRAFT** Minutes - January 16, 2024 - Town Council Work Session Minutes
- CN9-A2: **DRAFT** Minutes - January 23, 2024 - Regular Town Council Minutes
- CN9-A3: **DRAFT** Minutes - February 3, 2024 - Special Town Council Meeting Minutes
- CN9-A4: **DRAFT** Minutes - February 4, 2024 - Special Town Council Meeting Minutes





1 **DRAFT MINUTES**  
2 **TOWN OF APEX**  
3 **TOWN COUNCIL WORK SESSION**  
4 **TUESDAY, JANUARY 16, 2024**  
5 **3:30 P.M.**

6 The Apex Town Council met for a work session on Tuesday, January 16, 2024 at 3:30 p.m. at  
7 the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

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

10 <https://www.youtube.com/watch?v=98u3l63ANa0>

11  
12 Elected Body

- 13 Mayor Jacques K. Gilbert (presiding)  
14 Mayor Pro-Tempore Ed Gray  
15 Councilmember Brett Gantt  
16 Councilmember Terry Mahaffey (*left early, see note below*)  
17 Councilmember Arno Zegerman  
18 Councilmember Audra Killingsworth (*arrived late, see note below*)

19  
20 Town Staff

- 21 Interim Town Manager Shawn Purvis  
22 Assistant Town Manager Demetria John  
23 Assistant Town Manager Marty Stone  
24 Town Attorney Laurie Hohe  
25 Town Clerk Allen Coleman

26 All other staff members will be identified appropriately below.

27 **[COMMENCEMENT]**  
28

29 **Mayor Gilbert** called the Work Session to order, and led in a recitation of the Pledge  
30 of Allegiance.

31  
32 **[AGENDA ITEM NO. 1 - APEX UNITED METHODIST CHURCH (UMC) PRESENTATION]**  
33

34 **Fiorella Horna**, with Fiesta Cristiana, gave an overview of Fiesta Cristiana’s  
35 Development since being established in 2008. She shared what their mission is and how it  
36 coincides with the Town of Apex.  
37  
38

1 [SLIDE-1]

**Fiesta Family Services**

*Town of Apex  
Land Use Proposal  
206 & 210 S Hughes Street*

*Fiesta CRISTIANA*

2  
3 [SLIDE-2]

**Fiesta Cristiana, serving the community since 2008**

Established by Apex UMC as a Hispanic/Latino Outreach Ministry; Pastor Jose Luis Villaseñor hired.

Launches Apex Immigration Services

Create First Racial Equity Bridge Teams at each campus

*Fiesta CRISTIANA*

2008 2010 2016 2018 2019 2021 Today

Fiesta recognized hosts 1st Apex Latino Arts Festival and launches Family Resource Center

Chartered as a Mission Congregation by the UMC North Carolina Annual Conference

Contracted by El Centro Hispano to mobilize Community Health Workers for COVID response

4  
5 [SLIDE-3]

**Two entities with a common Mission**

The Church

Fiesta Cristiana Mission Congregation

Fiesta Family Services

The Community Based Organization

6

1 [SLIDE-4]

## Mission

*...to center the lived experiences of disinherited people while unapologetically and proactively dismantling systemic and structural inequities.*

2  
3 [SLIDE-5]

## Long Term Community Development Goals

- Expand Fiesta Family Services (aka Family Resources Center) and grow capacity to address the needs of the whole person resulting in healthier and more fulfilling lives.
- Serve as a one-stop-resource center for Hispanic/Latino families and other communities of color to access information, referrals, and direct support services
- Assist the Town of Apex in engaging residents in the design of a community center, a type of Welcome Center/Community Center for all residents and be part of the services rendered to the community.

4  
5 [SLIDE-6]

## Short Term Community Development Goals

- Fiesta proposes that the existing structures on the properties (206 & 210 S Hughes) be used to provide community support, health promotion, and wellness services to Hispanic/Latino families and other communities of color
- Fiesta requests the town allow Fiesta to stay on the property to grow the capacity of the Fiesta's Family Resource Center to serve as a welcoming space where community members can access information, resources, and support needed to address socioeconomic factors that impact their health and quality of life

6

1 [SLIDE-7]



2  
3 [SLIDE-8]

### Latinos and other Underserved Communities Live Vibrant, Healthy Lives

*Goal:* Community members grow their knowledge, skills, and personal power to navigate systems and access resources to work collaboratively to respond to unmet needs, address the burden of poverty, and build infrastructure that helps people thrive and give back

- Build a network of trusted community support entities for referrals and service delivery
- Support the academic success and upward mobility of Latinx students through parent education/support, tutoring, and engagement with the public school system
- Promote health literacy, healthy lifestyle behaviors, and access to equitable, inclusive, and culturally/linguistically appropriate service delivery
- Encourage and support housing justice, homebuilding/repairs, homeownership, and avoiding housing crisis displacement
- Create spaces through which community transformation can occur: gatherings that foster a sense of community, lift/grow leaders, affirm identity-humanity, promote racial healing, and mobilize community, faith, and government leaders in racial equity and inclusion work by reinvesting in the transfer of wealth and power

4  
5 [SLIDE-9]

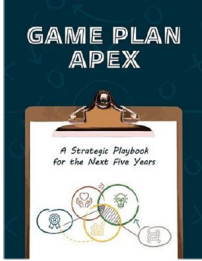
### Fiesta Family Services focuses on addressing

The diagram is a circular infographic with a central human figure icon. It is divided into five colored segments, each with an icon and a label: Education Access and Quality (blue, graduation cap), Health Care Access and Quality (red, cross), Neighborhood and Built Environment (orange, house/building), Social and Community Context (yellow, group of people), and Economic Stability (green, dollar sign). At the bottom, there is a small logo for "Social Determinants of Health" and "Healthy People 2030".

6

1 [SLIDE-10]

## Town of Apex Goal: A Welcoming Community



Create a safe and welcoming environment fostering community connections and high quality recreational and cultural experiences supporting a sense of belonging

- Ensure safe places and spaces
- Foster community connections
- Create a sense of belonging
- Encourage a healthy and active lifestyle
- Enhance communications for a more informed community

2  
3 [SLIDE-11]

## Fiesta Family Services (Family Resource Center)

The Family Resource Center increases access to information, resources, and support in both English and in Spanish that community members need to meet basic needs (food, housing, employment, healthcare, etc) and address socioeconomic factors that impact their health and quality of life through...



- Information, Referral, and Case Management
- Parent/Family Education and Support
- K-12 Tutoring and Student Support
- Immigration Legal Services

4  
5 [SLIDE-12]

## Community Outreach, Education, and Health Promotion

Fiesta's Health Outreach seeks to promote healthy lifestyle behaviors, access to care, and factors that affect health and quality of life

- Community Health Worker mobilization; certified Mental Health First Aiders
- Health and Resource Fairs
- Mental Well-being Education
- Health Promotion activities



6

1 [SLIDE-13]

## Racial Equity, Healing, and Inclusion

Increase capacity and involvement of community, faith, and government leaders in anti-racist work by reinvesting in the transfer of wealth and power, prioritizing health from trauma, and while affirming and celebrating Hispanic/Latino people, culture, and contributions.


- Racial Equity Training
- Healing Circles
- Cultural Affirming Gatherings
- Apex Latino Festival



2  
3 [SLIDE-14]

## Transformational Leadership

Amplify the voices of the Hispanic/Latino/Latinx community by working with community members and leaders to dismantle structure and systems, and hold community leaders accountable to prioritizing equity and justice



- Leadership Development
  - Youth Engagement "JUVE"/Fiesta Youth
- Advocacy & Grassroots Mobilization
  - Housing Justice
  - Immigrant Rights
  - Language Access
  - Voter Participation

4  
5 [SLIDE-15]

# 2024 - 2025 Priorities

6

1 [SLIDE-16]

**Fiesta Cristiana FY 2024-25 Priorities**

- Community based organization status by December 2024
- Hire a Community Development Officer by July 2024
- Expand Family Resource Center reach in Apex by 10% from previous year
- Engage participants of parent support groups as Community Health Workers Team to promote healthy lifestyle behaviors, mental wellbeing, and access care
- Host at least two racial equity trainings, Mental Health workshops/retreat, and weekly healing circles
- Launch fund-development campaign

2  
3 [SLIDE-17]

Fiesta Cristina looks forward to partnering with the Town of Apex to building a more unified, thriving, inclusive community, where all are welcome

4  
5  
6 **Councilmember Killingsworth** arrived at **3:47 p.m.**  
7 **Reverend Laura Katherine Stern** said that Fiesta Cristiana is its own separate church  
8 from Apex United Methodist Church (UMC). She said Apex UMC launched Fiesta Cristiana  
9 and hired Pastor Jose Luis Villasenor back in 2008, and it has since become its own church.  
10 She said they have had their properties professionally appraised, and said they know they are  
11 worth more than the town’s most recent letter of intent offers. She said they would take this  
12 offer if the town offered guarantees regarding space to the community development arm of  
13 Fiesta. She said any property sale must go through all of the processes within the Methodist  
14 Church before being finalized.  
15 **Mayor Gilbert** said in his time of knowing Fiesta and UMC, that Fiesta has done a lot  
16 and thanked them for that. He asked what is the age to receive training on mental health and  
17 first aid.



1           **Reverend Stern** said right now it's only adults they are offering training to. They are  
2 looking to be able to train youth in the future.

3           **Mayor Gilbert** said Pastor Villasenor is with everyone virtual today and asked if he  
4 would like to say a few words.

5           **Pastor Villasenor** said he has been with Fiesta Cristiana for almost 17 years now. He  
6 said the first outreach program for Hispanic and Latino families connected to the ministry was  
7 computer learning. He said they were teaching Spanish speaking families how to use  
8 computers so they could serve their kids better. He said they went on to host Wake County  
9 ESL programs for the first four years. He said in those initial years, Fiesta Cristiana developed  
10 a relationship with the Town of Apex, and then created the Apex Latino Arts Festival. He said  
11 it is essential they establish a community service arm to better enhance services. He said he is  
12 passionate about serving the community and has brought many new challenges and  
13 opportunities. He said he's glad to work with town leadership because he truly believes  
14 organizations like Fiesta Cristiana are essential for our community. He said lives have been  
15 changed through their programs, and thanked Reverend Stern for her work.

16           **Mayor Gilbert** thanked Assistant Town Manager John for going back and forth with  
17 Council and both organizations to bring this meeting together. He said the objective today is  
18 to ask questions directly to Council from both organizations so there is no delay in going  
19 back and forth.

20           **Mayor Pro Tempore Gray** said he wanted to note that the reason the town would not  
21 be engaging in any negotiations during this meeting is that they want to be able to have the  
22 same ability as any private buyer would to analyze, consult, and not show their hand. He said  
23 they discuss property matters in closed session in order to discuss how they value the land for  
24 the town and protect their position. He said this meeting may help in understanding the other  
25 aspects of this outside of the land transaction itself. He said this is an important conversation  
26 because organizations like Fiesta Cristiana are very important in providing support to the  
27 community. He said Fiesta helps speak for the voices that don't get heard, and these groups  
28 help provide to the community things the town is not able to directly. He said he appreciates  
29 the work of Apex United Methodist Church to provide support to those that need the help.  
30 He said the town is still very early on in this process, but these discussions happening early  
31 will be very helpful.

32           **Mayor Gilbert** opened the floor up for questions and discussion.

33           **Councilmember Gantt** said Fiesta Cristiana does amazing work. He said he finds this  
34 in alignment with Wake County more than the Town of Apex. He said voting, immigration,  
35 health, wellness, are more health and human services that the county handles. He asked what  
36 has the outreach been to Wake County about them leading this or a partnership.

37           **Ms. Horna** said there is currently an ARPA grant with Wake County. She said they  
38 have worked with Wake County Human Services a lot regarding community health. She said  
39 all of the work they have been doing have been with the town.

40           **Councilmember Gantt** asked has this proposal and presentation gone to Wake  
41 County.

1           **Ms. Horna** said no. She said the work they're looking into moving forward through the  
2 Family Resource Center is housed in Apex, and for Apex. She said the work they do for Wake  
3 County has come from the community health worker initiative. She said mainly the work they  
4 do is within the limits of the Town of Apex and working with people who either come to the  
5 town to receive services or who live in the town and receive services.

6           **Reverend Stern** asked Pastor Villasenor to share the importance of the location of the  
7 land and why the resource center is a helpful component.

8           **Pastor Villasenor** said when the outreach program started in 2008 in Apex, it was one  
9 of the most affordable places to live. He said that a lot of new immigrant families were  
10 moving to that area in Apex. He said there are three Latino business within one block of each  
11 other downtown and the Family Resource Center nearby. He said that area has become a  
12 hub of strategic outreach. He said Fiesta hosted the largest Covid vaccination event in the  
13 state when Covid was not being reached to Latino families. He said many families have been  
14 forced out of Apex due to cost of living, but are still connected to Apex through their  
15 organization. He says the Family Resource Center has also been like a hub to other Latino  
16 families in other towns who do not offer this service.

17           **Reverend Stern** said that this isn't just services towards Wake County, there's a very  
18 specific focus towards Apex particularly the mediate area.

19           **Councilmember Gantt** said it would be a referral if the Town of Apex was in charge of  
20 it, but it could be direct services provided if it was a County facility.

21           **Ms. Horna** said the vision for this is designed to bring all the people together in one  
22 space to get the resources they need. She said the referrals are made for resources within the  
23 town or outside of the town depending on what it is.

24           **Mayor Pro Tempore Gray** asked if it's because of the nature and type of the  
25 population that they are dealing with on a day-to-day basis that being close to downtown as  
26 possible would be beneficial.

27           **Ms. Horna** said yes, definitely.

28           **Mayor Pro Tempore Gray** asked if adding additional organizations would impact  
29 negatively or positively the ability to do your job to help.

30           **Ms. Horna** said no, that there were conversations about there are so many needs for  
31 Latino resources in one place. She said if Fiesta Cristiana is able to connect with other  
32 organizations to create something that they don't already have or that can't give directly or  
33 vice versa, she said that's the idea.

34           **Pastor Villasenor** said one of the things they value at Fiesta is collaboration. He said  
35 Fiesta has many partnerships but not with the sharing of spaces except Apex UMC, but they  
36 are not against doing more of that. He said he does share a space at the legal clinic which is  
37 a site they service over 200 families. He said one thing to note was that Fiesta started a  
38 program for high school graduates that wanted to pursue college, and offered a College  
39 preparation course through Fiesta. He said Fiesta offered a service that the public school  
40 system was failing to provide. He said the point is we need each other to serve our  
41 community better, and that's the approach Fiesta goes into with each collaboration.

1 **Councilmember Zegerman** said he appreciates all the services Fiesta has provided  
2 over the years. He asked if Fiesta Christiana Family Resource center exclusively offers these  
3 services or is there another facility that Fiesta operates out of.

4 **Reverend Stern** said the Family Resource Center that is currently housed at the  
5 address on Moore Street, that is not one of properties their talking about. She said one of the  
6 properties is one they use for the Apex Outreach Service project and houses tools and the  
7 other house has been used by a variety of things. She said recently, Fiesta's operations have  
8 moved to the other property, which is used for various things.

9 **Councilmember Zegerman** asked is it more like administrative offices.

10 **Reverend Stern** said it's always been an administrative office.

11 **Pastor Villasenor** said this has been recent during the pandemic to provide outreach  
12 particularly to the community worker team. He said up until November, Fiesta and staff  
13 shared an office with Apex UMC and are still trying to navigate the process to move forward.

14 **Councilmember Zegerman** asked if Fiesta is receiving any members in the public in  
15 the new location.

16 **Pastor Villasenor** said if someone wants to seek services from Fiesta, they are  
17 referred back to the Family Resource Center because that's where the support team is  
18 housed. He said there is an Outreach Event Coordinator who currently is housed at the  
19 House of Hope but she also goes back and forth between House of Hope and the Family  
20 Resource Center.

21 **Reverend Stern** said what the future looks like is their conversations is the Family  
22 Resource Center would move.

23 **Councilmember Zegerman** said he's trying to link the two properties and understand  
24 how they are linked to the directly receiving community members. He said that service seems  
25 like it's in a different building than the properties being discussed.

26 **Reverend Stern** said it's all on the same block so it's not a big distance. She said you  
27 take those two combined properties and you've got a much larger space for the Family  
28 Resource Center. She said the conversations Apex UMC has had with Fiesta Christiana is  
29 around lack of space.

30 **Ms. Horna** said the Family Resource Center could be the space where the  
31 administrative part remains and where immigration law services are housed. She said the two  
32 properties would allow Fiesta to expand their meeting rooms and offer more classes,  
33 workshops, healing circles, and support groups.

34 **Councilmember Zegerman** asked in their vision, who is building the resource  
35 center? He said he'd like to get more information to determine if it's in the best interest for  
36 town funds.

37 **Pastor Villasenor** said the vision is to serve all residents holistically, and particularly  
38 those who have been historically marginalized.

39 **Councilmember Zegerman** said there is no argument on that, and that's not what he  
40 is saying at all. He said he was wondering if these two properties would be what was needed  
41 to unlock that service, or are there are alternative ways of working together to achieve the  
42 same or better outcome.

1 **Pastor Villasenor** said as of right now the reason this has been the location is because  
2 of Apex UMC's vision in 2008. He said he's open to other opportunities but that's where  
3 Fiesta started and has been since 2008. He said they put forth dreams, but it requires a  
4 partner on the other end to engage in the relationship. He said as a Latino Apex resident, he  
5 does care about hearing that the town cares about its Latino residents. He said this gives an  
6 opportunity for the town to show they are really listening.

7 **Councilmember Zegerman** said he isn't trying to question the services offered or the  
8 path with Fiesta Cristian and the town, but rather connect the conversation back to the  
9 transaction they are talking about. He said the two properties are located on the same block,  
10 but there is one house on the corner which is not owned by Apex UMC. He said the rest of  
11 the block is owned by the church. He asked what the view on the other properties that are  
12 currently in that space.

13 **Reverend Stern** said one is a private residence, and the other is a church where the  
14 Apex UMC church staff is and the back is where the Family Resources are currently. She said  
15 she understands the town would not want to house any worship services on town-owned  
16 land, rather the community service arm.

17 **Mayor Gilbert** said Councilmember Mahaffey has to leave and asked if he had any  
18 questions.

19 **Councilmember Mahaffey** said he strongly supports their mission. He said the way  
20 Towns support nonprofits like this is through an annual grant program. He said it was around  
21 \$72,000 last year and maybe around \$75,000 this year. He said Fiesta Christiana applied last  
22 year and there was some issue. He asked why are we talking about property acquisition to  
23 build a center for Fiesta Cristian as opposed to further or more support to our nonprofit  
24 programs. He said they do a great work, but so do many other non-profits in Apex, so the  
25 money has to be allocated appropriately.

26 **Reverend Stern** said both Apex UMC and Fiesta Christiana are capped with their  
27 space.

28 **Pastor Villasenor** said Fiesta Christiana was invited to be part of a cohort of 8  
29 nonprofit organizations in Wake County, that are led by people of color. He said what all  
30 these nonprofits have in common is the struggle to have any property to deliver their  
31 services. He said properties are essential to provide services. He said a lack of access to  
32 properties is something that a lot of people of color-led organizations have to face.

33 **Ms. Horna** said this is a space that could be a one-stop-shop. She said if they were to  
34 take that corner of the property and create a space where there are job opportunities and  
35 more space to gather for the community. She said it's not just the Town investing in Fiesta  
36 Christiana, she said Fiesta plans to apply for available grants or looking for affordable  
37 housing grants that would allow Fiesta to invest with the Town.

38 **Councilmember Zegerman** said that this location has more of a historical relevance  
39 to it, since Fiesta has been there for 16 years.

40 **Reverend Stern** said there are also some practical reasons because of where the lot is  
41 and where the Resource Center currently is.

1 **Councilmember Zegerman** asked what was currently behind the property at 210  
2 Moore Street.

3 **Councilmember Mahaffey** left the meeting at **4:37 p.m.**

4 **Reverend Stern** said that's a staff house. She got up to see what specifically see what  
5 Councilmember Zegerman was looking at and she identified it as a bio retention pond. She  
6 said in terms of why to invest is also because this is a particular population that the town  
7 would be investing in.

8 **Mayor Gilbert** asked to hear from Fiesta Christiana and staff on how their vision  
9 connects with the town's vision with affordable housing.

10 **Pastor Villasenor** said one of the first ways Fiesta started was with the Inaugural Fiesta  
11 Builds with Habitat. He said Fiesta really wanted to reach the Hispanic community. He said  
12 since Fiesta Builds, there have been over 30 Hispanic homeowners in Apex. He said they  
13 have been engaged in the Hispanic community and had those conversations about  
14 displacement and strategizing to keep those families in Apex. He said families that face  
15 potential homelessness or evictions is why Fiesta applies for the grants and advocates for  
16 housing justice. He said programs aren't the only way they serve, and they have a sort of  
17 higher calling. He said Fiesta is a member of ONE Wake and is the only Latino organization  
18 that is a member of ONE Wake.

19 **Ms. Horna** said there was a vision about transitional housing, but she said that  
20 wouldn't be enough. She said Fiesta would like a space where people can learn financial  
21 literacy and how to build that capacity. She said there are conversations about connecting  
22 people with the Latino Credit Union to receive loans. She said those types of things they  
23 would like to offer.

24 **Assistant Town Manager John** said what the town's Community Development  
25 department is doing is taking different approaches to connecting residents to organizations  
26 that can ensure access to safe, quality housing. She said the town is collecting that  
27 information and engaging with those partners like Wake County, in order to get resources to  
28 those organizations. She said Apex doesn't have any organizations like that currently so the  
29 town will partner with agencies where the service is offered and bring those services to  
30 residents of Apex. She said also part of that is getting that information on the Town's website.

31 **Ms. Horna** said Fiesta met earlier this month with White Gold Foundation to look at  
32 what they are doing around affordable housing. She said they are exploring how they can  
33 implement something like that in their organization as well. She said it is not affordable to live  
34 in Apex right now, but they would like to remain connected to their friends and organizations  
35 in the area.

36 **Assistant Town Manager John** said her and Marla Newman, Community  
37 Development and Neighborhood Connections Director, met with Pastor Luis last week to be  
38 able to understand Fiesta and its mission ad the people they serve. She said as the town  
39 builds out these resources, the town also wants to know how we can serve the Latino  
40 Community better and the Asian Community and any Apex residents who are in need for  
41 housing.

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**Mr. Oz** said with the 15 years in working with DHS that they would not qualify the work Fiesta does that's overlapping with the work that DHS does. He said the programs DHS has are protective custodial programs. He said these organizations do very different things in different landscapes. He said a lot of what they talked about is about the connections with people in the community, and DHS would not be able to step in and do what Fiesta does.

**Mayor Gilbert** asked Council if they had anymore questions.

**Councilmember Zegerman** said he appreciates everyone coming in and Pastor Jose calling in from El Salvador. He said he appreciates Fiestas services and enjoyed learning a little bit more about that they do. He said he thinks he has what he needs right now.

**Councilmember Killingsworth** said they covered the questions she was looking for more information on. She said nobody here would debate that Fiesta provides amazing services. She said as a Council they have to decide what their goals are, and whether purchasing this property would be the best way to do that.

**Mayor Gilbert** said he has been standing with Pastor Jose for 16 years and will continue to stand with him today. He said he fully supports this and hope to figure out a solution. He asked Town Clerk Allen Coleman to put this on the next Closed Session.

**Councilmember Gantt** said it should be the one after the next Council Meeting because the next meeting is already set to be very long.

**Ms. Horna** thanked the Mayor and Council for listening to their petition. She said even in making the decision in buying the land or not buying the land that Fiesta and the town will still continue to work together.

### [ADJOURNMENT]

**Mayor Gilbert** thanked everyone and declared the meeting adjourned at **4:57 p.m.**

Jacques K. Gilbert  
Apex, Mayor

Allen Coleman, CMC, NCCCC  
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.

Minutes approved on \_\_\_\_\_ of \_\_\_\_\_, 2023.

1 **DRAFT MINUTES**  
2 **TOWN OF APEX**  
3 **REGULAR TOWN COUNCIL MEETING**  
4 **TUESDAY, JANUARY 23, 2024**  
5 **6:00 PM**  
6

7 The Apex Town Council met for a Regular Town Council Meeting on Tuesday, January 23, 2024 at  
8 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North  
9 Carolina.

10  
11 This meeting was open to the public. Members of the public were able to attend this meeting in-  
12 person or watch online via the livestream on the Town's YouTube Channel. The recording of this  
13 meeting can be viewed here: <https://www.youtube.com/watch?v=9bPLefRoIX4&t=12865s>  
14

15 **[ATTENDANCE]**  
16

17 Elected Body

18 Mayor Jacques K. Gilbert (presiding)  
19 Mayor Pro Tempore Audra Killingsworth  
20 Councilmember Ed Gray  
21 Councilmember Arno Zegerman  
22 Councilmember Terry Mahaffey  
23 Councilmember Brett Gantt  
24

25 Town Staff

26 Interim Town Manager Shawn Purvis  
27 Assistant Town Manager Demetria John  
28 Assistant Town Manager Marty Stone  
29 Town Attorney Laurie Hohe  
30 Town Clerk Allen Coleman  
31 Deputy Town Clerk Ashley Gentry  
32 Planning Director Dianne Khin  
33 All other staff members will be identified appropriately below  
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**[SLIDE 1]**




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**[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



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**[COMMENCEMENT]**

**Mayor Gilbert** called the meeting to order and welcomed all who were in attendance and watching. He spoke about the tragedy that occurred on January 15<sup>th</sup>, with the killing of Nancy Taylor and Gabrielle Raymond. He said this is a time of many emotions and questions, and that we may not know exactly what to do or say in this time. He said he knows that they can show they love, support, and unity. He invited everyone to observe a moment in which a candle was lit in love and honor of Ms. Taylor and Ms. Raymond. He then invited everyone to join in observing a moment of silence.

**Mayor Gilbert** added that the Hunter Street Water Tower has been lit up purple to show a symbolic moment of healing, love, and unity. He then invited Larry Eckhart of Jordan Lutheran Church to give the Invocation.

**Mr. Eckhart** said this was personal, and most so for the Taylor and Raymond families, who are recovering from unspeakable tragedies. He said it was personal for everyone in the community, since these people were friends and neighbors, and the effect of that lingers. He said the first order

1 of business for the town was about people and ensuring their safety. He then offered a prayer of  
2 comfort and healing to the Taylor and Raymond families, and to all people impacted by this tragedy.

3 **Mayor Gilbert** informed that there would be a candlelight vigil held in Ms. Taylor and Ms.  
4 Raymond's honor on Monday, January 29<sup>th</sup> at 5:15 PM in the Town Hall courtyard.

5 **Mayor Gilbert** then led those in attendance in the Pledge of Allegiance.  
6

7 **[CONSENT AGENDA]**  
8

9 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**,  
10 to approved the Consent Agenda as presented.  
11

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

14 **CN1 Agreement(s) - Research Triangle Regional Public Transportation Authority DBA**  
15 **GoTriangle - 2024 Funding for GoApex (REF: CONT-2024-016, CONT-2024-017, and**  
16 **CONT-2024-018)**

17 Council voted to approve three (3) agreements for funding associated with GoApex for Fiscal Year  
18 2024, including: (1) General Operating Funding Agreement for Bus Operations - Community  
19 Funding Area, (2) General Capital Funding Agreement Community Funding Area Program for Bus  
20 Infrastructure, and (3) General Capital Funding Agreement for Capital Planning - Community  
21 Funding Area Program, and to authorize the Interim Town Manager, or their designee, to sign and  
22 execute on behalf of the Town.

23 **CN2 Construction Contract Award/Budget Ordinance Amendment No. 11 - FSC II, LLC**  
24 **DBA Fred Smith Company - 2024 Road Rehabilitation Project (REF: CONT-2024-019**  
25 **and ORD-2024-004)**

26 Council voted to amend the budget, award a construction contract with FSC II, LLC DBA Fred Smith  
27 Company, for the 2024 Road Rehabilitation Project, and to authorize the Interim Town Manager, or  
28 their designee, to execute the contract on behalf of the Town.

29 Council voted to adopt Budget Ordinance Amendment No. 11

30 **CN3 Council Meeting Minutes - January 12, 2024**

31 Council voted to approve Minutes from the following meeting:  
32 January 12, 2024 - Special Town Council Meeting

33 **CN4 Resolution - Designation of Applicant's Agent(s) - North Carolina Division of Emergency**  
34 **Management (REF: RES-2024-004 and OTHER-2024-026)**

35 Council voted to adopt a Resolution Designating Primary and Secondary Agents authorized to  
36 execute and file applications for federal and/or state assistance on behalf of the Town of Apex, for  
37 the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford  
38 Disaster Relief & Emergency Assistance Act.

39 Council voted to approve a Building Resilient Infrastructure and Communities (BRIC) Grant Local  
40 Match Fund Commitment Letter, and to authorize the Interim Town Manager, or their designee, to  
41 execute on behalf of the Town.  
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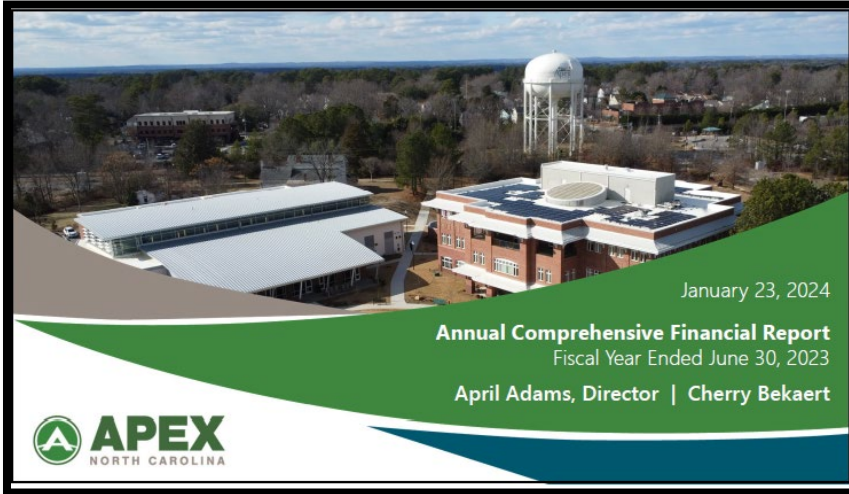
43 **[PRESENTATIONS]**

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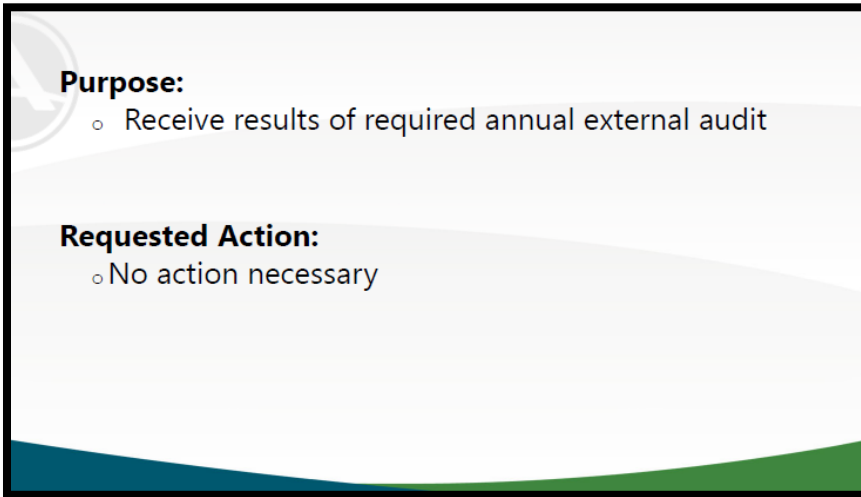
**PR1 Fiscal Year 2023 Audit - Annual Comprehensive Financial Report (ACFR)**

**April Adams**, of Cherry Bekaert, and **Antwan Morrison**, Finance Director, gave the following presentation regarding the Fiscal Year 2023 Audit and the Annual Comprehensive Financial Report.

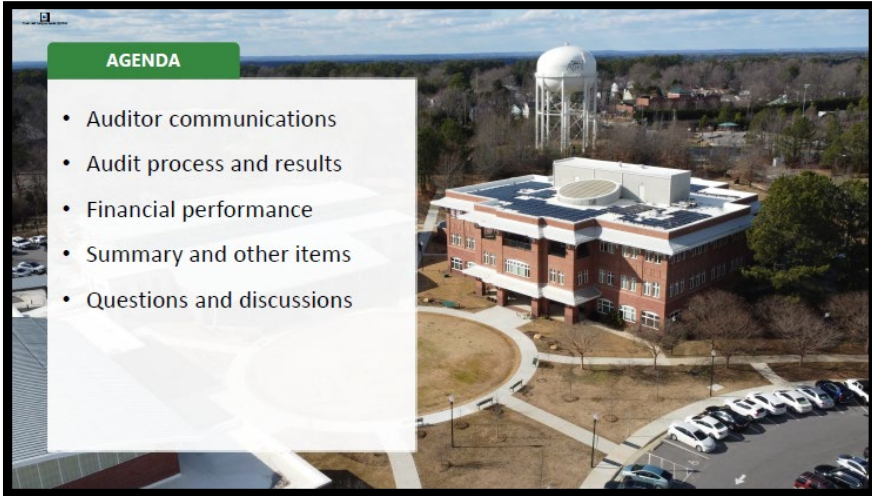
**[PR1 - SLIDE 1]**



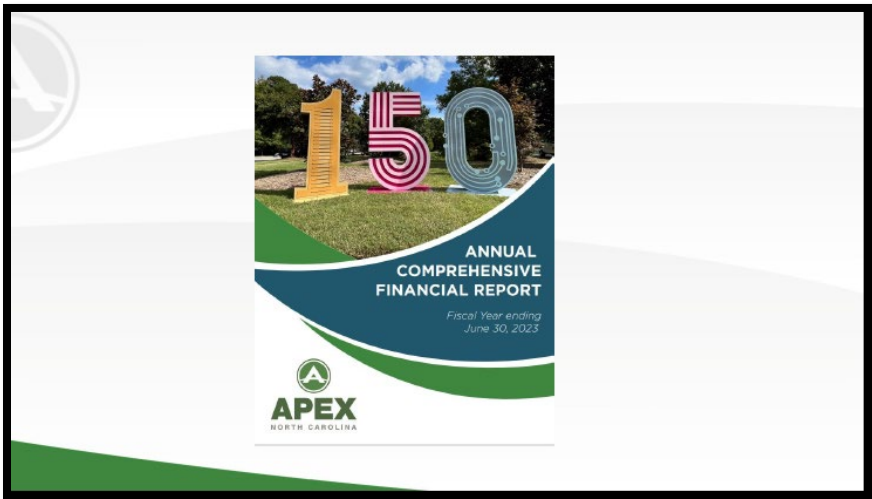
**[PR1 - SLIDE 2]**



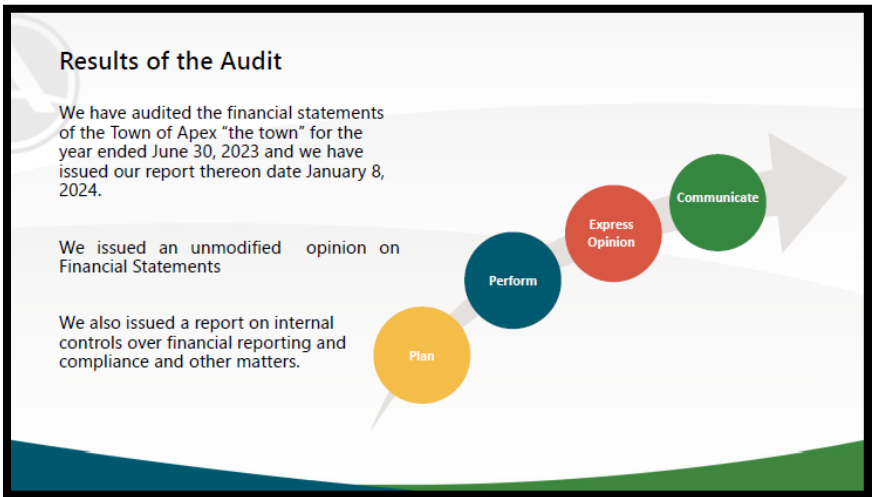
1 [PR1 - SLIDE 3]



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3 [PR1 - SLIDE 4]



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5 [PR1 - SLIDE 5]



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1 [PR1 - SLIDE 6]

**Single Audit**

- Opinions**
  - We also issued reports on federal and state compliance with the Uniform Guidance and the State Single Audit Implementation Act for the major programs.
  - No findings were reported in those reports.
- Federal Major Program**
  - Coronavirus State and Local Fiscal Recovery Funds (ALN 21.027)
- State Major Program**
  - Powell Bill (DOT-4)

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3 [PR1 - SLIDE 7]

**Internal Control Communications**

- In planning and performing our audit, we considered internal control over financial reporting ("internal control") as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements and compliance with Uniform Grant Guidance and the NC State Single Audit Implementation Act, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.
- Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls.
- A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

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5 [PR1 - SLIDE 8]

**Internal Control Communications**

- Material Weakness**
  - A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the Town's financial statements will not be prevented, or detected and corrected, on a timely basis.
- Significant Deficiency**
  - A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

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

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1 [PR1 - SLIDE 9]

### Corrected and Uncorrected Misstatements

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

**Corrected Misstatements**

- None noted.

**Uncorrected Misstatements**

- \$175,000 of contributions were recorded in central depository (pooled cash) in FY22 and were deposited into the OPEB Trust Account until FY23 causing the contributions in the OPEB Trust Fund to be higher than actual for FY23.

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3 [PR1 - SLIDE 10]

### Qualitative Aspects of Accounting Practices

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

As described in Note 1, the Town adopted GASB 96, Subscription-based Information Technology Agreements, effective July 1, 2022. Most prominent among the changes in the standard is the recognition of subscription-based information technology agreements as assets and liabilities for the obligated future payments.

We noted no inappropriate accounting policies or practices.

- Related Party Relationships and Transactions
- Significant Unusual Transactions
- Significant Estimates
- Financial Statement Disclosures

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5 [PR 1 - SLIDE 11]

### Independence Considerations

**Nonattest Services**

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

**Independence Conclusion**

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

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1 [PR1 - SLIDE 12]

### Other Required Communications and Matters

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

Supplementary Information

Required Supplementary Information (MD&A)

Introductory and Statistical Sections

2  
3 [PR1 - SLIDE 13]

### LGC Performance Indicators

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

4  
5 [PR1 - SLIDE 14]

### Upcoming Financial Reporting Changes

These standards will be effective for the Town in the upcoming years and may have a significant impact on the Town's financial reporting.

We would be happy to discuss with management the potential impacts on the Town's financial statements and how we may be able to assist in the implementation efforts.

GASB 101 – *Compensated Absences*

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1 [PR1 - SLIDE 15]



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3 [PR1 - SLIDE 16]

Property Taxes (page 136)

- Assessed Valuation = \$11.8 billion – June 30, 2023
  - Compared to – \$11.1 billion - June 30, 2022
- Current year Ad Valorem Tax collections totaled - \$48.5 million – an increase of \$5.0 million from the prior year
- 99.8% of levy collected

4  
5 [PR1 - SLIDE 17]

Fund Balance and Net Position (non-GAAP)

Net change in fund balance (net position) for the past five fiscal years are as follows:

	2023	2022	2021	2020	2019
General Fund <sup>(1) (2)</sup>	(\$ 2,802,214)	\$ 10,630,653	\$ 6,364,091	\$ 2,430,163	\$ 4,996,441
Electric Fund	(498,351)	126,057	2,906,873	69,928	835,385
Water and Sewer Fund	331,808	2,932,175	3,566,147	3,722,551	2,405,353

Note1: General Government Debt Service Fund consolidated with General Fund for financial reporting purposes. Fund established June 2023.

Note 2: Planned use of fund balance as discussed during annual audit report presentation in May 2023, for fiscal year ended June 30, 2022.

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1 [PR1 - SLIDE 18]

### General Fund – Fund Balance

- Policy – unassigned fund balance 25% of General Fund adopted budgeted expenditures for subsequent year (FY 2024)
- Fund Balance Calculations:
  - Town policy – 25% or \$23,891,050
  - FY 2023 Unassigned Fund Balance – 30.2% or \$28,844,579
  - Total amount above FY 2023 policy limit - \$9,524,953,529
    - FY 2023 – Purchase Order Carry Forward - \$3.2M
    - FY 2024 – Appropriated Fund Balance – Adopted Budget - \$4.7M
    - FY 2024 – Appropriated Fund Balance – Amended Budget (to date) - \$1.4M

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3 [PR1 - SLIDE 19]

### Debt Position

<b>DEBT OVERVIEW</b> <ul style="list-style-type: none"><li>• Debt issuance:<ul style="list-style-type: none"><li>◦ No new debt issuances</li></ul></li><li>• Total Outstanding Debt - \$127 million<ul style="list-style-type: none"><li>◦ General Government: \$76.9 million</li><li>◦ Proprietary Funds: \$50.1 million</li></ul></li><li>• Total applicable to limitation:<ul style="list-style-type: none"><li>◦ \$153.5 million (includes authorized but unissued GO Bonds)<ul style="list-style-type: none"><li>- 2015 - \$7 million unissued – Transportation Bonds</li><li>- 2021 - \$42 million unissued – Transportation Bonds</li></ul></li></ul></li></ul>	<b>DEBT COMPLIANCE</b> <ul style="list-style-type: none"><li>• Percentage of debt to valuation – 1.3%<ul style="list-style-type: none"><li>◦ Town Policy – 2.5% (\$294,995,785)</li><li>◦ State Statute – 8% (\$943,986,511)</li><li>◦ Legal Debt Margin – \$790,470,706 (see Table 14)</li></ul></li><li>• Debt Service Ratio – 9.3%<ul style="list-style-type: none"><li>◦ Town Policy – 12%</li></ul></li></ul>
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5 [PR1 - SLIDE 20]

### Debt Issuance Update

Subsequent Fiscal Year

- **General Obligation Bonds:**
  - \$24.5 million – Transportation Projects
    - \$ 7.5 million – Apex Peakway Southwest Connector (2015 authorization)
    - 15.5 million – Apex Peakway Southwest Connector (2021 authorization)
    - 1.0 million – Pavement Improvements (2021 authorization)
    - 1.0 million – Safe Routes to Schools (2021 authorization)
  - Hilltop Securities – 20 Year – Level Principal – 4.21%
  - \$1.36M bond premium
- **Two-Thirds Bonds:**
  - \$3.4 million – Mason Street Building
  - Hilltop Securities – 20 Year – Level Principal - 4.19%
  - \$89k bond premium
- **Installment Financing Contracts**
  - \$1.8 million – Rolling Stock (Vehicle and Equipment)
  - Pinnacle Bank – 4 Year – Level Principal - 3.90%

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1 [PR1 - SLIDE 21]

**Planned Debt Issuance**  
Subsequent Fiscal Year

- o **Total Project Estimates:**
  - Pleasant Park Phase 2 - \$14M
  - Town Hall Renovations - \$3M
  - Big Branch 2 Pump Station and Forcemain - \$40M
- o Timelines – TBD
- o Debt Issuance Types and Amounts - TBD

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3 [PR1 - SLIDE 22]

**Key Takeaways**

Benefit of Wake County  
Property Tax collection rates  
Sales Tax

Strong financial reserves

Credit rating (reaffirmed in September 2023)  
Standard and Poor's (S&P) – AAA  
Moody's – Aaa

Solid unrestricted cash balance  
General Fund: \$43.2 million  
General Government Debt Service Fund: \$3.6 million  
Water and Sewer Fund: \$62.2 million  
Electric Fund: \$13.1 million

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5 [PR1 - SLIDE 23]

**Other Items**

- Certificate for Achievement of Excellence in Financial Reporting from the GFOA
  - Will apply for FY 2023
- Special thanks to Finance Department and members of town staff
- Questions/Discussion

6  
7 **Councilmember Zegerman** asked if there were any consequences to the town not making  
8 the cutoff for the financial reporting within 5 months of the fiscal year close.

1 **Director Morrison**, said they will have to submit a letter explaining why, and that it is  
2 something understandable because of staffing and other things that caused delays, and they are  
3 looking forward to getting back on track. He said they are looking to get it in on time this upcoming  
4 year.

5 **Councilmember Zegerman** said the town policy was a 25% fund balance position, and  
6 asked if there was a legal requirement.

7 **Director Morrison** said no, but there is a recommendation of 8%.

8 **Councilmember Zegerman** said he wanted to call out that the town is very conservative in  
9 their own policies in that regard.

10 **Ms. Adams** said the LGC has a financial performance indicator of 25% for towns, so this  
11 matches what they are looking for, but it is not a statutory requirement.

12 **Councilmember Zegerman** said there seems to be a discrepancy between the town policy  
13 of 2.5% of evaluation and what the town wants its debt service ratio to be. He said with these  
14 numbers, they could almost double the debt to get to 2.5%, but that would never fit into the debt  
15 service policy of 12%. He asked what the town would do if they loosened than the debt service  
16 constraint, or should they bump down the 2.5% policy.

17 **Director Morrison** said he would like to discuss that with the town's financial advisors,  
18 because they work with governments across the state, and could provide more direction on which  
19 one to focus on and if they should adjust either.

20 **Councilmember Gantt** asked if the debt service was based on taxes and the valuation is  
21 based on the assessed value overall.

22 **Director Morrison** said that was correct.

23 **Councilmember Gantt** said the valuation could change based on the tax rate, but the debt  
24 service is based on the evaluation, which presumably will go up next year.

25 **Councilmember Zegerman** said the town policy seems very relaxed compared to actually  
26 making payments. He said restricting themselves to 12%, he asked what that translated to in terms of  
27 debt to valuation once that is factored in.

28 **Ms. Adams** said the payments for the debts are always straight lined.

29 **Councilmember Mahaffey** asked if the LGC had any key performance indicators, and said  
30 they had talked about the debt service ratio being too aggressive before.

31 **Ms. Adams** said they are definitely looking for the 8% for the legal guideline, and the  
32 commission has to approve all debt issuances, so there's no telling how many things they look for  
33 before making that approval.

34 **Councilmember Zegerman** said they have zero interest in bumping debt levels up to 8%  
35 evaluation, which is unrealistic. He said they are constraining themselves by having a debt service  
36 ratio at 12%. He said the town's policy of 2.5% does not match that. He said he wants to understand  
37 where the boundaries are.

38 **Councilmember Gantt** asked if the town picks out single areas to study in the single audit, or  
39 if the auditor does, or if it's a mix.

40 **Ms. Adams** said there is a prescribed methodology, but there is some judgement within that.

41 **Councilmember Gantt** asked if they ever advise to pick different things each year.

42 **Ms. Adams** said they want programs to be on at least a 3-year rotation if they're over a  
43 certain threshold, and they also want you to achieve a certain level of coverage. She said the town

1 has been doing that, and now in her third year doing these for Apex she covered all of the town's  
2 significant grants.

3 **Mayor Gilbert** thanked Ms. Adams and Director Morrison.  
4  
5

6 **PR2 Proclamation - Human Trafficking Prevention Month 2024 (REF: PRO-2024-002)**

7 **Mayor Gilbert**, along with the rest of Council, read the 2024 Human Trafficking Prevention  
8 Month 2024 Proclamation in unity.

9 Representatives of Shield NC accepted the proclamation and took a picture with the Mayor  
10 and Council.

11 **Niki Miller** spoke about how human trafficking is happening in North Carolina, in the  
12 Triangle, and in Apex. She said Human Trafficking is different from smuggling or abduction. She said  
13 Shield NC provides Human Trafficking awareness training every month virtually, and thanked the  
14 Mayor and Council for their continuous efforts to support Shield NC in their mission.  
15

16 **[REGULAR MEETING AGENDA]**  
17

18 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**  
19 **Killingsworth**, to approve the Regular Meeting Agenda as presented.  
20

21 **VOTE: UNANIMOUS (5-0)**  
22

23 **[PUBLIC FORUM] (Note: To view public forum and public hearing sign in sheets, please see**  
24 **OTHER-2024-012)**  
25

26 First to speak was **Larry Gustky**:  
27

28 "Good evening everyone, my name is Dr. Larry Gustky, I'm a retired faculty member of the College  
29 of Forestry at North Carolina State with expertise in Social Science Research and economic  
30 development. My wife Nancy and I have resided at 110 Hunter Street in Apex since 1989. Located in  
31 our small front yard is what some town employees refer to as that tree. It has also been affectionately  
32 named Oakie. The tree is a majestic Willow Oak that is approximately 104 feet tall and 192 inches in  
33 circumference. It shades and protects our 87-year-old Sears Bungalow and adds beauty to Hunter  
34 Street, the Historic District, and the community. I am before you this evening to state my opposition  
35 to any activity that would adversely impact Oakie. I also would like to remind all of us, including the  
36 audience, about the importance of trees, which we often take for granted. In a folder we have given  
37 each Council member is a handout that summarizes key contemporary information about the value  
38 of trees. I encourage each member to review that information. To help, I am going to summarize a  
39 few major points that some of you may not be aware. Trees help control temperature and can  
40 reduce home cooling as much as 50%, certainly valuable during our hot summers and of course  
41 given climate change. Trees increase the value of homes and the associated tax revenues. They  
42 absorb carbon dioxide and contribute to clean air. They absorb impervious surface runoff, control

1 erosion, and reduce flooding. Trees add to a sense of community and community pride, they  
2 contribute to good health and well-being, they often contribute, believe it or not, to reducing crime.  
3 And they contribute to enhancing business opportunities. Willow Oaks like Oakie tolerate pollution,  
4 drought, and are trouble-free. Older trees like Oakie store more carbon than younger trees. Many of  
5 these benefits that I have just stated to you are in the 2018 Apex tree stormwater study referred to in  
6 your handout. The study has helped the town to do an excellent job at planning for growth, planting  
7 trees, and many other things. However, it is unclear what the status of two of the recommendations  
8 in the study that were made. What about a heritage witness tree program? Will it be created? And  
9 secondly, what about a comprehensive forestry management plan? Where can I find that? And it  
10 would help if it was more clearly communicated to the citizens, to all of you, and to everyone in the  
11 community. Thank you.”

12  
13 **Mayor Gilbert** thanked Mr. Gustky for his comments.

14  
15 Next to speak was **Nancy Gustky**:

16  
17 “Good Evening Mr. Mayor, Town Council members, Apex Residents, my name is Nancy Gustky. As  
18 Larry said, we’ve lived at 110 Hunter Street which some of you might know as the Luther House,  
19 that’s been there for a long time, but we’ve been there since ’89. I’m retired history faculty at NC  
20 State, Larry and I have been members of the Apex Historical Society since we arrived in Apex and  
21 our house has been on the Apex Society’s home tour. I am the past chair of the Apex appearance  
22 commission. We bought the Luther House in part because of the Historic Charm of the area,  
23 proximity to downtown, and because of the beautiful tree named Oakie by our Mayor, which is “a  
24 character defining element of the Apex national register historic district.” We do not want to lose  
25 Oakie, which the proposed 8-foot sidewalk plan would necessitate. Oakie was saved prior to 2004  
26 when a sidewalk was first proposed. It was going to go on the North side of Hunter Street, I went to a  
27 Town Council meeting asking what would happen to the tree, and it was decided that the sidewalk  
28 would instead go on the south side of Hunter Street, which it did, so we already have sidewalk  
29 access. In addition, Oakie has survived the 2011 street widening, but it may not survive this round. It  
30 did receive the annual tree award in 2004, and the North Carolina forest service has deemed it  
31 second place champion status for the state, and first place status as a nominee in Wake County, and  
32 that information is in your folder. Oakie has been determined to be a healthy tree, both by the Apex  
33 Powerline Forester Phillip Barnes, and John Gallant of Apex Tree Service, both agree, however, that  
34 any disturbance to Oakie could seriously put the tree at risk. There are aesthetic and environmental  
35 reasons to save this mature specimen tree that contributes to the small-town charm of Apex. Saving  
36 Oakie would show how forward-thinking Apex is in preserving its heritage, as well as long-range  
37 planning in terms of impervious surface management. The best option for saving Oakie would be no  
38 sidewalk, since one already exists on the south side of Hunter Street, and thus there would be no  
39 disturbance to the tree at all. A possible alternative would be to put the sidewalk and possible a bike  
40 lane in the street by eliminating part of the turn lane. This could possible have the additional benefit  
41 of reducing the speed on Hunter Street, making it safer. There is in your folder a photograph of an  
42 Oak tree that was supposedly going to be saved at the Cary Town Center, but wasn’t. Even despite  
43 everything that they’ve tried, so we asked that you please don’t put Oakie at risk. Thank you very  
44 much.”

1  
2  
3 **Mayor Gilbert** thanked Ms. Gustky for her comments.  
4

5 Next to speak was **Cat Kearns** of 216 Hunter Street:  
6

7 "Good evening Town Council, and to our supporters out there, thank you citizens for coming in to  
8 support Oakie and my neighbors at Hunter Street. I've lived in Apex since the late 80's, it's over half  
9 of my life, and the Apex quaint, historic downtown is what drew me to make my home in Apex, when  
10 I was only 26 years old. I dreamed of living in downtown Apex for over 30 years, my husband and I  
11 finally built our forever home on the last lot in the historic downtown business district on Hunter  
12 Street. All of those homes had the beautiful curb appeal with the picket fences, mature landscaping,  
13 and gracious front porches that make the first two blocks a beautiful extension of Apex's downtown  
14 historic district. I am fortunate and feel very lucky to live where I do. As a real estate agent since  
15 1997, I've sold countless homes in Apex, and what most attracts buyers is our lovely and quaint  
16 downtown area. Few newcomers to the area say anything differently if you ask them. And  
17 strategically, I would meet them in the crown jewel, our downtown, to talk with them about moving  
18 to Apex, and usually they did. I and my neighbors along the north side on Hunter Street will have so  
19 much to lose if a sidewalk is installed in front of our homes. The beautiful turn of the century feel that  
20 belongs to those historic homes, the ones that you see in your folder, and the blue lines is where the  
21 potential sidewalk would be, right at our front door. This will also reduce our driveway and the  
22 potential parking at our homes, our precious front yards, lowering the impervious for our lots, and  
23 drastically decreasing the distance from our homes to foot traffic. When I built my home, we had the  
24 normal building requirements, but we also had the ones included in the historic downtown business  
25 district, and also the small town character overlay requirements, with the front and the side setbacks.  
26 If a sidewalk is installed, I will no longer be in compliance. My builder left me enough room for  
27 impervious to build an outdoor kitchen which I am sure would get denied when I have that higher  
28 impervious. The lot we own behind our home, we planted 12-15 small trees, those could be taken  
29 down right along the edge of our street, on Pate Street, right behind our house. And all of the  
30 sidewalk will adversely affect our home's curb appeal, our values, reduce our marketability whenever  
31 the time comes for that. I ask that you be good stewards of town funds and look for less costly means  
32 than buying our front yards, relocating utilities, and installing a sidewalk, there's one already across  
33 the street. I appreciate your time, and your consideration.  
34

35 Next to speak was **Judy Ives** of 3413 Pleasant Plains Road:  
36

37 "Good evening Town Council and Mr. Mayor. After I spoke at the last Town Council Meeting, I met  
38 with Mayor Gilbert. I told him that I wished public forum could be a 2-way dialogue, and he assured  
39 me that anyone that speaks at Public Forum gets contacted by someone on the Town Council. As of  
40 yet, I have not been contacted. When I negotiated with the conservation fund for the sale of the farm  
41 that is now Pleasant Park, I was told it would be a park with sports fields in the back bordering the  
42 highways, and probably a nature park with trails towards the front. Instead, I watched as all the trees  
43 were cut down. I endured years of noise and ground trembling caused by the destruction of a 92  
44 acre sports complex, and wished every day for it to be over. Then one day it was, now every



1 morning, at a time when I once enjoyed my morning coffee outside before the construction workers  
2 started, I hear the incessant pinging of pickleballs. Where I once felt safe, I now have to wonder  
3 whose squalling tires in the park late at night. I hear yelling on the basketball court, and horns  
4 blowing, and children screaming, and then there are the times when the constant streams of cars  
5 going into the park in the afternoon tells me that late, I'll have a constant stream of headlights  
6 shining on my house when they leave. I'm here to ask for your help. Putting up noise and light  
7 barriers both at the park and on my property. Mayor Gilbert and I discussed an 8-foot brick wall  
8 along the front of my property, although I laughed when he asked how long it would need to be. I  
9 meant no disrespect Mr. Mayor, but as I showed you that day my experience with the Town of Apex  
10 has been more about them laughing in my face. Like when I needed to move my driveway down  
11 past the park entrance to avoid turning left out of my driveway into traffic entering the park. They  
12 would not pay to put a driveway to alleviate the problem. I have provided each of you a drawing  
13 showing what Apex was willing to do, which would have been to move my driveway such so that it  
14 lined up directly with the entrance of the park. I considered moving my house back away from the  
15 park entrance, but it would be very expensive and disruptive, and it would kill a lot of trees. I don't  
16 need to repeat to you my feelings about my land and my house and how I was instrumental in Apex  
17 being able to get the land for the park, but I would like to know what the town is willing to do about  
18 the unbearable impact this park has had on my well-being. Will you once again offer me pennies on  
19 the dollar, or will you reach out to me to provide an acceptable solution. Maybe that solution is not  
20 moving my house or building a brick wall, but I need to know you are hearing me. I hope that after  
21 this meeting, one of you will reach out to me. If not, I will see you at the next meeting."

22  
23 **Mayor Gilbert** thanked Ms. Ives for her comments.

24  
25 Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

26  
27 "Mayor, Town Council, good evening. As you know my neighbors and I have been working to move  
28 the Big Branch Force Main from the north side of US 1 to the south side. I will be meeting with Mike  
29 and Steve on Friday to do a deep dive, but I wanted to give you a preview of what we have been  
30 able to put together. For those of the people in the audience who aren't familiar, in simple terms the  
31 force main needs a 30-foot strip of land where you have a 10-foot buffer, then 5 feet for pipe number  
32 1 and 5 feet for pipe number 2, and then another 10-foot buffer to complete the 30 feet. If you ask  
33 Duke Energy to provide all 30 feet, then answer is no. If you ask DOT for all 30 feet, the answer is no.  
34 And you ask us property owners for all 30 feet, the answer is no. However, by asking each of us for a  
35 portion, there is a path to a yes. Duke Energy does allow certain uses along a transmission line.  
36 These allowable uses are going to be emailed to you. We were able to determine that if the town  
37 were to submit a formal request for 10 feet, effectively creating an overlapping easement into the  
38 transmission line into the force main's first 10-foot buffer. With no continuous infrastructure in the  
39 ground, it would meet both the letter and the spirit of their policy. For the remaining 20 feet, it was  
40 determined that DOT and their plans to add additional lanes could provide only 10 feet on the south  
41 side. It did not have the 20 feet to give due to the center line of US 1 being fixed by the center piers  
42 of two bridges. But, on January 15, DOT funded 10 million dollars to replace and widen the New Hill  
43 Holloman bridge over US 1, providing the engineering opportunity to shift the center line of US 1 10  
44 feet to the north, to complete the needed 20 feet of the force main. The second bridge, friendship

1 road bridge, will inevitably be replaced when DOT adds lanes because there is no room under the  
2 bridge for any additional lanes. The shifting of US 1 will require property owners on the north side to  
3 probably provide at least 10 feet to make DOT whole, but losing land to DOT is preferable. DOT can  
4 build a noise wall for us, and we don't have to live with the ongoing annoyance and odor of a force  
5 main on our property. For apex, the force main is constructed in a permanent place, free from the  
6 risk of being moved due to the original lanes being built on the north side. And you don't have to  
7 lower our quality of life, and you don't have to spend Apex hard earned tax dollars to condemn our  
8 property with eminent domain. It is a win-win opportunity, and we ask that you support the staff in  
9 considering the options. Thank you."

10  
11 Next to speak was **Fadi Rahal** of 3000 Old US 1 N:

12  
13 "Mr. Mayor, all my respect. Councilmembers, all my respect. I'm a resident of faith house on Old US  
14 1, also the owner of 0 Hinsley Road, as well as 3012, 3016, 3034, and 3032 Old US 1. I'm here to  
15 request three things, very specific, very direct. Being a resident of New Hill, we have no voices here.  
16 Congratulation Apex, you're growing, we love it. We're growing with you as well. But it's going to  
17 come at an expense to you. And you're going to have to choose how to do this, and doing the right  
18 thing might be the easier route. So the first thing I want to ask for, I would like for a new seat at the  
19 Planning Board for the residents of New Hill. A new seat. Let's open it up, whoever is eligible let  
20 them run, let them be there, so they have a voice when it comes to planning what is happening in  
21 New Hill. The second, I would like you to hire an independent auditor, not a financial auditor,  
22 independent auditor, to go out and audit the proposed amendments, specifically around the New  
23 Hill area. Because as we've discovered, there is amendments active since 2016 and no one knew  
24 about it. No one shared it with us, it was a surprise that we found out only a few weeks ago, that that  
25 amendment, oh it's almost going to be approved, it's a matter of signature. That is not the right thing  
26 to do. And excuses, well when I took my board seat it was already active. Well that's great that you  
27 found out, you should have spoke out, that's the wrong thing to do. Tell us that it's active. And by the  
28 way I'm talking about the Beaver Creek, and we'll talk about that a little bit coming up. So get an  
29 independent auditor because I guarantee you you're going to find out there's other proposed  
30 amendments active and no one knows about it. I'm willing to bet my job as a matter of fact. My  
31 profession I am an investigator, and I can prove that to you. I will even put my career on the line that  
32 you have active projects, active amendments, no one knows about it. Shame on us. Shame on us if  
33 that's the case. We, the citizens, need to know what you're working on, especially if it's going to  
34 affect us. Once you do that audit, please update your map land, make it current, don't surprise us.  
35 When I moved, by the way I was a resident of Apex for 4 years, when I moved 2 miles down the road  
36 to be in New Hill, and I made it based on that map. Hey, this is what's going to happen, this is great, I  
37 want to move here and be part of this community. But those surprises, they're not good to anyone.  
38 So find us a way to get a new seat at the Planning Board, hire an independent auditor, not financial  
39 one, assessment, let's update the map that's coming up due soon in a few months, let's make it  
40 current so we know exactly what active projects you have. Thank you."

41  
42 **Mayor Gilbert** thanked for his comments

43  
44 Next to speak was **Dean Krupa** of 2001 Simca Court

1  
2 "I have a reading for you tonight. It's called Let's Stand for Trees. When will we stand for trees like  
3 they stand for us? They offer so many gifts that cannot fit into any one list. I won't be redundant since  
4 the fine gentleman spoke about many of them earlier. I will speak to some of the spiritual benefits  
5 though. Trees provide a silent wisdom that only those who love trees can understand. They're so  
6 quiet, yet they speak volumes to those who listen. They hold up a mirror to humans who rush around  
7 being consumers, always so busy yet lacking a true sense of purpose. Trees know not of this, only to  
8 stand and they stand for us. What do you see when you look at a tree? They seem to be everywhere  
9 and yet often ignored. When I see a tree, I see a wise, silent warrior. A being that has survived many  
10 storms, including those from mother nature and those from human nature. For the trees that have  
11 been around a while, they have seen a great many things. With their awesome pallet of varieties and  
12 colors, they don't cower from diversity, they embrace it. I recommend anyone to spend time with  
13 trees, they provide a quiet peacefulness that can cure many woes. Trees are more than shady areas  
14 on maps, they deserve a lot more consideration and protection than they can offer. Why do we allow  
15 them to be wiped out so easily by slick developers armed with their fancy PowerPoints and topo  
16 maps. I supposed when your Earth takes 3 inches on a zoning application, that can easily happen.  
17 Those who love nature and the outdoors understand their plight. In a world of capitalism run amok,  
18 trees and all their peers in the natural world have become collateral damage. Trees don't need to  
19 order anything from Amazon, post to Facebook, or stream the latest show on Netflix. They don't  
20 participate in human conflicts and don't need to pollute the earth with carbon dioxide, disposable  
21 packaging, industrial waste, or cigarette butts. Trees give life in so many ways, physical and spiritual.  
22 How is it that we have become their judge, jury, and executioner. We get to decided their fate and  
23 it's just not fair. We are the world's worst landlords. Just ask a tree. We take them for granted and  
24 disgrace their existence through our political and capitalistic ways. We show them no mercy, with  
25 cold blades and demolition machines. All to replace them with human constructs such as a planned  
26 unit development or a sidewalk. I'll end there, but their consideration is worth more than 3-minute  
27 speech will ever hope to deliver. Thank you."

28  
29 **Mayor Gilbert** thanked Mr. Krupa for his comments.

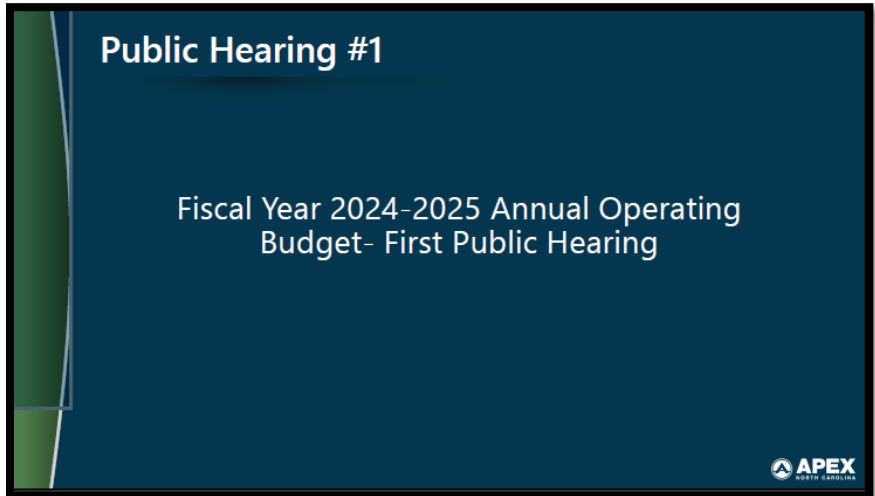
30  
31 With no further sign ups, **Mayor Gilbert** closed Public Forum.

32  
33 **[PUBLIC HEARINGS]**

34  
35 **PH1 Fiscal Year 2024-2025 Annual Operating Budget - First Public Hearing**

36 **Amanda Grogan**, Budget and Performance Management Director, gave the following  
37 presentation regarding the Fiscal Year 2024-2025 Annual Operating Budget.  
38  
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43

1 [SLIDE 3]



2  
3 [SLIDE 4]

How You Can Participate:

- Survey:** Let us know what's important to you as we build the next annual budget! The **FY 2024-2025 Budget Priorities Survey** is available now through February 2nd.
- Email:** Your feedback on budget priorities are welcome any time throughout the budget planning process. [Annual.Budget@apexnc.org](mailto:Annual.Budget@apexnc.org)
- Speak Up:** At our pre-budget public hearing on Tuesday, January 23<sup>rd</sup> and the budget public hearing May 21<sup>st</sup>

TOWN OF APEX  
FY 2023-2024 BUDGET  
\$213.4M

STORMWATER	\$2.6M	FIRE	\$16.6M	TRANSIT	\$300K
GENERAL ADMINISTRATION	\$3.9M	EVA HERRY LIBRARY	\$600K	SEWAGE	\$10.8M
INTERNAL OPERATIONS	\$18.0M	PARKS & RECREATION	\$10M	STREETS & SIDEWALKS	\$4.5M
		ELECTRIC UTILITIES	\$50.5M		

4  
5 [SLIDE 5]

FY 2025 Budget Priorities Survey Open

- New survey structure
- Alignment of CIP to Game Plan Apex Strategic Plan goals

High Performing Government	A Welcoming Community	Environmental Leadership	Economic Vitality	Responsible Development
<p>Deliver exceptional service valuing an engaged workforce with an emphasis on efficiency, collaboration, innovation, and inclusion.</p>	<p>Create a safe and welcoming environment fostering community connections and high-quality recreational and cultural experiences supporting a sense of belonging.</p>	<p>Commit to sustaining natural resources and environmental well-being.</p>	<p>Improve and sustain an environment that invites and retains a diversity of residents, employment opportunities, and businesses.</p>	<p>Encourage equitable and sustainable development that provides accessibility and connectivity throughout the community.</p>

\* Please drag-and-drop the Town's 5 strategic goals to rank your priorities, and then click "Confirm Priorities".

High Performing Government	1st
A Welcoming Community	2nd
Environmental Leadership	3rd
Responsible Development	4th
Economic Vitality	5th


You responded: [Change Response](#)

6  
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[SLIDE 6]

**\* A Welcoming Community**



Create a safe and welcoming environment fostering community connections and high-quality recreational and cultural experiences supporting a sense of belonging.

YOUR TOP PRIORITY

Additional athletic programming

Enhance cultural and arts programming


Improve existing parks and recreation facilities

New parks and recreation facilities

Vibrant and accessible downtown community spaces

None of these are important to me

**\* Responsible Development**



Encourage equitable and sustainable development that provides accessibility and connectivity throughout the community.

YOUR TOP PRIORITY

Increase availability of affordable housing units

Expand public transit options

Maintain and improve existing roadways

New roadways

Maintain and improve existing greenways and sidewalks

New greenways and sidewalks

None of these are important to me

3  
4  
5

[SLIDE 7]

## Non-Profit Funding Applications

- Application Period open January 1 – February 28
- Communications team assisting with posting and promotion of application
- Estimated \$78,000 available for allocation



**Non-Profit Agency Program Funding Request Application**

Page 1 | Page 2 | Page 3

**Purpose:**  
The purpose of this policy is to promote partnerships between the Town of Apex and non-profit organizations for the benefit of Apex residents, to equitably and efficiently allocate resources to strengthen organizations, and to provide sound and clear methods for decisions.

**Policy Statement:**  
The Town of Apex has no statutory requirement to fund non-profit agencies or other similar community organizations. Apex, however, may elect to provide grants to non-profit organizations to carry out specific programs that serve a public purpose and are vital to the well-being of the Town and its residents. Apex will allocate \$1 for each living resident of the Town, creating a total amount of non-profit funding proportional to the population. When reviewing each application, the Town Council will carefully consider the circumstances surrounding the request and determine the urgency of need and its value to Apex. The programs provided by the non-profit organization should fulfill one or more of the following:

- Complement or enhance a vital Town service at a reduced cost
- Provide a more cost-effective or operationally expedient service than the Town
- Fill in a critical gap that may exist between government services and community needs

Requests for funding for direct staffing costs and/or requests for services that duplicate services that are already available to the public through other means will be given lower funding priority.

6  
7

[SLIDE 8]

Upcoming Dates	
<b>January</b>	
19	Capital Improvement Plan to Council (Project Evaluation & Ranking)
25	Personnel Committee Meeting w/ ERC
<b>February</b>	
15-16	Town Council CIP Workshop / Prioritization of Projects for FY24-25
28	Non-Profit Applications Due
<b>March</b>	
7	Personnel Committee Meeting (Position Requests, Staffing Plan Updates, Policies)
21	Joint Personnel and Finance Committee Meeting (Compensation & Benefits)*
<b>April</b>	
2	Finance Committee Meeting
4	Finance Committee Meeting
19	Draft Budget Distributed to Town Council
<b>May</b>	
2	Town Council Budget Workshop
21	Public Hearing on Proposed Budget
23	Town Council Budget Workshop (if necessary)
<b>June</b>	
11	Budget Ordinance / CIP Adopted

\*Compensation & Benefits presentation includes any proposed changes for Elected Officials.

8

1  
2 **Mayor Gilbert** opened up Public Hearing for this item

3  
4 First to speak was **Elizabeth Stitt** of 3113 Friendship Road:

5  
6 "You know I'm a data geek, and I have read the budget the last couple years back and forth, back  
7 and forth. But given the conversation that I had a week or two ago, and over the last six months,  
8 about the town's desire to take part of my property through condemnation, it made me wonder how  
9 much money does the town actually pay for legal fees to condemn people's property. And so I  
10 couldn't find it in the budget, there's not actually a line item for it in the budget, what happens is, as  
11 it's been explained to me is the legal fees are rolled up into the overall project, so no one in the  
12 community really knows how much money you're paying to condemn property. We also don't know  
13 how much money you are paying to buy the people's property. I'm still digging through some of the  
14 beginning and ends of the cases, but this kind of information is important, this is Apex citizens tax  
15 dollars, and so we're just asking to have a little more transparency, because if you are going to  
16 condemn someone's property, you voted for it, so it should not be something that is hidden, and  
17 those of us who have been threatened with it, and I have had people who have had their properties  
18 taken, is a pretty heavy thing. You try to talk to people around you and they're like what do you  
19 mean, Apex doesn't do that. And it's kind of like, well, yes, sometimes things happens. Sometimes  
20 things don't go right, like the first project there. The White Oak Pump Station. Everybody knows  
21 Beverly Rubin, who lives out on Olive Chapel Road out in the Friendship-New Hill area, we know all  
22 about it. I mean if you look at the total, I'm sure you guys have seen the total so I'm not going to put  
23 that out there, but I want you to stop and consider, is it worth this kind of money? Maybe you offer  
24 money up front. More, more so, than forcing people to go to court. And have you looked at how  
25 much you offer initially, and how much they actually get, after having to go through a trial? So I just  
26 ask for the budget to have some more transparency on the decision that you're making, because I  
27 will be talking to my community and my neighbors, and I simply don't want to have to say yes of  
28 course they're doing this. I think it's fair for you guys to own the activities that you're going to do.  
29 Thank you."

30  
31 With no further sign ups, **Mayor Gilbert** closed Public Hearing for this item. He said the next  
32 Public Hearing for the Budget is scheduled for May 21<sup>st</sup>, 2024, and the proposed adoption is  
33 scheduled for June 11<sup>th</sup>, 2024.


34  
35 **PH2 2045 Land Use Map Amendment - Little Beaver Creek Conservation Easement**

36 **Shannon Cox**, Long-Range Planning Manager, gave the following presentation regarding  
37 the 2045 Land Use Map Amendment - Little Beaver Creek Conservation Easement.  
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39  
40  
41  
42  
43

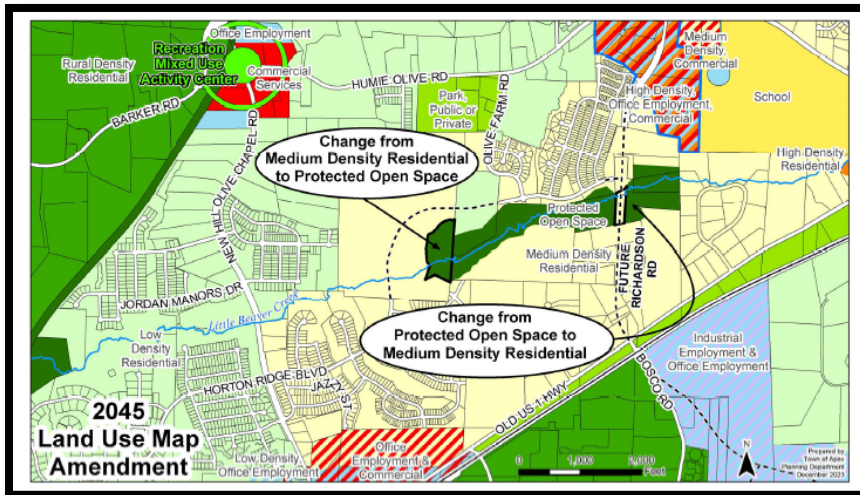
1 [SLIDE 9]

**Public Hearing #2**

2045 Land Use Map Amendment  
Little Beaver Creek Conservation Easement




2  
3 [SLIDE 10]



4  
5 [SLIDE 11]

**Richardson Road Summary**


- 2001 - Richardson Road planned as a thoroughfare
- 2002 - Dedication of Little Beaver Creek Conservation Easement
- 2016 - Town and NCDEQ begin discussion of conflict
- 2016 - Public hearing for alignment revisions on September 20th
- 2017 - Town completes alternatives analysis – Town’s preferred alternative closely matches planned alignment
- 2018 - Property owner refines alignment and area needed for release



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7  
8



1 [SLIDE 12]



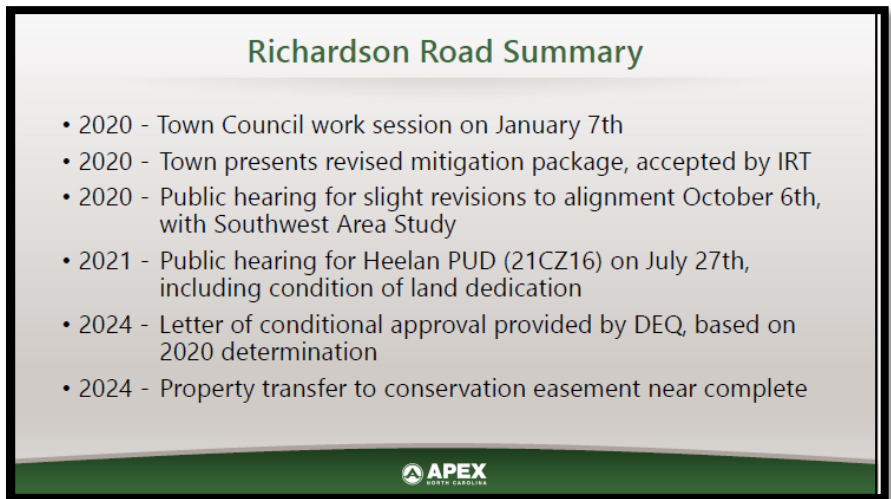
**Richardson Road Summary**

- 2018 - Property owner requests release from IRT
- 2018-2019 - Advance Apex: 2045 Transportation Plan
- 2019 - Approval of 401 Water Quality Certification and Jordan Buffer Authorization with Conditions
- 2019 - Town of Apex requests release from IRT
- 2019 - USACE agrees with proposed alignment and IRT requires new mitigation proposal

APEX NORTH CAROLINA

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[SLIDE 13]



**Richardson Road Summary**

- 2020 - Town Council work session on January 7th
- 2020 - Town presents revised mitigation package, accepted by IRT
- 2020 - Public hearing for slight revisions to alignment October 6th, with Southwest Area Study
- 2021 - Public hearing for Heelan PUD (21CZ16) on July 27th, including condition of land dedication
- 2024 - Letter of conditional approval provided by DEQ, based on 2020 determination
- 2024 - Property transfer to conservation easement near complete

APEX NORTH CAROLINA

5  
6

7 **Councilmember Mahaffey** asked if she could summarize the exchange that is happening.

8 **Ms. Cox** said they presented a minimization approach, which would bridge the conservation  
9 easement, and limits the footprint and construction easements needed. She said there was a  
10 minimization fee they are working with NCDEQ to agree upon. She said there would be about 8  
11 acres of conservation land given in exchange for the 2 acres of land released for the project.

12 **Councilmember Gray** said he appreciated the summary, as there were lots of questions at  
13 Planning Board. He said she explained the years of progress that took place to get her. He said it  
14 seems they are gaining more protected space with this amendment.

15 **Ms. Cox** said this amendment is to reflect the change on their map. She said the actual  
16 commitment has already been done prior to this amendment.

17 **Councilmember Zegerman** asked what would be the consequence of not approving the  
18 map update right now.

1 **Ms. Cox** said it would mean the map would not reflect what is expected with the properties.  
2 She said the department and the public use it for planning. She said other than that she is not aware  
3 of potential consequences.

4 **Councilmember Zegerman** asked if the Heelan PUD would still happen, since that was  
5 approved by Council already, and the road would still go here, this was just a map update.

6 **Ms. Cox** said yes, the planning work has been done for this route. She said south of the  
7 easement there would be planning and survey work to be done, and there is no funded public  
8 project there.

9 **Councilmember Zegerman** asked if the filing of the property to become conservation  
10 easement was in reaction to the town planning the road through it.

11 **Ms. Cox** said she could not speak to the intent of the property owner, but DEQ was not  
12 aware that the town had the road planned for this location, based on what they said when they  
13 accepted it.

14 **Councilmember Mahaffey** asked if the DEQ evaluated potential projects in an area when  
15 accepting property.

16 **Ms. Cox** said she doesn't think that was happening at that time. She said they were the first to  
17 go through this process of identifying a conflict between a Municipal adopted plan and a  
18 conservation easement, but there have been more since. She said the process is becoming more  
19 formalized.

20 **Councilmember Gantt** said if the goal of doing the easement was to make things more  
21 difficult for the town, it worked.

22 **Councilmember Zegerman** said he was somewhat annoyed with where the town is with this.  
23 He said residents have reasonable expectations for conservation easements to mean that the land is  
24 protected land. He said in this case, the road was planned before the easement was established.  
25 And while this may feel vindictive, they can't go back 20 years to know anything. He wanted to be  
26 clear that the vote tonight was just to update the map, and that the project would happen no matter  
27 what.

28 **Ms. Cox** said the letter they received outlined that the town still needs to meet the conditions  
29 of the release agreement, and the property transfer needs to occur. She said it is correct that  
30 adopting this amendment does not change that part of the process.

31  
32 First to speak was **Kurt Kuechler** of 2721 Silver Stirrup Lane:

33  
34 "I had a pretty good idea what I was going to say, but thanks to Arno, he opened up a whole new  
35 train of thought here. I very much appreciate that comment, and you will notice on that timeline, that  
36 yes the town had thoughts that they needed a road in this area, that's still up for debate as to  
37 whether this road is even needed or not, but they've been hellbent on seeing that this road gets put  
38 through. Again, if you go back to the timeline, yes the conservation easement got put in place, it was  
39 put in place by Robert and Elizabeth Olive. Ms. Olive is deceased now. She has no way to comment  
40 any further about what you all are trying to do, to her intentions. A conservation easement is  
41 unconditionally and irrevocably a grant forever, in perpetuity. Y'all decided that means nothing,  
42 we've got to have this road, so we're going to do everything we can over the rest of this timeline,  
43 from 2002 to today, to make sure that those words mean nothing, because you want a road. That  
44 stinks. And your sales tactic to the public, of we're only taking 2 acres, but look, we're getting 8

1 acres. Those 8 acres to begin with are crap land from the developer's point of view, they would  
2 never have been able to build anything on that to begin with, they're happy to give it over to you, it  
3 was probably part of the RCA, when that development was approved. It was probably already  
4 carved out as conservation area. So you're not giving us anything else. We already had it. So quit  
5 quit selling it that way."

6  
7 **Mayor Gilbert** thanked Mr. Kuechler for his comments.

8  
9 Next to speak was **Michael Hinsley** of 3217 Hinsley Road:

10  
11 "Mayor Gilbert, I wonder if you personally recall Hinsley Road, you drove our school bus in high  
12 school a time or two, stopping to pick us up on Old US 1. Specifically, my sister and I, well I was in  
13 elementary school, we go way back. We're both originals. For most who don't know me, I'm native to  
14 the area, I grew up on Hinsley Road, and apart from the time I spent active duty and overseas with  
15 the Navy, and several years in California with the corps of engineers, I lived either within, or in close  
16 proximity to Apex proper. I attended AV Baucom, Apex Elementary, Apex High School. My first real  
17 job was at Horton's Hardwar on Main Street where Salem Street Pub now sits. My roots run very  
18 deep here, as do my families. Both my mother and father went the Apex High, where Apex Middle  
19 School sits right now, and there are many buildings in Apex whose brick and block masonry were  
20 built by my grandfather, my dad, my uncle, my great uncles, and although we did not live in the town  
21 limits, my family quite literally had a hand in building Apex. Including the old brick fire station still  
22 there on Main Street. Now for multiple decades, back to the early 60's, the Hinsley family has owned  
23 and resided on the property surrounding the current Hinsley road in New Hill, and we've always  
24 strived to be good neighbors to those around us, including the Town of Apex. And as time has gone  
25 by, people of similar mindset have taken residence among us to form our community of neighbors.  
26 This started with Robert and Caroline Halberd in the 80's, and the Rayhaws and Defriezes in 2021,  
27 we care for each other, we care for each other, we look out for each other, and we value our little  
28 community greatly. And we all understand that progress and prosperity is driven by growth, and that  
29 change is an inevitable component required for that progress. As such, we understand Apex's need  
30 to plan for interconnectivity and expansion, and have willingly participated in conversations  
31 surrounding those plans. Including discussions of some way for Richardson Road to come across the  
32 old Olive family farmland, tying to Old Us 1, across the CSX rail line, and then connect to the roads  
33 to the south and east in the Holly Springs network. Our commitment to being open to change, and  
34 to being good neighbors, is clearly demonstrated by those discussions, as well as recent  
35 negotiations over the past year or so, for a gravity sewer main easement to cross Hinsley Road land,  
36 as requested by neighboring developers, which has gone through. In being good neighbors, we  
37 have tried to be transparent and operate in good faith during all of that. So it was with great surprise,  
38 disappointment, and quite frankly frustration that we learned in early January of this year how the  
39 conceptual dotted line, showing the extension of Richardson Road in the general vicinity of Hinsley  
40 Road, and I've got examples, see exhibits A-F in the back, is now a set specific alignment, which the  
41 Town of Apex has progressed, without the knowledge or input from the property owners on Hinsley  
42 Road, for at least 6 years. Studies were commissioned, alignments selected, and a series of decisions  
43 made which locks in that alignment, requiring a bridge across wetlands within the conservation area  
44 being discussed tonight. What's even more unsettling is that these decisions made behind closed

1 doors and without public input, were already well underway, when the property owners, including  
2 my father, who is here tonight, were asking specific questions about where the alignment was going  
3 to land, what did the town intend to do. And he was told, they were told, you don't need to worry  
4 about that, it's just a dotted line on the map, we haven't even sent anyone out to look at it yet. This  
5 was in the 2018 timeframe. After the route assessments had already been completed with route  
6 assessments and survey documentation in hand, and after the bridge alignment requiring this partial  
7 release, had been committed to. This implication, that someone would come out before decisions  
8 were committed to never became a reality. I also think it's significant to note that the adjacent  
9 developers were apparently fully aware of the town's plans. It was just those impacted the most that  
10 were in the dark and out of the conversation. Now we're still trying to understand all of the decisions  
11 that have been made, having just learned two weeks how far all of this progressed. But one  
12 particularly troubling realization, is that the information upon which the decision has been made  
13 appears to be incomplete, inaccurate, and uninformed. The alternative routes used to determine this  
14 least impactful final alignment, which you can see Exhibit H, I've provided an example of that, appear  
15 to be arbitrarily or even intentionally exaggerated, creating a strawman argument that drives the  
16 outcome of the assessment to the one desired result. Additionally, the status of the adjacent  
17 property was mischaracterized in conversations with NCDEQ, that's in Exhibit I, creating false  
18 premise upon which to make decisions, and that premise is being used to justify punching a hole in  
19 a decades-old conservation easement, put in place by members of the Olive family, our former  
20 neighbors, who knew that development was coming and wished to protect the area. This desire is  
21 clear from the language in the conservation easement itself. And I recognize some of you are asking  
22 what does this have to do with what we are voting on tonight, the change you are voting on tonight  
23 updates the land use map and removes the last remaining obstacle standing in the way of the bridge  
24 and the road alignment. Since all proposed Apex projects reference this map prior to their approval,  
25 voting to amend and incorporate this change green lights the corridor through the easement of your  
26 guiding document. It also locks in the alignment, which in turns frees up the adjacent open space to  
27 be developed, despite their being a more efficient, less impactful possibility, that avoids the  
28 easement all together through currently open space. Once development of that space is started, it  
29 will be impossible to do anything but build a bridge and the road, which consumes six of our  
30 homes, yields a significant part of our property and ancillary buildings effectively unusable, and  
31 destroys both the mid-19<sup>th</sup>-century family graveyard, and the original residences in its path. Just by  
32 existing as the only future option, this creates significant direct impacts on our future property usage  
33 and values. I know that those who will say the decision to commit to this alignment was made long  
34 ago, and that the vote tonight is an administrative one for a guidance document, they'll also likely  
35 say the time for this kind of discussion was when the decision was being made, to which I would say I  
36 would absolutely agree. If only we had been invited to participate in the discussion with the  
37 developers to our west, north, and east before the decision was made. We could have pointed out  
38 our concerns to better inform the decision-making process, for example, no one from the town has  
39 ever been out, nor sent anyone else out, to see the land that they plan to build upon. They were not  
40 even aware of the mid-19<sup>th</sup> century family graveyard that I just mentioned, until I told them this past  
41 Friday. After 6+ years of working to get this alignment locked down the town still has no idea that  
42 their selective alignment runs right over the top of it, and it was not accounted for at all in their  
43 alignment comparison. Other things we would have highlighted: the town has provided a condition  
44 precedent that Richardson must hit the Bosco Road rail crossing, but have admittedly never made

1 any attempts at engaging CSX for other potential options, despite there being proposed alternates  
2 by other planning organizations, see Exhibit F. Town staff simply assumed that it would be too  
3 difficult, based on past negotiations with the railroad, for adding a new crossing in a congested area  
4 close to downtown. It's a completely different situation than shifting an existing railroad crossing like  
5 Bosco. Having personally worked with the railroads in my time with the Army corps, I know they can  
6 be challenging. But I also know it costs nothing to ask a question. We also have the town's comments  
7 that designing construction of the road is not currently programmed, and that future construction  
8 would likely be funded by a developer who purchased that property. I know this is intended to  
9 assuage feelings of uncertainty, which I appreciate, but it actually highlights a long-term concern.  
10 The developer who constructs this road, and even if they're only required to give the right of way for  
11 it to be built in the future, will by default have reduced profitability on the purchase, which directly  
12 translates to lower purchase price for the existing property owners. So, it indirectly transfers the cost  
13 burden of that road onto us. Keep in mind we have no near term interest in selling for development,  
14 but that doesn't mean it's right to force the burden of the town's future expansion on the backs of  
15 people who aren't even in the town's jurisdiction. And that doesn't even begin to get into the longer  
16 range concerns of eminent domain by the town, should none of us choose to sell to a developer  
17 over the next 20 or 30 years. So I'm here tonight to make it clear that we intend to challenge the  
18 town on this series of decisions should it continue to progress. I shall let you know we have engaged  
19 legal counsel, and initiated a series of public document requests to civil documentation and also be  
20 engaging a third-party engineering firm to review and opine on the alignments generated. I would  
21 ask all members of the Town Council to defer your votes on the proposed, pause on the progression  
22 of this line of decision making, until you and your representatives are able to take a close look at the  
23 decisions being made and the resulting impact. This is a very serious issue. Thank you for your time."

24  
25 **Mayor Gilbert** thanked Mr. Hinsley for his comments.

26  
27 Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

28  
29 "I promise this is the last time I'm speaking tonight, and it's a good thing because I am going to go in  
30 a totally different direction than I had planned. So, my son-in-law is the grandson of Elizabeth Olive,  
31 and we are her tonight with these two women who are no longer with us, and mee-maw passed  
32 away in November, so how dare anybody suggest that she had a vindictive bone, how dare you. She  
33 did not have a vindictive bone, so before you start suggesting about character, you need to stop and  
34 consider maybe she truly loved her dairy farm. If you go back and you look at the application or the  
35 conservation easement, they had a true flooding issue that was messing up the dairy farm. Period.  
36 And DEQ does not care what Apex does back then, they're not going to consult. If there is an  
37 environmental issue with a piece of agricultural land, with dairy cows on it, guess what they're going  
38 to do, they're going to help mitigate it, because it is a harm to the water and she is in the watershed  
39 for Jordan Lake. So, it was done with pure, good intentions. Now mee-maw was interviewed for the  
40 150<sup>th</sup> Anniversary videos for Apex, so if you'd like, go look her up. And you will see there is nothing  
41 vindictive about mee-maw. So I'm going to need to set that aside for the moment, but you know I've  
42 been around a lot these last two years, really digging into everything around our community, and  
43 every time I have ever said anything about Richardson Road, whether I have heard you guys talk  
44 about it in a public hearing, whether I came and made comments to you, whether I made comments

1 to staff at the different open houses, consistently I have been told, it's not a funded project, we'll  
2 figure it out when we get to it. So, I was blindsided, I saw this just by pure dumb luck, that looked at  
3 the Planning Board agenda, and I was like what is this? This is within walking distance, how do I not  
4 know after two years of conversation saying hey, I'm here to build a relationship, to try to bridge  
5 some of these gaps, and nobody, I don't know how many of you knew, but I can go back to the  
6 voting record, and I have, who were involved in the different votes on these neighborhoods, none of  
7 you, none of you gave me the consideration of saying hey heads up, it's not set, but the town is  
8 actually taking activities to do something. So I'm going to go home, I'm going to have my good cry  
9 over this whole thing, I cannot believe that anybody would be talking about mee-maw in the way she  
10 was talked here tonight, and I will show back up Friday to be constructive with Steve and Mike when  
11 I talk to them, but if these two ladies beside us doesn't give you reason to be respectful, when  
12 somebody has passed away, please let today be the day you learn that lesson. Thank you."

13

14 **Mayor Gilbert** thanked Ms. Stitt for her comments.

15

16 Next to speak was **Fadi Rahal** of 3000 Old Us 1:

17

18 "Let me continue with a few things, I've also changed some of the points I've wanted to talk about.  
19 Thank you for making the point of what is protected, I'll leave it right there. I bought my house  
20 because of the land use map, I saw the protected area behind it. I bought my house knowing that  
21 we'll get to it, we'll get to it when we can. Let me also take a moment to help you explain, I do have a  
22 barn that was built in 1910, that's the reason why I bought. The people who sold me the house had  
23 many offers, they showed it to me, said Fadi, look we have many offers but we said no. And you  
24 know why we said yes to you? Because we know you're going to take care of this place. Come and  
25 visit me. Let me show you what I've done in the last 4 years in that place. Come and see. So other  
26 than being blindsided, please my point is clear, kill it. Just don't add this to the map. Just don't do it.  
27 Don't delay it. Just kill this idea. Okay, and one more thing, I told you I'm an investigator, and let me  
28 tell you what those investigation skills taught me. So I can teach you and you're going to remember  
29 this for the rest of your life. Okay, I don't know who knew about this at what time, okay, our  
30 investigation skill says if I'm to come and audit you, and find out that you knew about this and you  
31 did nothing about it, you're extremely guilty. However, if you did not know anything about it, I'm  
32 going to assume some of you did not know, it's fair you did not know. But now you knew, do the  
33 right thing. You cannot force someone to say you know what, just because of a mistake please  
34 approve it. No. You found a mistake, correct it. That's why you're in that position. Please do the right  
35 thing. It's not too late. It's not too late. Thank you."

36

37 **Mayor Gilbert** thanked Mr. Rahal for his comments.

38

39 Next to speak was **Scott Lassiter** of 209 Roundsby Drive:

40

41 "Thank you, Mayor, thank you Councilmembers, it's great to be back, it's an honor to be back in this  
42 chamber, honestly I've been tempted and asked in various occasions to come back and speak to my  
43 hometown governing body in the past and I've always resisted, knowing it's really not my place to do  
44 so anymore, you guys have got it. But, tonight I'm here to speak about something that's directly

1 impacting the work I'm doing now, as Wake County Soil and Water Conservation District Supervisor.  
2 I Vice Chair that Board, a Board that's working actively and desperately to preserve easements,  
3 environmental conservation easements, agricultural easements, in what is a rapidly growing and  
4 developing county. So, some concerned, and rightfully so, neighbors reached out to me for help  
5 regarding this project. A plan that is going to interfere with this conservation easement, that's what  
6 brings me here tonight. Just for some context, 2002 was when this was recorded with the Register of  
7 Deeds. There was, there still is plenty of undeveloped land, in this area. This may be a convenient  
8 way to do it, there may be more costly ways to developers and to Apex, but I will say that all parties  
9 have had some notice of this easement since 2002. We've got some neighbors, folks, that are truly  
10 concerned. I'll tell you what it's like sitting up there, and I was so thankful to no longer have to  
11 engage in land use decision, because you certainly don't make friends in them, it's the hardest work  
12 that you do. And I also am no stranger to looking out there and seeing angry New Hill residents. I'll  
13 be honest with you, some of you may remember when I was here. I'm just thankful that I'm on this  
14 side tonight. But looking at that proposal, and as a representative of Wake County, I will say that the  
15 first time that this was brought to my attention, even with all the work the county is doing around  
16 environmental protection and wetland protection, and easement protections, was this month, earlier  
17 this month by some aggrieved community members that are here tonight. So, I will say that if I wasn't  
18 aware of what was going on around a project that we directly work with in county government, I can't  
19 be surprised why these folks didn't understand it. You heard that you may be met with a lawsuit by  
20 neighbors, I'm just asking you and encouraging you to pump the brakes on this, because I think the  
21 narrative that is being portrayed, because I know many of y'all personally, I know what your  
22 campaign platforms are, I think the narrative that is being portrayed, rightly or wrongly, is in conflict  
23 with who you are. It's in conflict with what the Town of Apex is about. You've got community  
24 members that are feeling, because of what is happening with this conservation easement, that  
25 conservation is not important, and that development reigns supreme, not trees, not property rights,  
26 not historical properties, now not even protected conservation easements is what's in play here, and  
27 I don't believe that's what you actually believe. It's in conflict with myself, the county commissioners,  
28 again doing this preservation work, easements, again I just implore you to pump the brakes. This  
29 body, I want to say, and I'll end with this, does have the power to do something, does have the  
30 power to back down town staff, I understand what an uncomfortable position that can be, to look at  
31 your staff and not support a recommendation that comes forward, but I will say that at some point  
32 part of our job as elected officials is to remind staff who they work for, and that's ultimately us as  
33 representatives of the people. So thank y'all very much, I trust that you'll make the best decision you  
34 can."

35

36 **Mayor Gilbert** thanked Mr. Lassiter for his comments.

37

38 With no further sign ups, **Mayor Gilbert** closed Public Hearing for this item and moved  
39 discussion back to Council.

40

41 **Councilmember Zegerman** said he was frustrated that they were here. He said he would be  
42 equally frustrated if he were in their shoes.

43 **Mayor Pro Tempore Gray** asked where the town was with regard to the impact of not doing  
44 this road on the Friendship Station and the new PUD.



1 **Ms. Cox** said those are approved developments, and she doesn't think anything can be done  
2 to stop those projects at this point. She said they are moving forward with construction. She said the  
3 condition with Heelan PUD was to contribute those 7 acres. She said that and the other conditions in  
4 the IRT were considered sufficient mitigation for the removal of the 2 acres from the conservation  
5 easement.

6 **Councilmember Gantt** said the alternatives were presented to them. He said one of the  
7 possible routes conflicted with the school, while others went through residences, and Friendship  
8 Station, and that the route aligns with what they see, with the expectation that the road would be a  
9 north-south major collector to US 1.

10 **Ms. Cox** said it would be a major thoroughfare. She said that it appears to be from the memo  
11 that VHB prepared for the town with those 4 alternatives. She said they all have residential impacts,  
12 or impacted the school.

13 **Mayor Gilbert** said there was a lot to think about here. He asked again what the impact  
14 would be if the town did not move forward with this tonight.

15 **Ms. Cox** said a vote on changing the land use map does not change what is happening. She  
16 said the land use map is meant to reflect this transfer of property and its subsequent release.

17 **Councilmember Gantt** asked if staff would anticipate substantial impacts to the other roads  
18 in the area if the road was never constructed down to Old US 1 and US 1.

19 **Ms. Cox** said it is anticipated for Richardson Road to have 20,000 vehicles daily within this  
20 corridor in the future. She said that is why it has been identified as a need.

21  
22 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Mahaffey**, to  
23 approve the 2045 Land Use Map Amendment to incorporate changes from the Little Beaver Creek  
24 Conservation Easement.

25  
26 **Councilmember Mahaffey** said they were committed to this plan. He said a lot of the  
27 alternatives are no longer available because they have been developed and there are going to be  
28 homes there. He said part of Richardson Road in this area has been developed along with the  
29 Friendship Station PUD. He said the time to stop this was 10 years ago.

30 **Mayor Pro Tempore Gray** said this was one of those decisions that was always difficult, as  
31 there have been layers of decisions made leading to this. He said he appreciated Mr. Lassiter's  
32 comments, because it is a reflection of where they are standing. He said he reflects on the decisions  
33 actually before them. He said today it is about a land use map amendment. He said those maps are  
34 important because they help in planning and decision making. He says the years of decisions have  
35 compounded this issue. He said he doesn't like that, but there is stare decisis that needs to move  
36 forward. He said he agrees with Councilmember Mahaffey in regards to where the alternatives go.  
37 He said they may never end up making the connection, but he thinks this is the appropriate time to  
38 address the Land Use Map amendment.

39 **Councilmember Zegerman** asked why the map was not updated in the past, and why is this  
40 coming to them now. He said as a matter of principle, they have made a mission to pay more  
41 attention to preservation, and he said this feels to go counter to that. He said conservation area must  
42 mean something. He said he has a fundamental problem with them coming before them right now.

1 **Councilmember Mahaffey** said this is coming before them now because the actual swap is  
2 about to happen, and the map will be reflected for reality. He said 8 acres of conservation is more  
3 than 2. He said the state has agreed to this because they are getting a good deal for conservation.

4 **Councilmember Zegerman** said he gets it.  
5

6 **VOTE: 4-1, with Councilmember Zegerman dissenting**  
7

8 **Councilmember Mahaffey** asked for a 15-minute recess.

9 **Mayor Gilbert** announced a 15-minute recess.  
10

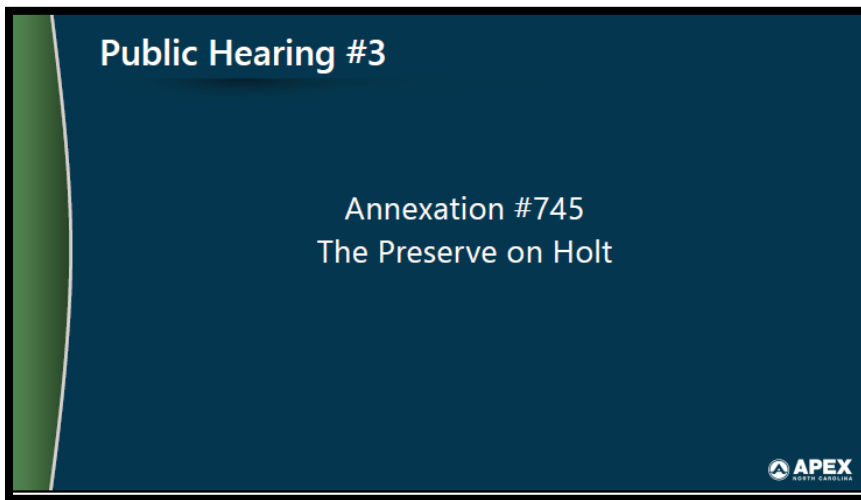
11 Council took a recess at **8:08 PM**

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13 Council returned to session at **8:25 PM**  
14

15  
16 **PH3 Annexation No. 745 - The Preserve on Holt - 5.367 acres**

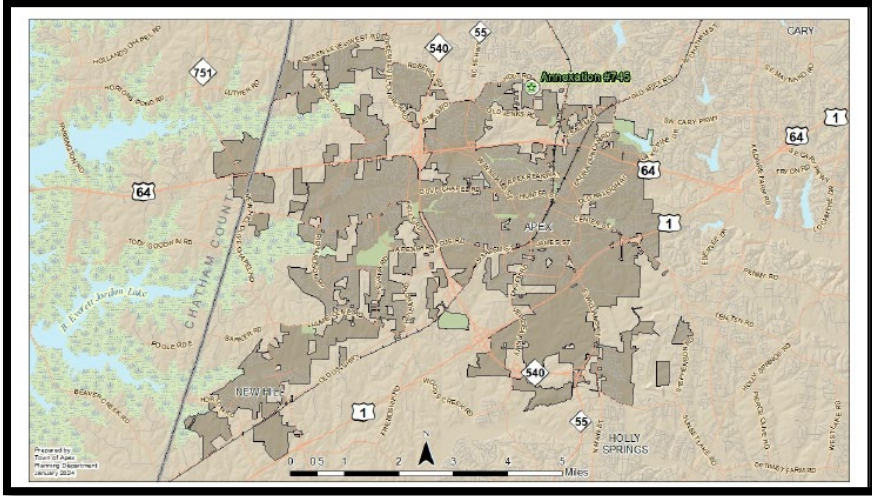
17 **Dianne Khin**, Planning Director, gave the following presentation regarding Annexation No.  
18 745 - The Preserve on Holt.

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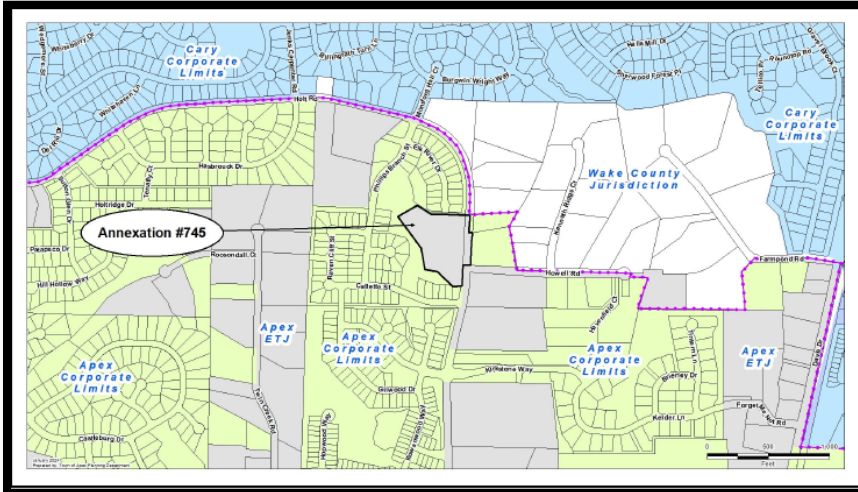
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3 [SLIDE 16]

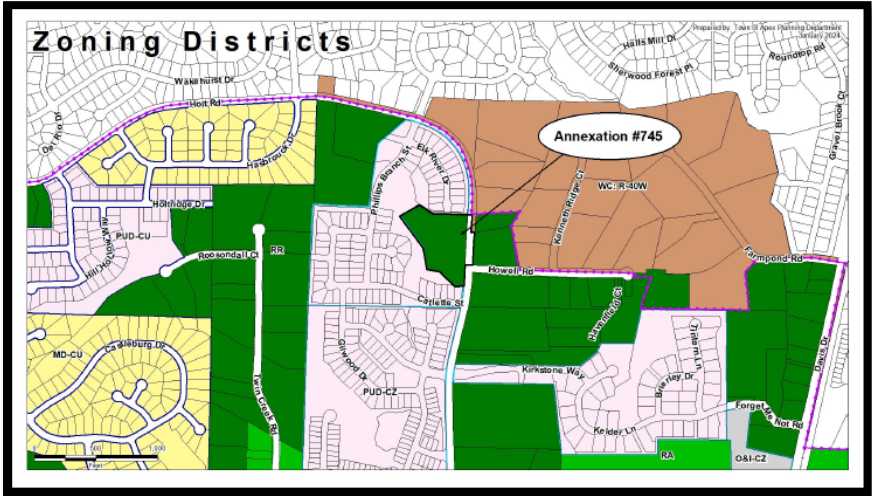


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1 [SLIDE 18]



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**Councilmember Gantt** asked if any road access to the future homes was contingent on the annexation.

**Director Khin** said no.

8  
9  
10

**Mayor Gilbert** opened up Public Hearing for this item. With no sign-ups, he closed Public Hearing and moved discussion back to Council.

11  
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13

A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember Killingsworth**, to approve Annexation No. 745 - The Preserve on Holt.

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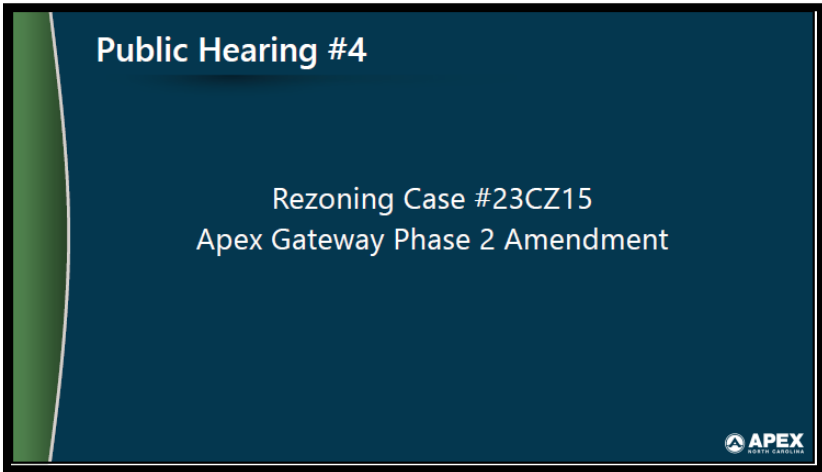
**VOTE: 4-1, with Councilmember Mahaffey dissenting**

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17  
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**PH4 Rezoning Case No. 23CZ15 - Apex Gateway Phase 2 Amendment**

**Amanda Bunce**, Current Planning Manager, gave the following presentation regarding Rezoning Case No. 23CZ15 - Apex Gateway Phase 2 Amendment.

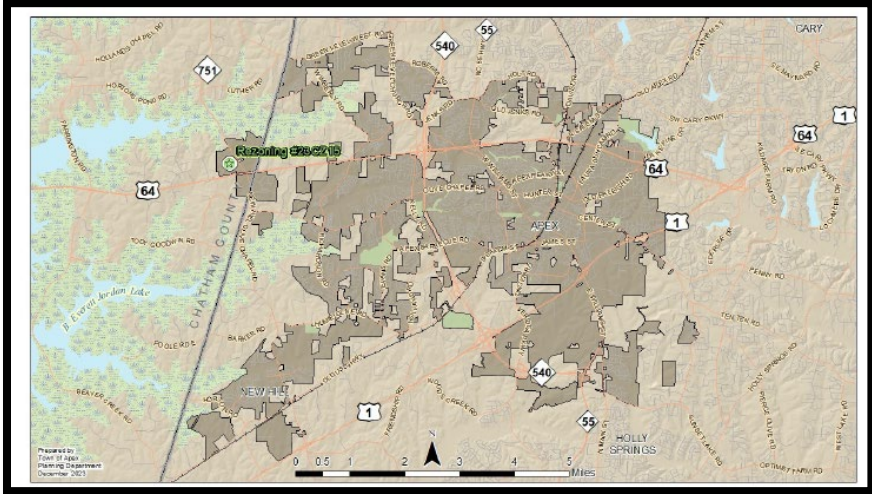
19 [SLIDE 19]



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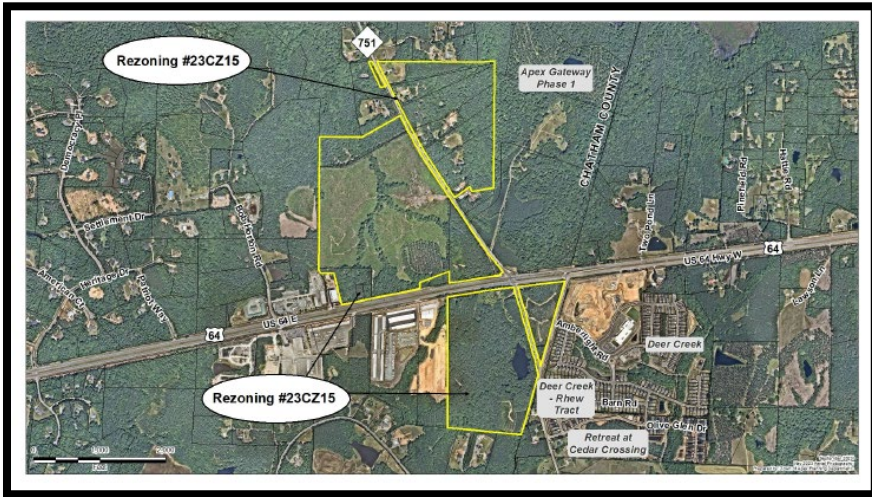


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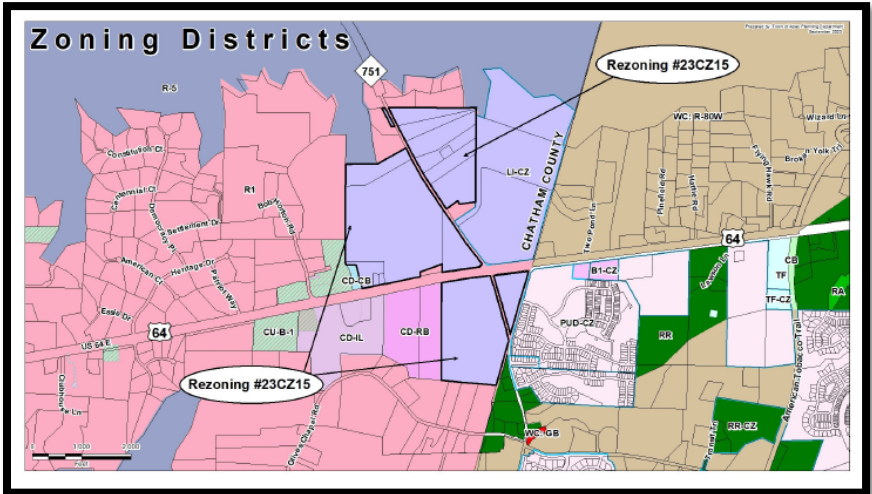
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5 [SLIDE 21]



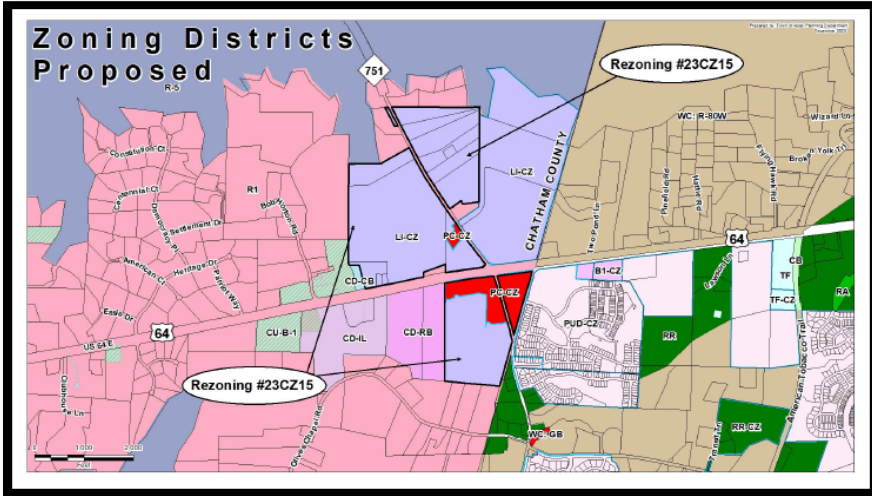
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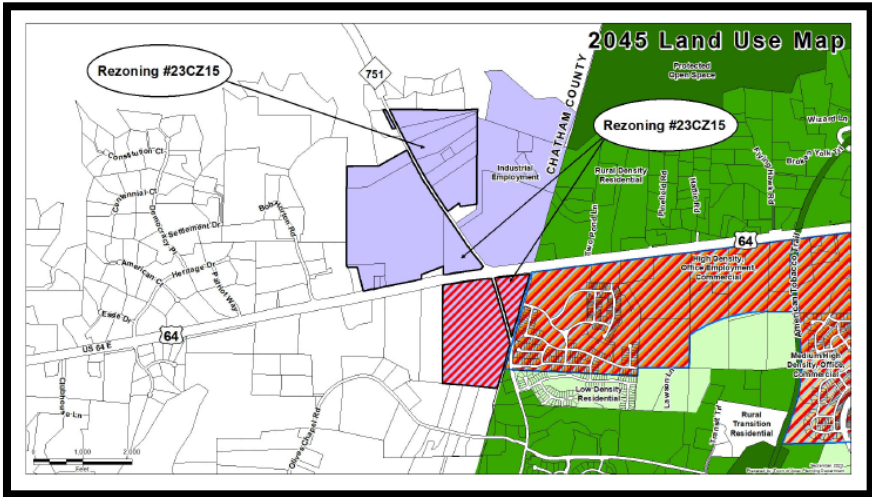
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1 [SLIDE 23]



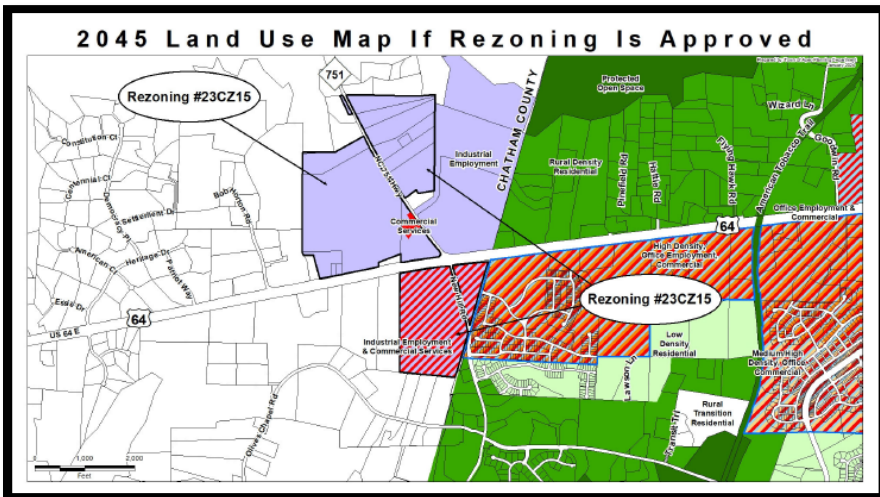
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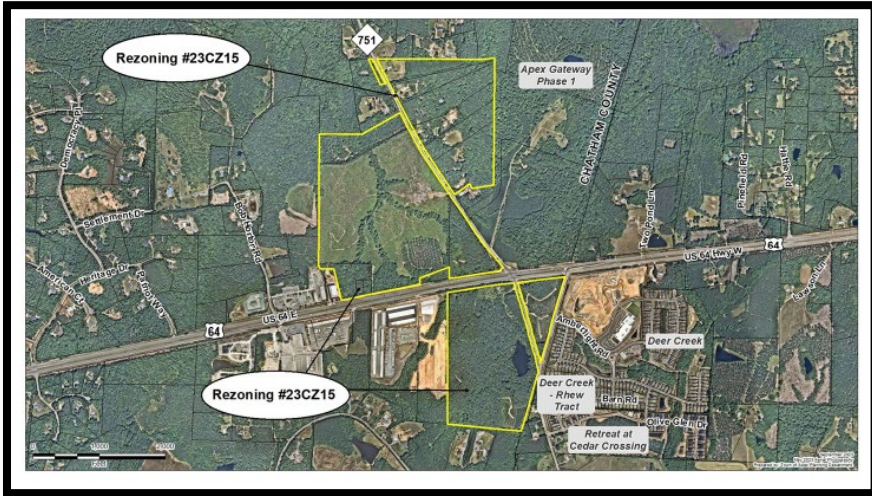
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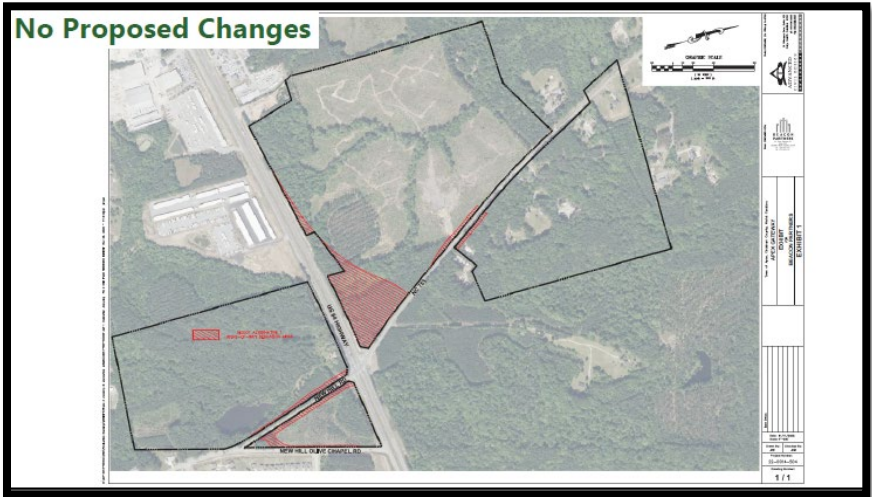


1 [SLIDE 26]



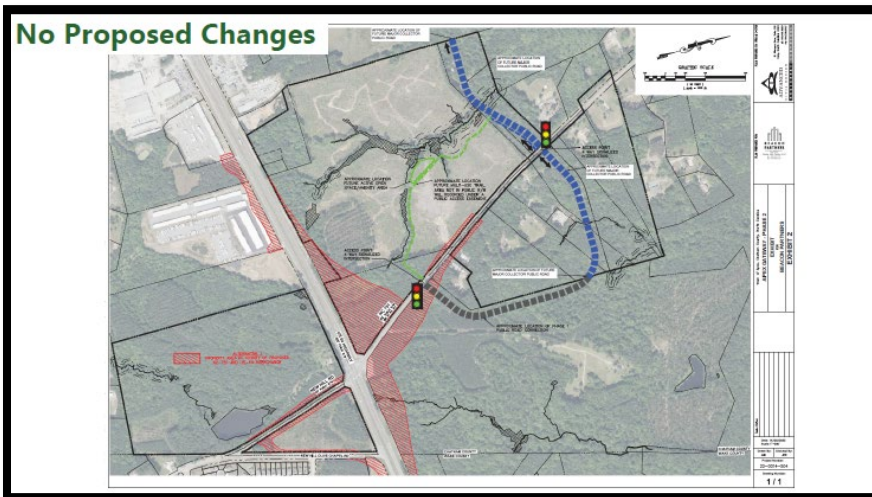
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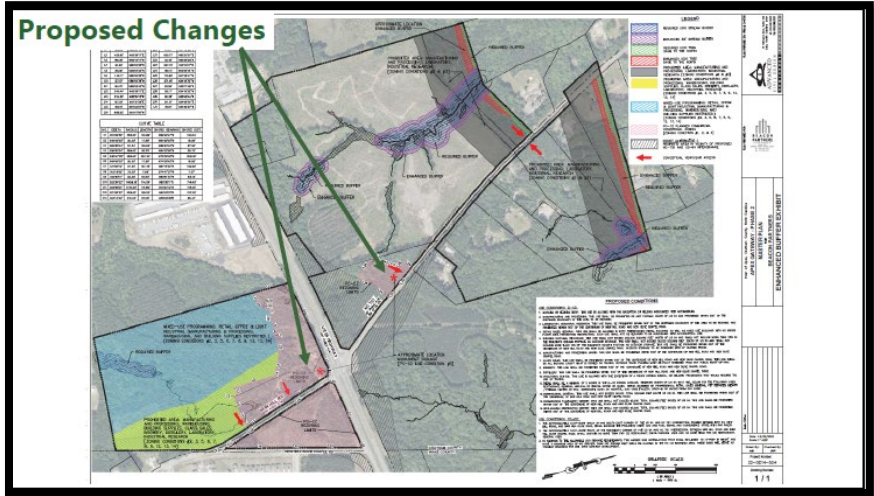
[SLIDE 28]



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1 [SLIDE 29]



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**Grey Harrell**, of Beacon Partners, on behalf of the applicant, gave the following presentation.

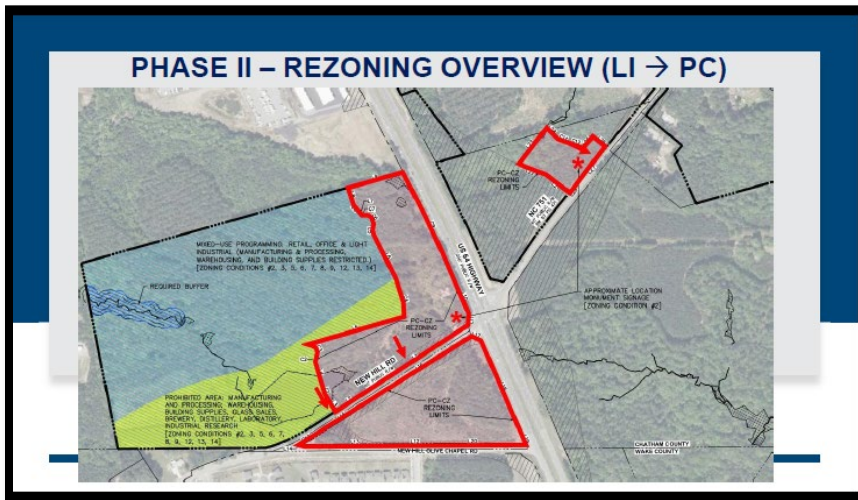
[PH4 APPLICANT - SLIDE 1]



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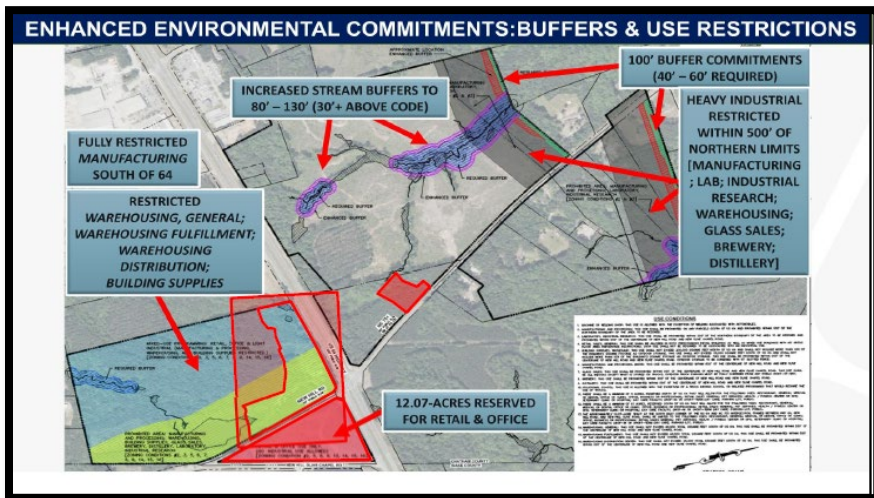
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[PH4 APPLICANT - SLIDE 2]



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[PH4 APPLICANT - SLIDE 3]



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[PH4 APPLICANT - SLIDE 4]

**ENVIRONMENTAL & SUSTAINABILITY COMMITMENTS**

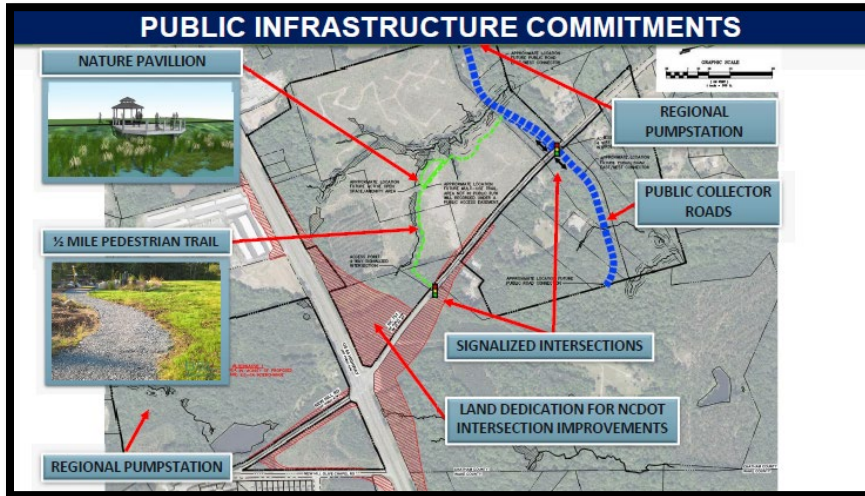
- Committing to fund / construct **\$6.5+ Million** of public infrastructure (including over a half-mile of pedestrian and bike trail networks with a nature Pavilion).
- Enhanced tree replacement commitment:** committed to replace existing trees **>18" in diameter** removed by site development on the Phase 2 acreage N of US-64.
- Committing **\$200,000** in grants to the *Triangle Land Conservancy* (earmarked for White Oak Creek riparian plantings) and *Trees for the Triangle, Inc.*

Increased environmental / sustainability commitments above Town requirements:

- 1. Commitment to dedicate 2 additional acres for the creation of new on-site wetlands for enhanced nutrient treatment & storm water detention above Town requirements.
- 2. Increased green stormwater infrastructure (adding bio-retention areas, permeable pavers, and rainwater harvesting cisterns)
- 3. Committed to increase stream buffers to a minimum of 80' - 130'
- 4. Increased northern property boundary disturbance buffers to 100'+

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1 [PH4 APPLICANT - SLIDE 5]



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3 [PH4 APPLICANT - SLIDE 6]



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5  
6 **Councilmember Gantt** said he thinks the demand for gas stations will go down over time  
7 with the rise of EVs, and the difficulty of underground tanks makes it so he doesn't want them  
8 anymore. He said they may not be useful in 15 years. He said they're also usually ugly. He hopes the  
9 site plan can hide some of those negative features.

10  
11 **Mayor Gilbert** opened up Public Hearing for this item. With no sign-ups, he closed Public  
12 Hearing and moved discussion back to Council.

13  
14 **Councilmember Mahaffey** said he hasn't received any feedback from the surrounding  
15 residents about this proposal, while he had received a lot for the original proposal. He said at the  
16 time he was pushing for more commercial uses that could be amenities to the surrounding  
17 neighbors, and he thinks this is a positive change for that. He said he thinks residents will like that  
18 aspect of the project in place of Light Industrial uses, even if they may still object to the project as a  
19 whole.

1 **Councilmember Zegerman** said there was a lot of requests to limit Light Industrial when this  
2 was first proposed, and he thinks this a positive change.

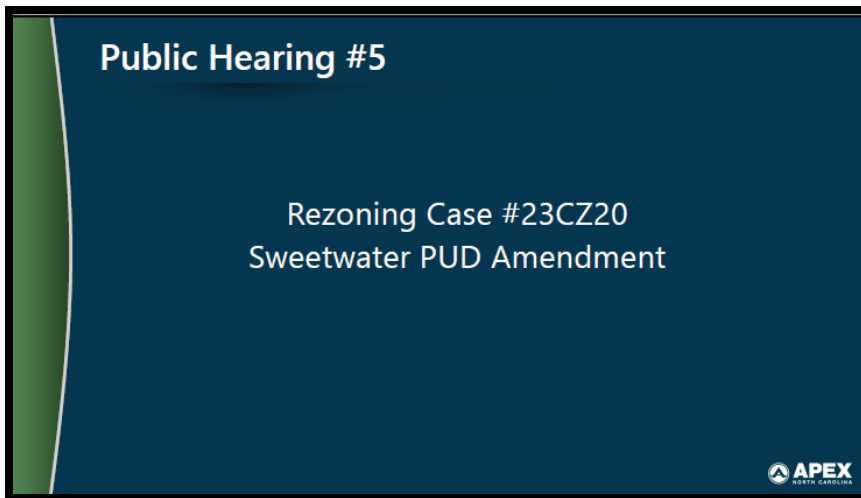
3  
4 A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember**  
5 **Mahaffey**, to approve Rezoning No. 23CZ15 - Apex Gateway Phase 2 Amendment.

6  
7 **VOTE: UNANIMOUS (5-0)**

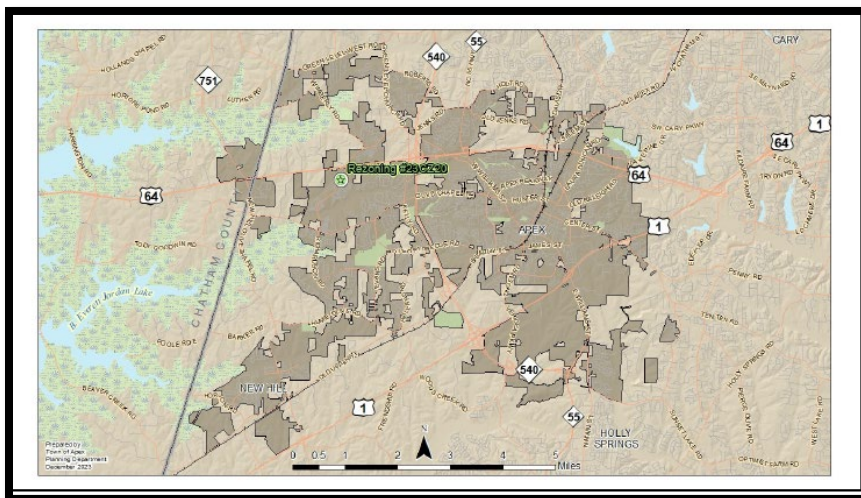
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9  
10 **PH5 Rezoning Case No. 23CZ20 - Sweetwater PUD Amendment**

11 **Amanda Bunce**, Current Planning Manager, gave the following presentation regarding  
12 Rezoning No. 23CZ20 - Sweetwater PUD Amendment.

13 **[SLIDE 30]**



14  
15  
16 **[SLIDE 31]**

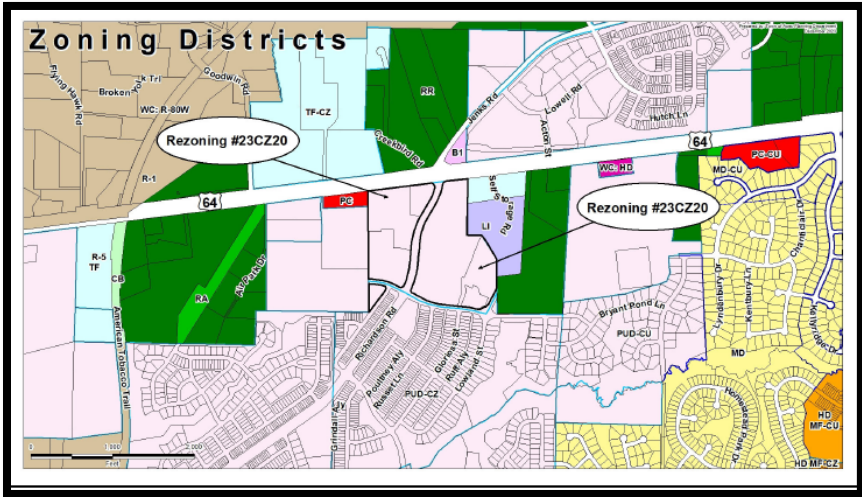




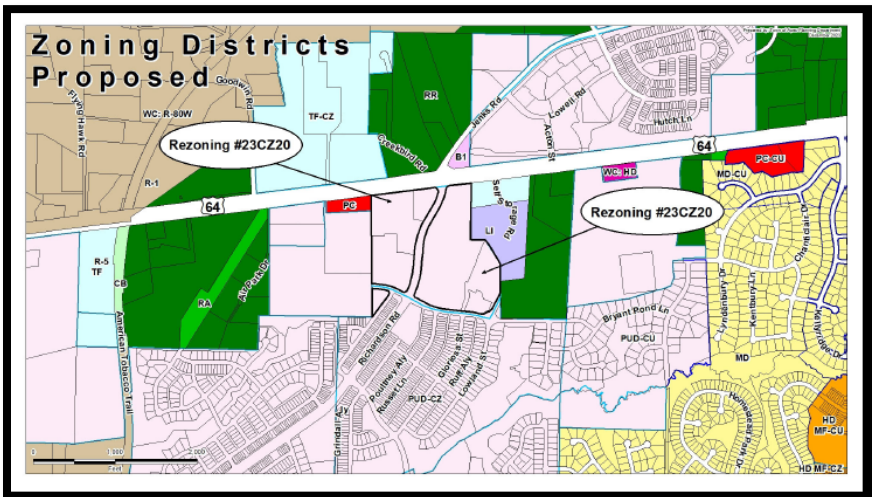
1 [SLIDE 32]



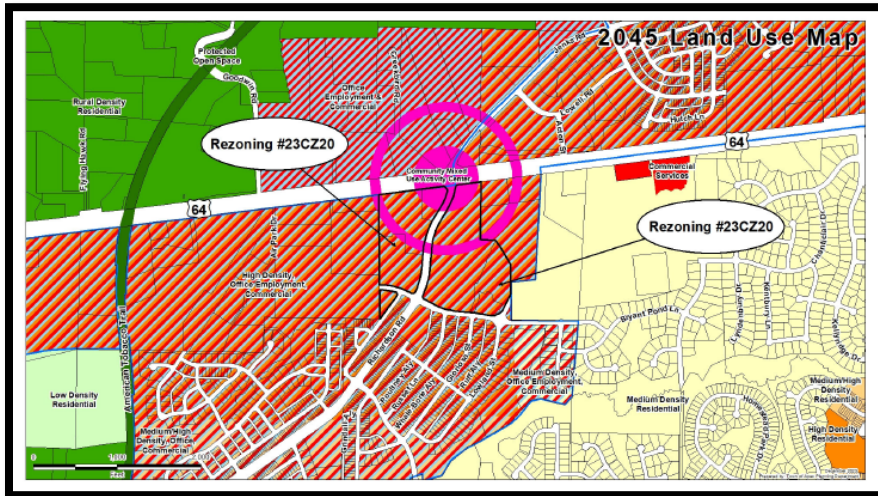
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7 [SLIDE 34]



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3 [SLIDE 36]

**PUD Amendment**

Section 6: Design Controls  
Nonresidential/Mixed-use Areas:

**Proposed Changes:**  
Office: A minimum of ~~55,000~~ **20,000** square feet of office will be provided in this section.

**Building Height:**  
Maximum: ~~62 Feet (5 Story)~~ **77 Feet (6 Stories)**  
39 Feet (2 Story)- PINs 0722-44-1499 & 0722-44-1386

**APEX**  
NORTH CAROLINA

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**Marvin Waldo**, on behalf of the applicant, gave some comments. He said they have tried really listening to Apex and what they want on the site. He said they have tried to be malleable with the market conditions as well. He said he has gone under contract with a Marriott property, and it is planned to be designed to add more energy to the property, and it would help add meeting space. He said he thinks the community will be happy the have a first-class hotel there.

**Councilmember Mahaffey** said they did a previous rezoning last year, and they were told they needed to remove some of the buffer to fit a hotel. He asked if this hotel is now going where the office building is being moved from in this proposed amendment.

**Mr. Waldo** said he couldn't know it was for a hotel then, he said that was for anyone who would need to come back later and change. He said he always dreamed of a hotel being in the middle of the big lawn. He said they are 95% leased on the whole property, and that made the hotel feel more comfortable about not being on the road. He said they are looking doing more family entertainment related uses on the road front portion.

1 **Mayor Gilbert** opened up Public Hearing for this item. With no sign-ups, he closed Public  
2 Hearing and moved discussion back to Council.

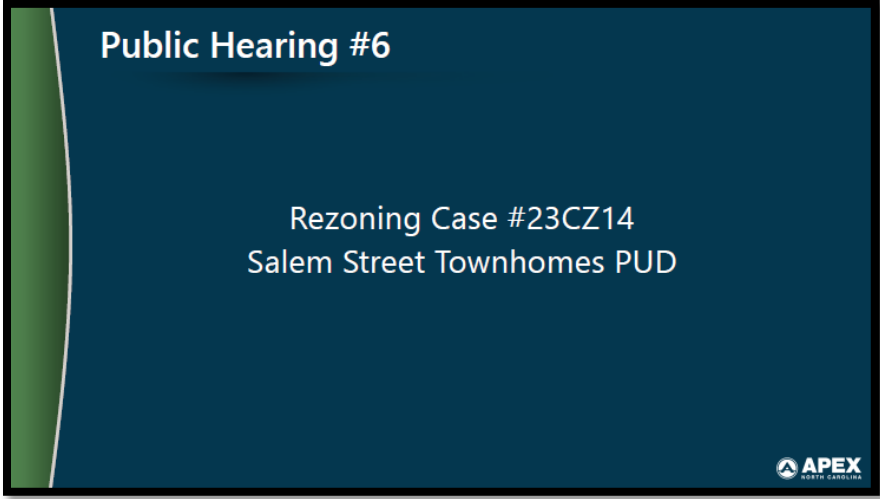
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4 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**  
5 **Killingsworth**, to approve Rezoning No. 23CZ20 - Sweetwater PUD Amendment.

6  
7 **VOTE: UNANIMOUS (5-0)**

8  
9 **PH6 Rezoning Case No. 23CZ14 - Salem Street Townhomes PUD**

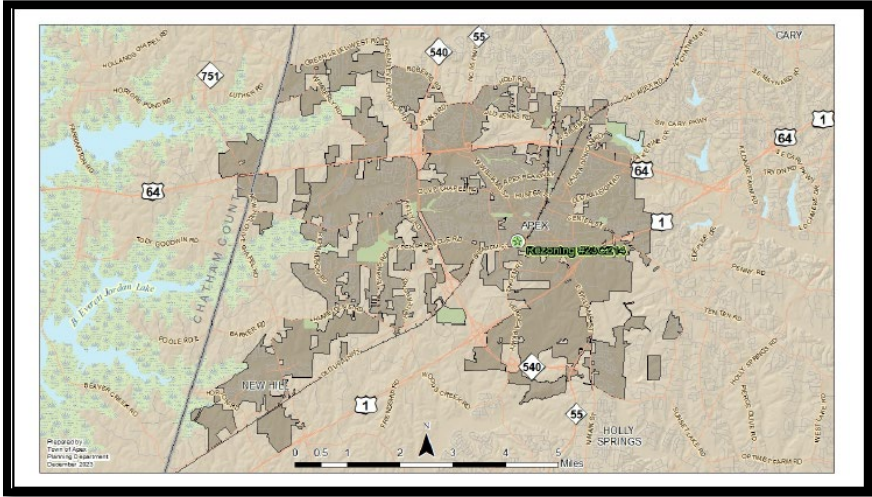
10 **Liz Loftin**, Senior Planner, gave the following presentation regarding Rezoning No. 23CZ14 -  
11 Salem Street Townhomes PUD.

12 **[SLIDE 37]**



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**[SLIDE 38]**



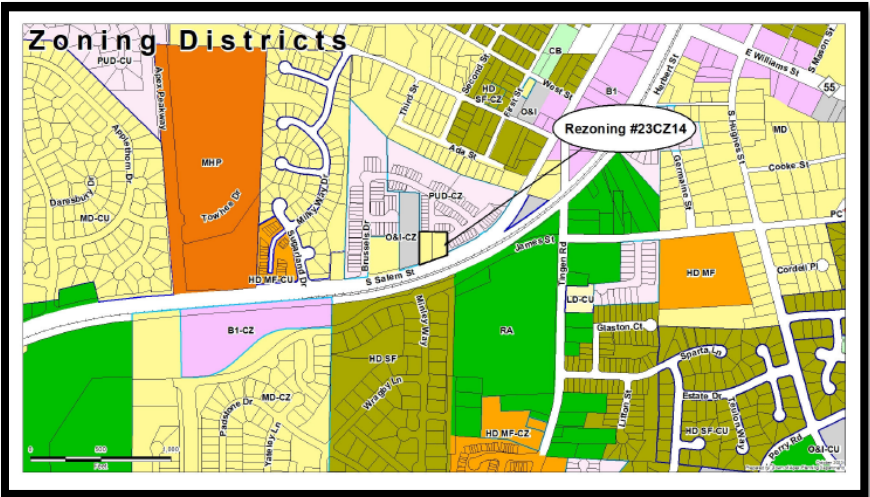
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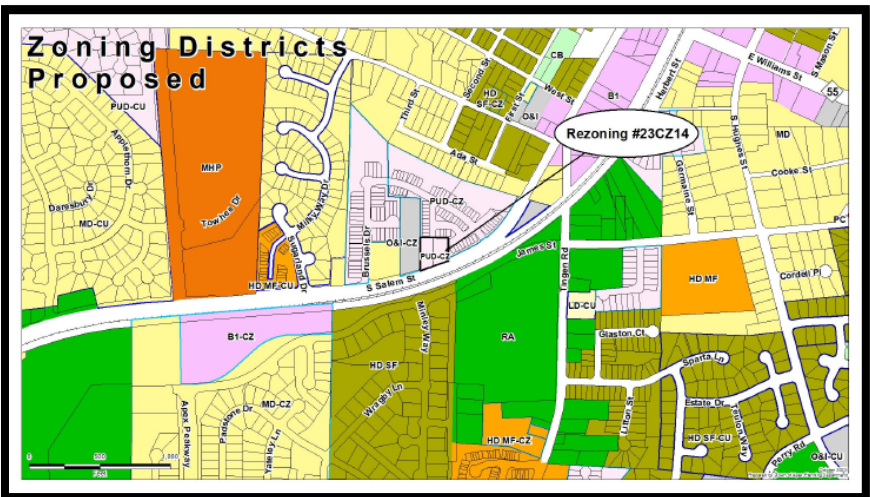
1 [SLIDE 39]



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3 [SLIDE 40]



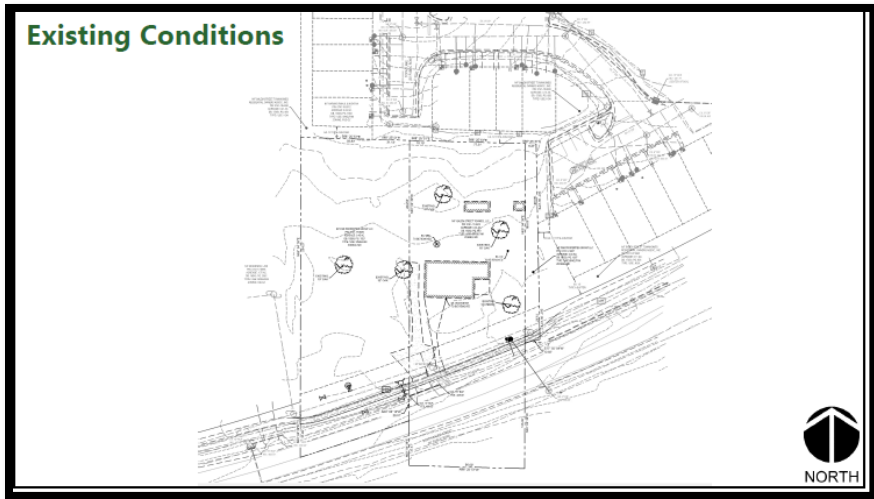
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7 [SLIDE 41]



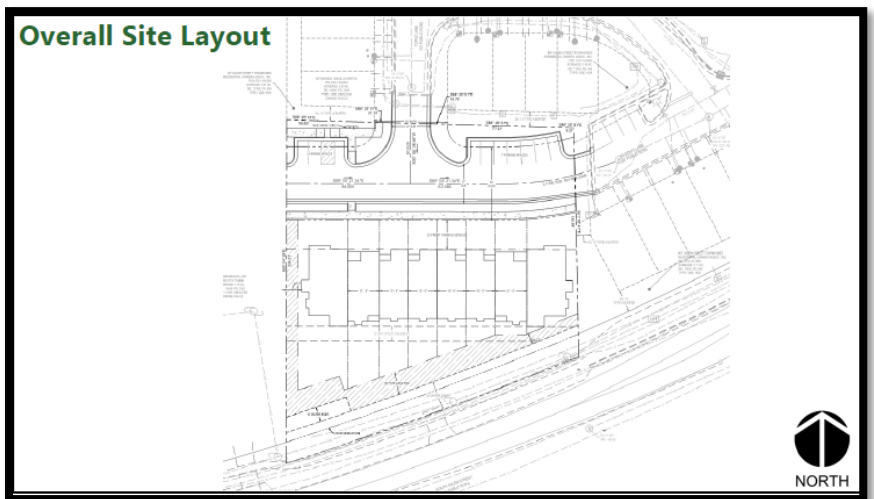
1 [SLIDE 42]



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3 [SLIDE 43]

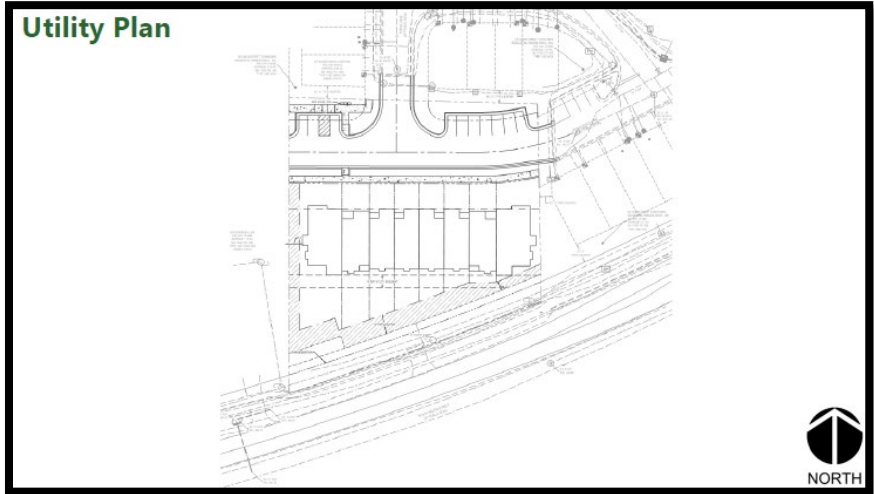


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7 [SLIDE 44]

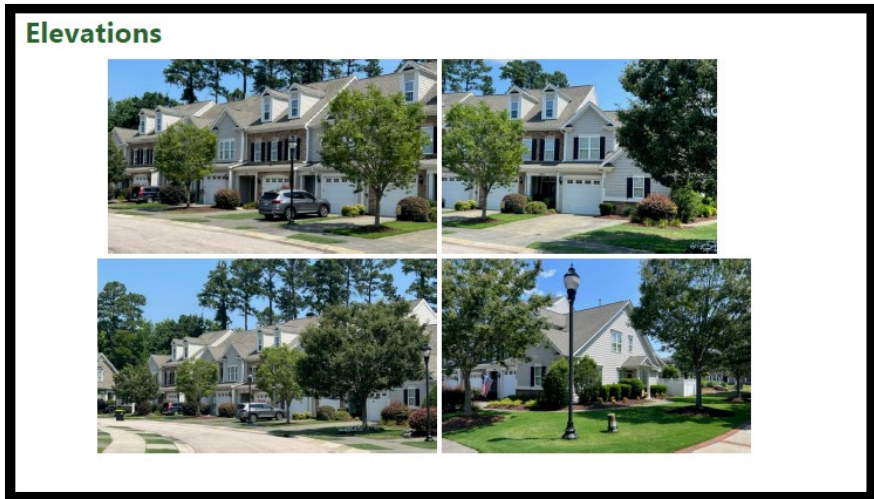




1 [SLIDE 45]



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3 [SLIDE 46]



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7 [SLIDE 47]



1  
2 **Councilmember Gantt** asked if they had worked with the developer to make sure the roads  
3 would align if everything ended up getting developed together.

4 **Ms. Loftin** said they looked at multiple layouts for the property, and she believes that was  
5 one of the reasons they provided internal connections rather connecting to Salem Street.

6 **Mr. Dalton** said the applicant had a number of constraints on this property, and this is trying  
7 to get this road a little farther away from Salem to fit the units in.

8  
9 **Scott Moore**, of the Cooley Group, on behalf of the applicant, thanked staff for working with  
10 them, and said the road alignment was made for safety and maneuverability, and offered to answer  
11 any questions.

12  
13 **Mayor Gilbert** opened up Public Hearing for this item.

14  
15 First to speak was **Brendan Fetter** of 1314 Topaz Lane:

16  
17 "Mayor Gilbert, members of the Council, thank you for the privilege of speaking here today. Point of  
18 privilege, if that's okay, being the HOA president in Salem Creek, and being so close with South  
19 Walk, I really want to thank everybody here, staff has been great, Mayor, members of the Council  
20 have reached out to me personally with what we can do to support our friends and neighbors in  
21 South Walk and our community, it's really meant a lot to me, our neighborhood, their neighborhood  
22 and our entire community. I want to say this entire process has been great working with Scott and his  
23 team, their initial plans came to us and we've had a significant parking issue in our neighborhood,  
24 which you've seen if you walk by, and the 7 years that we've been there, we've had about 100 non-  
25 emergency complaints to the Police Department, we've had about 30-35 blasts go from our  
26 management company, 2 residents reminding them kindly of our parking issues, so we've made it  
27 very clear that we cannot take any more parking concerns into our neighborhood from this  
28 development. Scott and his team were phenomenal through that process, making sure that we  
29 added adequate parking, and they have gone above and beyond adding that parking, and I am so  
30 greatly appreciative as an HOA Board Member, and our community is so grateful. Our community  
31 support at that initial planning was loud and clear, we had about 3/4ths of our residents there, and  
32 that totally shifted the conversation, and that resulted in that unanimous planning board decision a  
33 few weeks. I humbly ask the Board that we need this going forward, and keep this as planned right  
34 now. Thank you."

35  
36 **Mayor Gilbert** thanked Mr. Fetter for his comments. With no further sign ups, he moved  
37 discussion back to Council.

38  
39 **Councilmember Mahaffey** thanked the applicant for working so closely with the neighbors,  
40 and he thinks this will be a positive for the community.

41 **Mayor Pro Tempore Gray** said he also wanted to thank the applicant, because he was  
42 responsive to the needs of the community, and that means a lot.

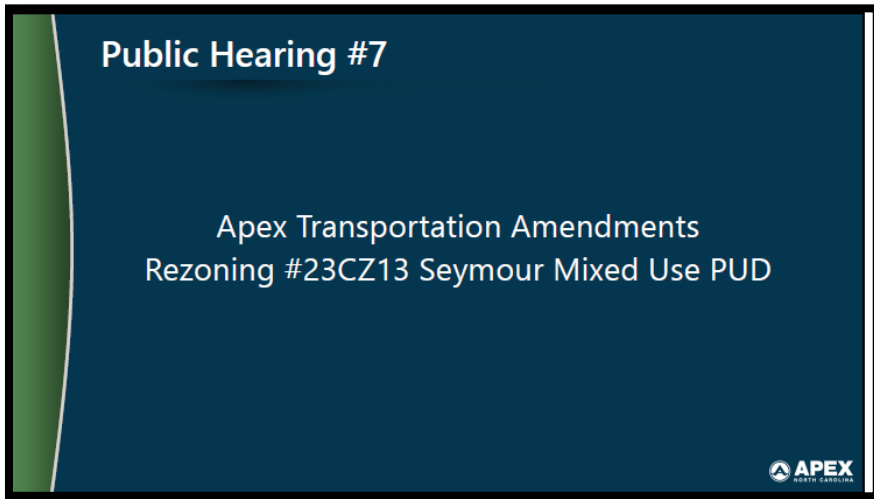
1 A **motion** was made by **Councilmember Mahaffey**, seconded by **Mayor Pro Tempore**  
2 **Gray**, to approve Rezoning No. 23CZ14 - Salem Street Townhomes PUD.

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

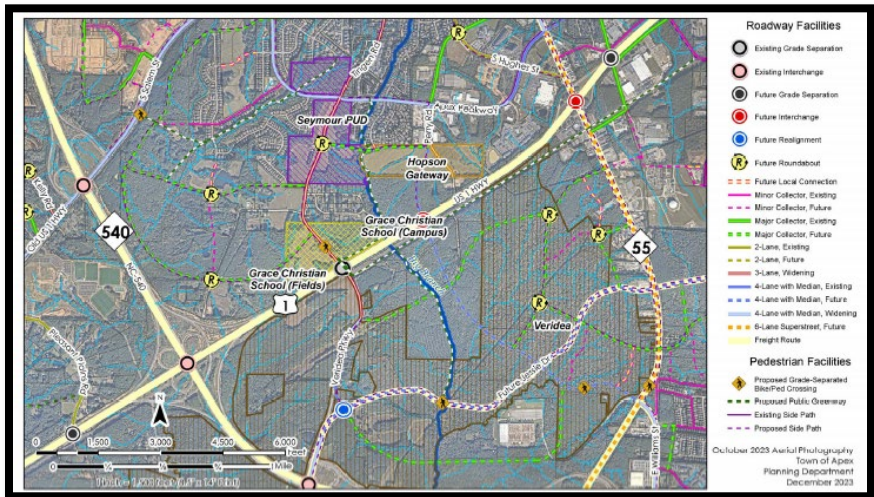
5  
6 **PH7 Apex Transportation Plan Amendment(s) - Rezoning No. 23CZ13 Seymour PUD**

7 **Shannon Cox**, Long-Range Planning Manager, gave the following presentation regarding  
8 Apex Transportation Plan Amendments - Rezoning No. 23CZ13 Seymour PUD. She said these were  
9 associated with Public Hearing 8, and the vote for this item will not be held until after Council has  
10 also heard Public Hearing 8.

11 **[SLIDE 48]**

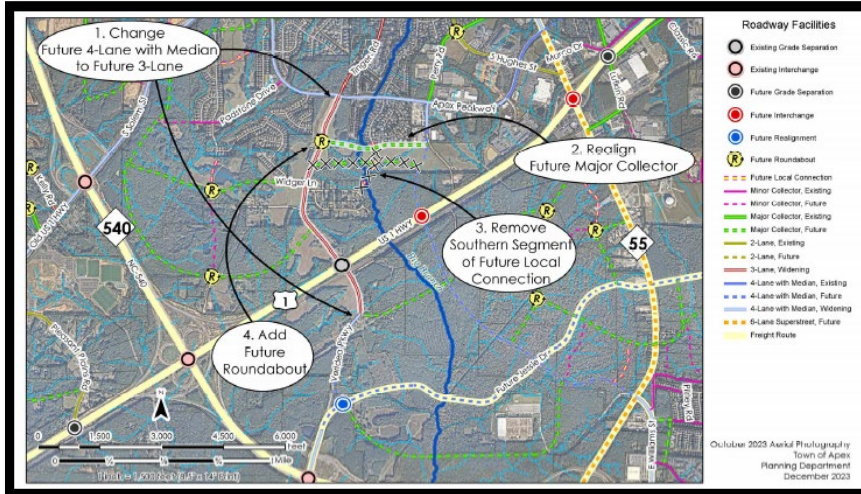


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14 **[SLIDE 49]**

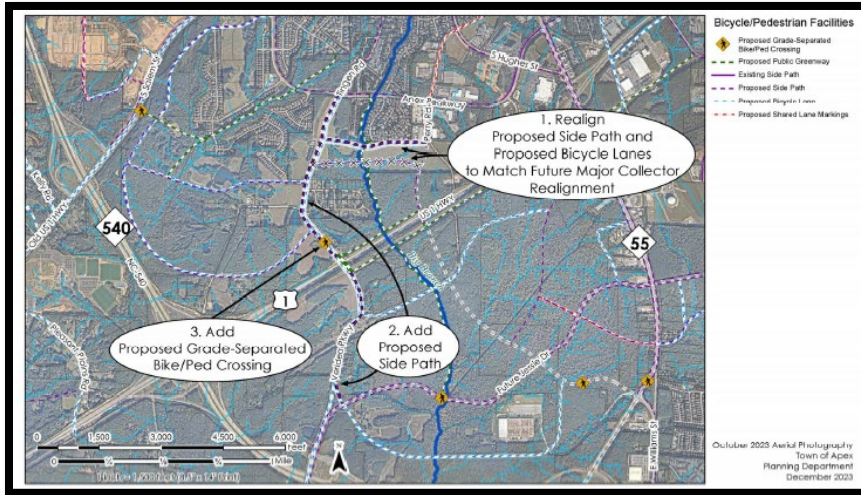




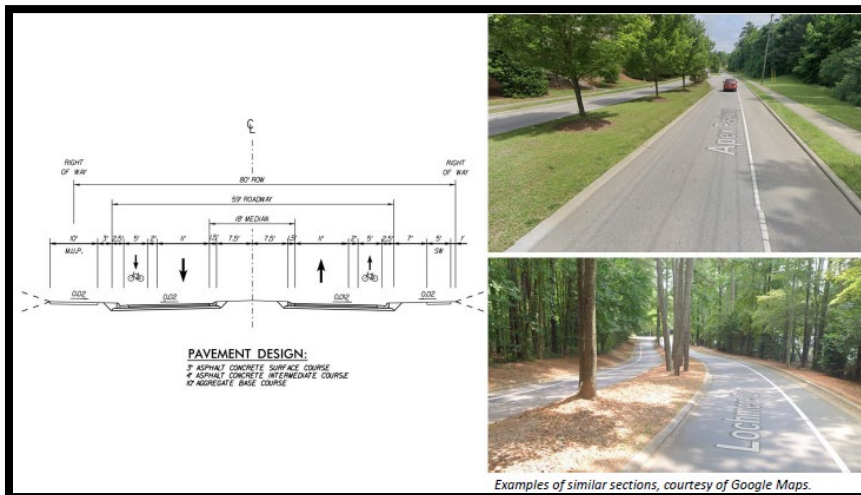
1 [SLIDE 50]



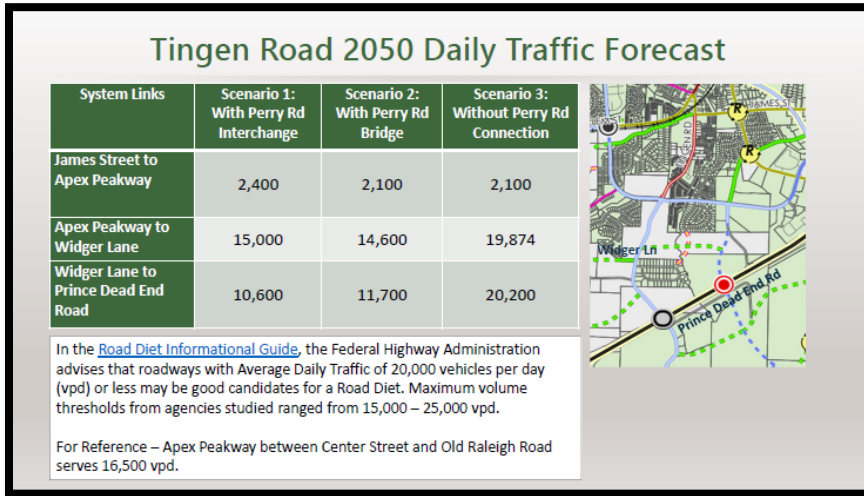
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7 [SLIDE 52]



1 [SLIDE 53]



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4 **Councilmember Zegerman** asked if they were downgrading the road to 3 lanes, which  
5 seems to indicate the road can sustain even in the worst-case scenario. He said there is still the 2  
6 lane chokepoint with the current bridge. He asked what the alternative was, since the bridge would  
7 cause an issue no matter how many lanes were off the bridge.

8 **Ms. Cox** said those are the kinds of conversations they have had among staff, and ultimately  
9 their recommendation is based on the adopted plan, which is to have an interchange, or at least a  
10 crossing at Perry Road. She said Perry Road is seen as very important in these models, so staff would  
11 prioritize that connection over widening the existing bridge at Tingen. She said it also widens  
12 Tingen, which makes it easier for traffic to move faster, but more difficult for pedestrians to cross.

13 **Councilmember Mahaffey** said the bridge is the problem, and it doesn't matter what they  
14 do to Tingen in this scenario. He asked what road diets were, and how they could be defined.

15 **Ms. Cox** said in some places, roads are wider than they need to be. She said there is a trend  
16 to take away travel lanes and in multi-modal transportation options. She said they are trying to think  
17 proactively, given the chokepoint and other considerations, and downsizing to help prioritize those  
18 other modes.

19 **Councilmember Mahaffey** asked if it could be used as a calming measure.

20 **Ms. Cox** said yes. She said this plan would cause more congestion on Tingen Road than with  
21 a 4-lane roadway, and that would slow traffic down.

22 **Councilmember Zegerman** asked if there is any NCDOT guides with the two-foot buffer put  
23 between the main road and the bike land, rather between the bike lane and the edge of the road  
24 before the sidewalk. He said that is a very common design in Europe, and is safer that way. He asked  
25 if they can accommodate that.

26 **Ms. Cox** said there are options like that, and they do include options like that in the bike  
27 Apex plan. She said in this case, there was concern for emergency service providers for a car to be  
28 able to pull over, so the striped buffer was recommended.

29 **Councilmember Zegerman** said he understands the concern, but he said it works in Europe  
30 with their emergency service providers. He requested that staff look at that as a potential road  
31 design alternative.



1 **Ms. Cox** said she believes there is some flexibility in the PUD text to continue to think about  
2 that, but she will let the applicant and Ms. Cowles confirm that.

3 **Councilmember Gantt** said he would argue that some countries pick bicyclists over  
4 emergency vehicles, and the town is choosing the other way. He said that's especially true since  
5 there are not a lot of people on bikes in the US and in this area.

6 **Councilmember Mahaffey** said the trucks are bigger here, and the vehicles in general.

7 **Councilmember Zegerman** said they could also look at if they need paths on both sides of  
8 these roads, or potentially move the bike path to one side of the road and have it be bi-directional.  
9 He said he requests to reconsider this, and he wants to look at making these designs more  
10 pedestrian friendly.

11 **Councilmember Mahaffey** said he supports him on that, and they have an opportunity to  
12 make a space for that in Apex that they haven't had before. He said they should take some time to  
13 look at this and make it more pedestrian and bicycle friendly than anywhere else in Apex, as this is  
14 already close.

15 **Mayor Gilbert** said he would encourage them to take a ride along with police, so that they  
16 can understand how that may impact response times before making those kinds of changes.

17 **Councilmember Mahaffey** said he thinks that's fair, he thinks the PUD text should have the  
18 flexibility to continue looking at it.

19 **Councilmember Zegerman** said his understanding was that the property across from  
20 Irongate is currently vacant farm land, and asked if the road could be shifted enough not to impact  
21 the property owners in Irongate.

22 **Ms. Cox** said that was one of the reasons it was downgraded in the first place. She said she  
23 couldn't say if they could shift the road to the west and widen it, but they could look at.

24 **Councilmember Zegerman** said it would be good to be able to move the road a little and  
25 not have to get into residential property acquisition discussions.

26 **Councilmember Gantt** said that would make the curb more severe, and it may be  
27 counterproductive for safety

28 **Councilmember Zegerman** said it may, but they should look at it to see.

29 **Ms. Cox** said they could look at it. She said it doesn't affect the amendment unless it changed  
30 it from 3 lane to 4 lanes.

31 **Councilmember Zegerman** said he was concerned about the alignment of the new east-  
32 west connector. He asked what would connect to the roundabout.

33 **Ms. Cox** said she would like the applicant to respond to that, she said they do not have the  
34 layout information at this point.

35 **Matthew Carpenter**, of Parker Poe, on behalf of the applicant, said the right of way for  
36 Tingen Road has been shifted west, so more impacts are on that side. He said the collector street is  
37 further south than Ticehurst, and there is a connection that there would not be a straight connection  
38 to that road.

39  
40 **Mayor Gilbert** opened up Public Hearing for this item.

41  
42 First to speak was **Lawrence Kevin** of 1628 Salem Village:  
43

1 "I'm just going to cut to the chase, vote no on Apex Transportation Plan Amendments. Reason  
2 Number 1, voting planning member board member had a conflict of official conduct, publicly listed  
3 January 8<sup>th</sup> as an associate for Lee and Associates, hours before the meeting on January, the CEO of  
4 Lee and Associates emailed the Town of Apex that was then forwarded to the Planning Board. It was  
5 a letter of support for Seymour's Agenda's items. The email from the CEO was also written on behalf  
6 of Grace Christian, who could benefit from the proposed amendments in the 2045 transportation  
7 plan voted on. The notification of official conduct conflict was emailed to the town, the Interim City  
8 Town Manager and City Council, on January 11<sup>th</sup>, 2024. So hopefully, this is not new. I also spoke  
9 with a City Council member in person, and raised the issue and concern, I'm still waiting to hear  
10 back, I do not hear anything. So I'm raising the issue again tonight, and I expect a public response  
11 from the Apex Town Council regarding my concerns regarding all Seymour agenda items voted on  
12 by the Planning Board on January 8<sup>th</sup>. There is standard operating process in place to recuse from  
13 voting, and is not a complex process. The member not only voted, but was the Planning Board  
14 member that motioned to recommend approval as presented. I have provided additional  
15 information in the handouts, due to the compressed timeline for public speaking. Reason 2,  
16 regarding plan amendments. Tingen Road, ready parkway, to be downgraded to a 4-lane  
17 thoroughfare with a median, future 3 lane thoroughfare, between Apex Peakway and a major  
18 collector, I'm in total disagreement, and part of that is going off the town's staff report, a  
19 disadvantage of the proposed downgrade on Tingen Road from a 4-lane median divided  
20 thoroughfare to a 3-lane thoroughfare, is traffic capacity. Traffic capacity projections are incomplete  
21 with Grace Christian and Hopson, TIA is not factored into the calculations. That is data you guys  
22 need to make a decision. The current Seymour design plans for another reason for changing to 3  
23 was impacts to the Irongate neighborhood. That would associated with the widening to the 4 lanes.  
24 Now sure they'd be impacted by a 4-lane road, but they're also going to be impacted by having a  
25 400-unit apartment complex in their backyard, which is designed as kind of one house per acre, so  
26 you're changing the complexity of their view. The Perry Road bridge, this for example was not  
27 brought up, but according to the CAMPO map, the date on that is 2040, that's 16 years away. I don't  
28 know what you can do to speed it up but it's 2040, that's 16 years. That's a kid going from birth to a  
29 sophomore in high school. The traffic amendments do not factor the large development projects.  
30 Grace Christian. Thank you. I had more."

31

32 **Mayor Gilbert** thanked Mr. Kevin for his comments. With no further sign ups, he closed  
33 Public Hearing and moved to the next item.

34

35 **AND**

36 **PH8 Rezoning Case No. 23CZ13 - Seymour Mixed Use PUD**

37 **June Cowles**, Senior Planner, gave the following presentation regarding Rezoning No.  
38 23CZ13 - Seymour Mixed Use PUD.

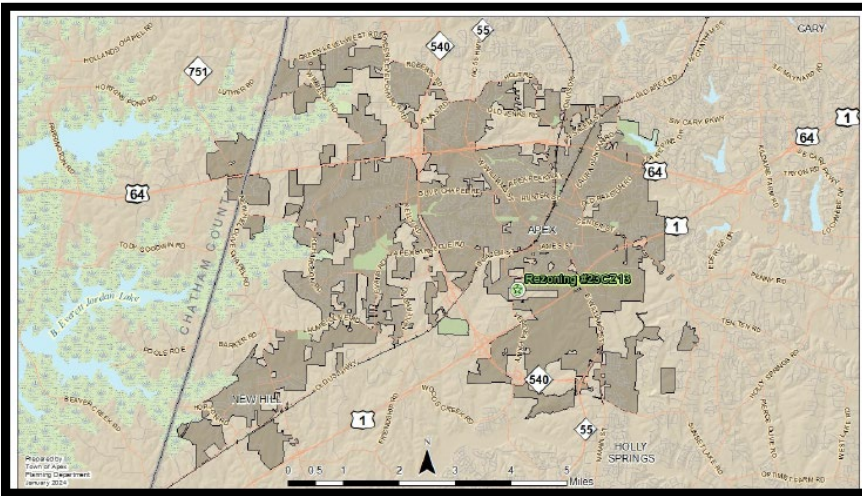
39 **[SLIDE 54]**

# Public Hearing #8

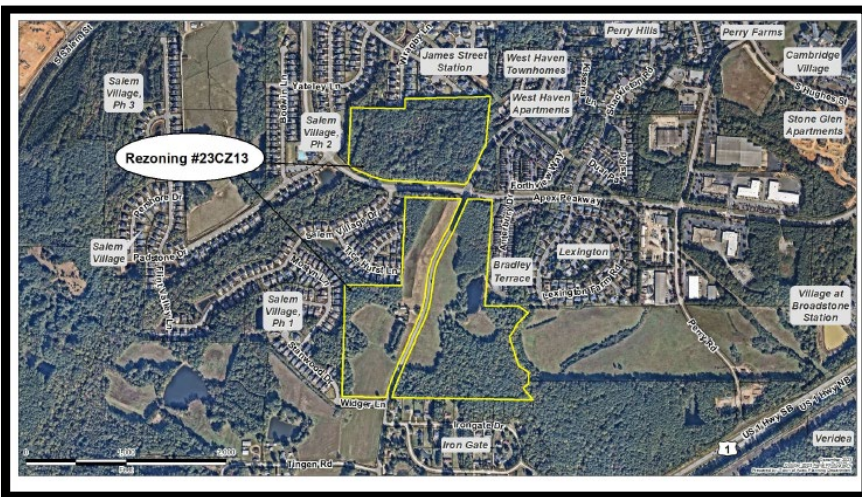
## Rezoning Case #23CZ13 Seymour Mixed Use PUD



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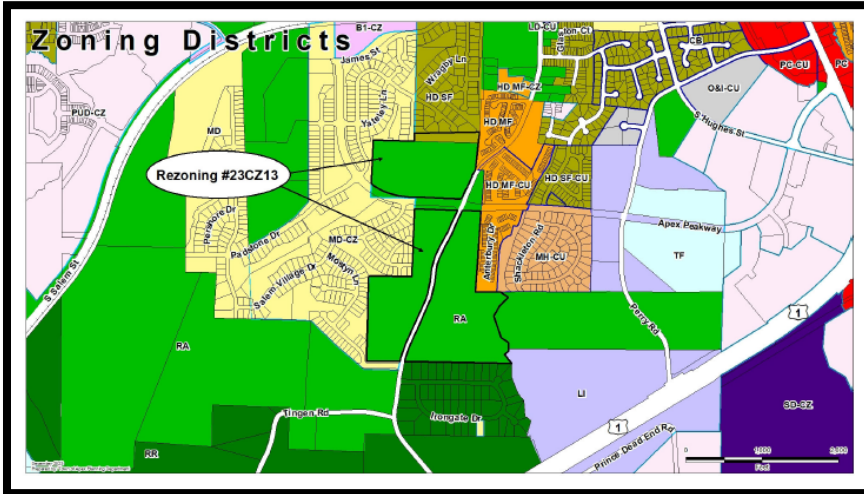


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4 [SLIDE 56]

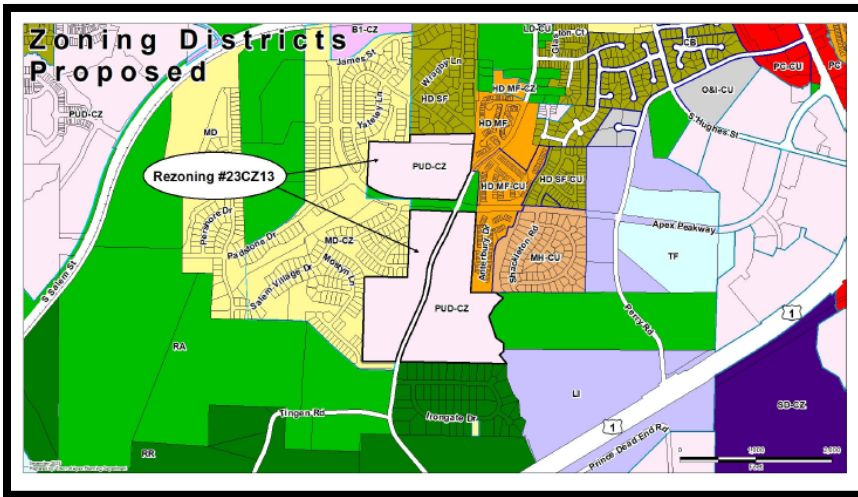


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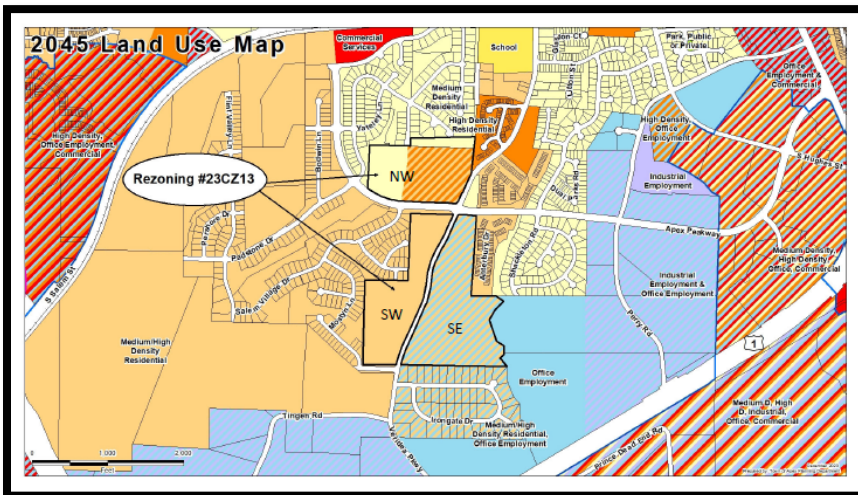
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3 [SLIDE 58]

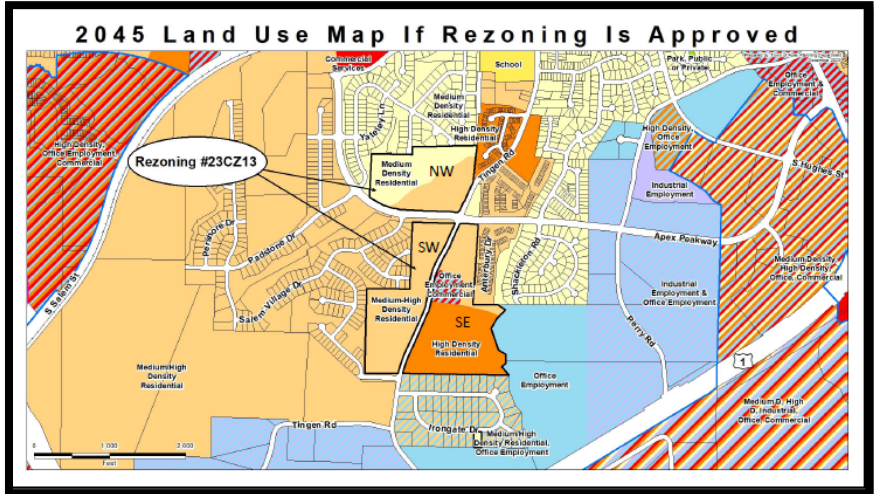


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7 [SLIDE 59]

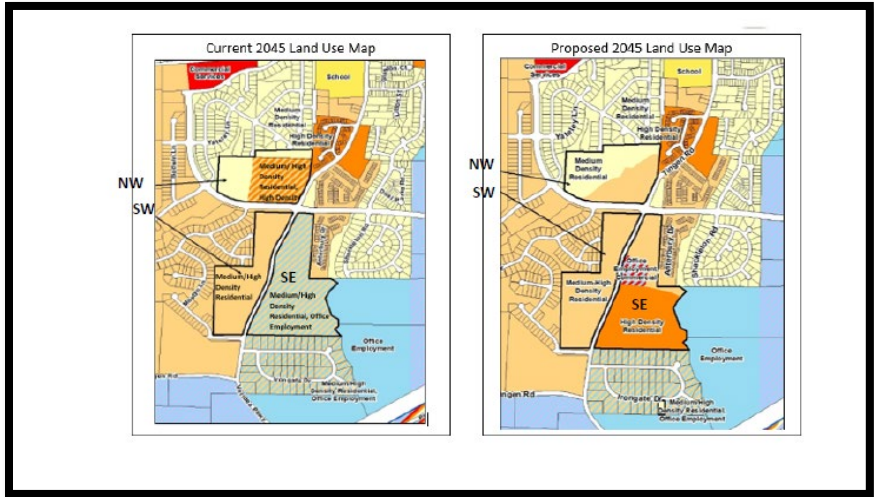




1 [SLIDE 60]



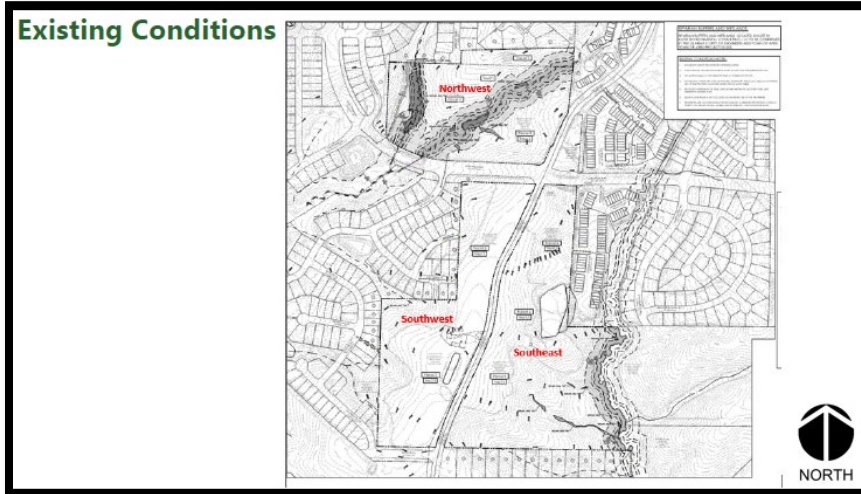
2  
3 [SLIDE 61]



4  
5  
6  
7 [SLIDE 62]

Area	Current LUM	Proposed LUM (PUD Plan)
Northwest	Medium Density Residential (Max 7 units per acre) Medium/High Density Residential (7-14 units per acre) High Density Residential (14 units per acre with max density determined at the time of rezoning or site plan approval)	Medium Density Residential (Max 6 units per acre) Medium/High Density Residential (Max 8 units per acre)
Southwest	Medium/High Density Residential (7-14 units per acre)	Medium/High Density Residential (Max 8 units per acre)
Southeast	Medium/High Density Residential (7-14 units per acre) Office Employment	Medium/High Density Residential (Max 12 units per acre) High Density Residential (Max 20 units per acre) Commercial Services/Office Employment

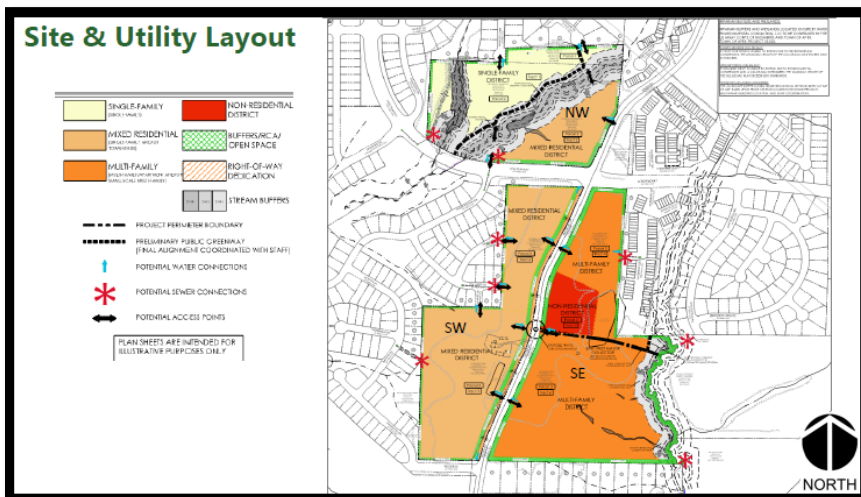
1 [SLIDE 63]



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3 [SLIDE 64]




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7 [SLIDE 65]





1 [SLIDE 66]

### Proposed Residential Uses



	Single-Family District:	Mixed Residential District****:	Multi-Family District:	Non-Residential District:
<b>Residential</b>				
Single-family	P	P		
Townhouse		P	P	
Duplex		P	P	
Small-scale multi-family*			P**	
Multi-family or apartment			P**	
Condominium			P	
Accessory apartment	P	P	P	
<b>Recreational Uses</b>				
Park, active	P	P	P	
Greenway	P	P	P	
Park, passive	P	P	P	
Recreation facility, private	P	P	P	
Utility, minor	P	P	P	


\*Small scale multi-family shall be defined as: A building constructed to accommodate between two and ten dwelling units that are vertically or horizontally integrated. Multiple small-scale multi-family buildings may be located on one lot.

\*\*Multi-family or apartment is only permitted south of the East-West Major Collector as shown on the Concept Plan. Small scale multi-family is permitted throughout the Multi-Family District.

\*\*\*The portion of the Mixed Residential District south of Apex Peakway and west of Tingen Road shall have a minimum of two residential uses.

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3 [SLIDE 67]

### Proposed Non-Residential Uses




Non-Residential Uses				
Restaurant, general				P
Restaurant, drive-through				P****
Medical or dental office or clinic				P
Medical or dental laboratory				P
Office, business or professional				P
Publishing office				P
Artisan Studio				P
Barber and beauty shop				P
Book store				P
Convenience store				P
Dry cleaners and laundry service				P
Financial institution				P
Floral shop				P
Grocery, general				P
Grocery, specialty				P
Health/fitness center or spa				P
Newsstand or gift shop				P
Personal service				P
Pharmacy				P
Printing and copying service				P
Real estate sales				P
Retail sales, general				P
Studio for art				P
Tailor shop				P
Upholstery shop				P
Pet services				P
Day care facility				P
Drop-in or short-term day care				P
Veterinary clinic or hospital				P
Utility, minor				P

\*\*\*\* Standalone restaurant drive-throughs shall not be permitted. However, restaurant drive-throughs as part of a multi-tenant building are permitted.

**The Non-Residential District shall have at least two uses.**

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7 [SLIDE 68]

### Proposed Residential Design Controls



SINGLE-FAMILY DISTRICT	
Approximate Acreage	14.88 acres
Maximum Density	6 units/acre
Maximum Built-Up Area	60%
Minimum Lot Size	5,000 square feet
Minimum Lot Width	50 ft.
<b>Minimum Setbacks</b>	
Front	20 ft.
Side	5 ft.
Rear	10 ft.
Corner Side	10 ft.
Maximum Building Height	3 stories; 45 ft.
<b>Minimum Buffer/RCA Setbacks</b>	
Buildings:	10 ft.
Parking:	5 ft.

1 [SLIDE 69]



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3 [SLIDE 70]

### Proposed Residential Design Controls

MIXED RESIDENTIAL DISTRICT		
Approximate Acreage	33.28 acres	
Maximum Density	8 units/acre	
Maximum Built-Up Area	65%	
	Townhouses*	Single-Family
Minimum Lot Size	None	5,000 square feet
Minimum Lot Width	20 ft.	50 ft.
Minimum Setbacks		
Front	Rear loaded and parking lot style: 10 ft. Front loaded: 20 ft.	20 ft.
Side	0 ft. (3 ft. for end units)	5 ft.
Rear	10 ft.	10 ft.
Corner side	10 ft.	10 ft.
Minimum Building Separation	10 ft.	
Maximum Building Height	3 stories: 45 ft.	3 stories: 45 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.


\*Townhouses shall not be located within 65 feet of existing single-family lots in Salem Village that share a property line with the property and front the existing stub streets of Drumlín Drive, Tice Hurst Lane, and Hawkes Drive.

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7 [SLIDE 71]



1 [SLIDE 72]

### Proposed Residential Design Controls



MULTI-FAMILY DISTRICT			
Approximate Acreage	30.39 acres		
Maximum Built-Upon Area	70%		
	Multi-family or apartment	Small-scale Multi-family	Townhouses
Maximum Density	20 units/acre	12 units/acre	12 units/acre
Minimum Lot Size	N/A	N/A	None
Minimum Lot Width	N/A	20 ft.	20 ft.
Minimum Setbacks			
Front	10 ft.	10 ft.	Rear loaded and parking lot style: 10 ft. Front loaded: 20 ft.
Side	20 ft.	0 ft. (2 ft. for end units)	0 ft. (3 ft. for end units)
Rear	20 ft.	10 ft.	10 ft.
Corner Side	20 ft.	10 ft.	10 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.
Maximum Building Height	4 stories; 60 ft.*	3 stories; 45 ft.	3 stories; 45 ft.
Minimum Building Separation	N/A	10 ft.	10 ft.

\*Multi-family or apartment building facades that face Tingen Road, the Iron Gate neighborhood, or the Bradley Terrace neighborhood shall not exceed a maximum height of three stories and 50 feet.

In the portion of the Multi-family District south of the Major Collector, parking lots shall not be permitted between apartment buildings and Tingen Road. All other development shall comply with minimum parking standards set forth in UDO Section 8.3.

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3 [SLIDE 73]

### Additional Proposed Seymour PUD Condition

**Added on January 11, 2024 (included staff report in bold)**

**Apartments (excluding Small Scale Multi-family) south of the Major Collector street shall be designed to meet the requirements for one of the following green building certifications: LEED, Energy Star, BREEAM, Green Globes, NGBS Green, NAHB, or GreenGuard. A third-party consultant shall be hired to evaluate the project and certify to the Town of Apex that the project meets the standards for certification. The applicant shall forward a copy of the certification application to the Town of Apex Planning Department to verify that the application has been submitted.**

**Added on January 22, 2024 (not included in the staff report)**

- Added a deadline time for the Apartment green building certifications:** "Prior to issuance of a certificate of occupancy for a building, the developer shall demonstrate to the Town that the building has been certified as a green building by providing a copy of the green building certification."

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7 [SLIDE 74]


### Multi-family Concept Elevations





1 [SLIDE 75]

### Proposed Non-Residential Design Controls



NON-RESIDENTIAL DISTRICT DESIGN CONTROLS	
Approximate Acreage	3.37 acres
Maximum Square Footage	50,000 sf
Maximum Built-Up Area	70%
Minimum Setbacks	
Front	20 ft.
Side	20 ft.
Rear	20 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.
Maximum Building Height	48 ft.

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3 [SLIDE 76]

### Non-Residential Concept Elevations



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7 [SLIDE 77]

### Additional Proposed Seymour PUD Conditions

**Added on January 22, 2024 (not included in the staff report)**

- One of the required Community Amenities for the Non-Residential District shall be public art. The public art shall be reviewed and approved by the Planning Director as set forth in UDO Section 8.4.5 and the location shall be determined by developer during Site Plan review for the Non-Residential District.

1 [SLIDE 78]

### Buffers and RCA

Overall site = 20 Percent RCA

Buffers:	UDO Requirement:	Proposed:
1	15 ft. Type A	15 ft. Type B
2	10 ft. Type A	15 ft. Type A
3	10 ft. Type A	10 ft. Type B
4	20 ft. Type B	30 ft. Type A
5	30 ft. Type B	30 ft. Type B
6	30 ft. Type B	30 ft. Type B
7	30 ft. Type E (non-residential) / 30 ft. Type B (residential) may be reduced to Type E where alley-loaded homes face a thoroughfare	30 ft. Type B but may be reduced to 15 ft. Type E as shown below*

\*Where rear (alley) loaded townhouse units front Tingen Road, developer may elect, at the time of Master Subdivision/Site Plan review, to reduce the Tingen Road Thoroughfare buffer to a 15 ft. Type E buffer. Buffer reduction shall be in accordance with UDO Section 8.1.2.C.7.

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3 [SLIDE 79]

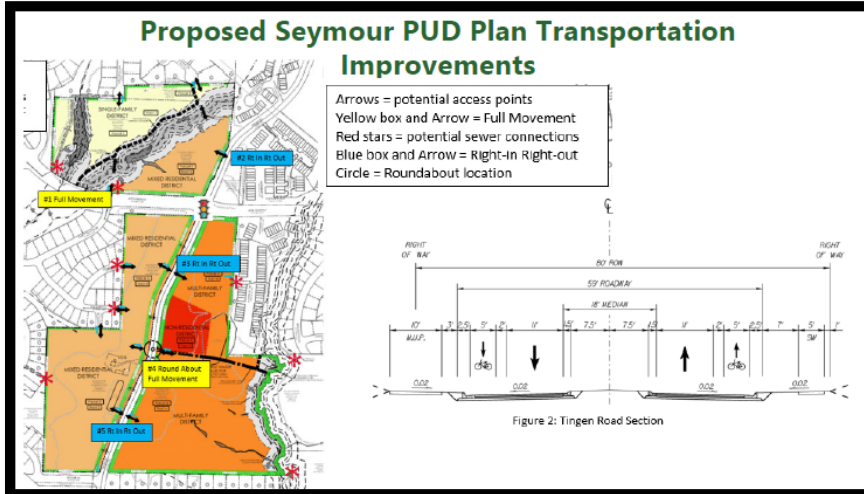
### Environmental Conditions

- All dwelling units shall be pre-configured with conduit for a solar energy system.
- The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- For multi-family, the project shall install at least one (1) pet waste station per multi-family building. For single-family, the project shall install at least one (1) pet waste station per 25 homes.
- The project shall plant drought resistant warm season grasses or clover lawns throughout the development to minimize irrigation and chemical use.
- HOA rules may not prohibit the installation of clover lawns within the single-family and townhome portions of the development.
- 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.
- Landscaping shall include at least four (4) native hardwood tree species throughout the Development.
- 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.
- At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.
- To reduce the Urban Heat Island Effect and conserve energy, for multi-family and non-residential buildings, all flat roofs shall be light or white colored or utilize a cool roof material.
- All single-family garages will be wired with a 220/240-volt electric outlet.

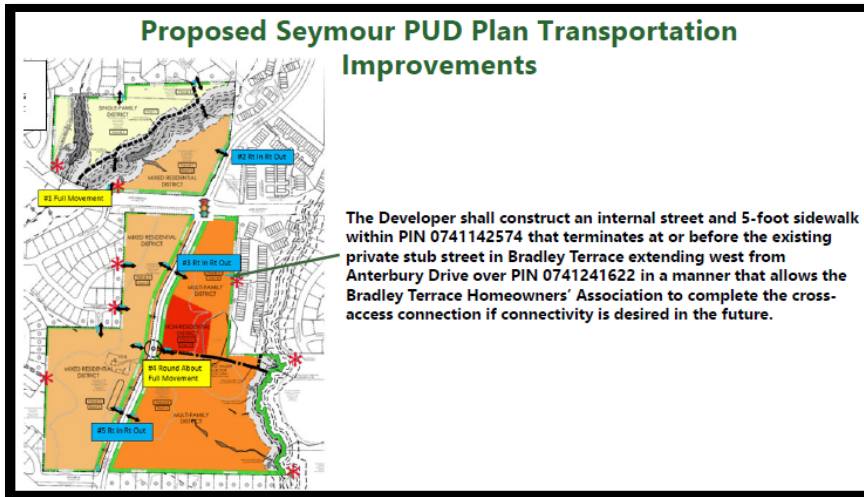
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7 [SLIDE 80]

### Greenways

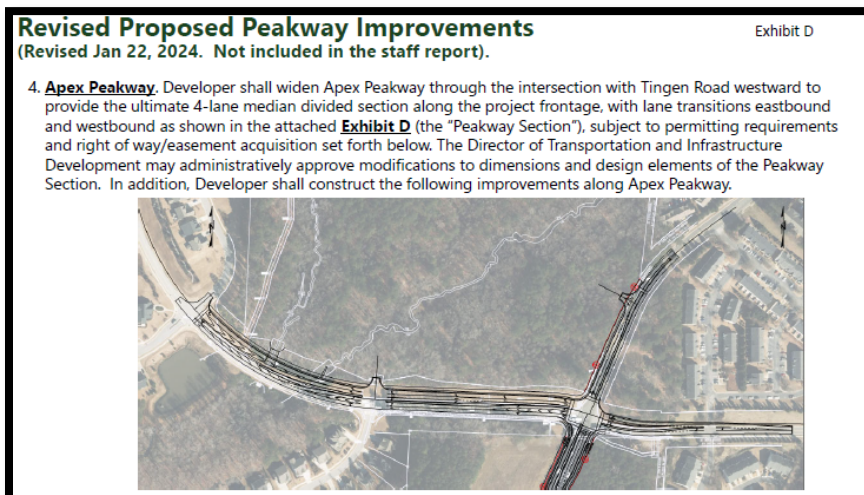
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3 [SLIDE 82]



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7 [SLIDE 83]





1 [SLIDE 84]

**Revised Proposed Peakway Improvements**  
(Revised Jan 22, 2024. Not included in the staff report).

a. **Traffic Signal.** Install a metal strain pole traffic signal at the intersection of Apex Peakway and Tingen Road when permitted by NCDOT. A warrant study shall be performed prior to platting 300 single-family or townhouse residential units or site plan final plat for up to 300 apartment dwelling units, at the direction of Apex staff. If NCDOT does not permit the traffic signal at that time, Developer shall pay a fee-in-lieu for the estimated cost of design and installation of the metal strain pole traffic signal and dedicate all necessary easements and rights of way based on a conceptual engineering layout to be provided by Developer. Minimum turn lane lengths shall be constructed/striped as follows:

- i. Northbound left turn lane with 150 feet of storage, plus deceleration and taper
- ii. Northbound right turn lane with 100 feet of storage, plus deceleration and taper
- iii. Southbound left turn lane with 175 feet of storage, plus deceleration and taper
- iv. Eastbound left turn lane with 175 feet of storage, plus deceleration and taper
- v. Westbound left turn lane with 150 feet of storage, plus deceleration and taper

5. a. **Westbound Approach.** Widen the westbound approach to Tingen Road to provide a left turn lane and taper/transition to set the curb line, as shown in the attached Peakway Section (the "Taper"), within the existing Apex Peakway right of way adjacent to PINs 0741159109 and 0741250245 (the "Cemetery Property"). Provided, however, that if plans for the Taper (a) require grading that disturbs existing graves on the Cemetery Property or in the right-of-way, or (b) require relocation of one or more existing graves on the Cemetery Property or in the right-of-way, Developer may narrow the road width for the Taper (the "Revised Taper") to avoid any impact on existing graves. In no event shall Developer be required to relocate existing graves. If the Revised Taper is required, Developer may reduce the width of the Peakway Section west of the intersection of Apex Peakway and Tingen Road to provide an appropriate transition from the Revised Taper.

2  
3 [SLIDE 85]

*Revised Proposed Peakway Improvements*  
(Revised Jan 22, 2024. Not included in the staff report).

b. **Permitting.** There are two existing streams on PIN 0741152543 (the "Peakway Property") that cross Apex Peakway through two existing culverts located in the Apex Peakway right of way (the "Culverts"). Construction of the Peakway Section will require extending the Culverts which will disturb the streams (the "Stream Disturbance") and require one or more permits from the United States Army Corps of Engineers (the "USACE"), or other relevant governmental agency (together, the "Permitting Body"). During plan review for the Peakway Property, but no later than Construction Drawing review, Developer shall file an application with the Permitting Body to permit the Stream Disturbance and construction of the Peakway Section the "Permit Application") and the Town shall serve as applicant. Developer shall prepare, and pay the costs of preparing, the Permit Application, including all required design work (the "Design Costs") and permitting/mitigation costs. The Permit Application shall be a separate application from other environmental permit applications that may be required for other portions of the project (the "Additional Permit Applications"). If the Permitting Body denies the Permit Application, or requires the Permit Application and the Additional Permit Applications to be submitted and reviewed as one application ("Individual Permit") and the sole justification for the requirement of an individual Permit is the construction of the Peakway Section, then Developer shall construct a reduced Apex Peakway section that terminates at the western boundary of Site Driveway 1 and pay a fee in lieu for all costs to construct the portion of the Peakway Section from Site Driveway 1 to the eastern boundary of Padstone Drive and the Design Costs shall be credited towards the fee in lieu. The fee in lieu estimate shall include all costs, including design, environmental permitting/mitigation and construction. Developer shall dedicate all right of way, permanent and temporary easements necessary to accommodate the future 4-lane divided roadway section.

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7 [SLIDE 86]

**Revised Proposed Peakway Improvements**  
(Revised Jan 22, 2024. Not included in the staff report).

c. **Right of Way/Easement Acquisition.** Construction of the Peakway Section may require acquisition of rights of way and easements over PIN 0741055626 owned by the Salem Village Homeowners' Association (the "HOA Property"). If Developer is unable to acquire the rights of way and easements necessary to construct the Peakway Section as shown in the attached **Exhibit D**, the Peakway Section shall be redesigned to not require acquisition of rights of way or easements over the HOA Property.

d. **Side Path.** Construct a 10-foot side path along the property's Apex Peakway frontage along the north side of Apex Peakway (the "Peakway Side Path") that terminates at Padstone Drive. The Peakway Side Path shall be included in the Permit Application. The Peakway Side Path may require acquisition of one or more easements (the "HOA Easements") over the HOA Property. If the Permitting Body does not approve the Peakway Side Path, the Peakway Side Path shall terminate at the eastern boundary of Site Driveway 1 and Developer shall pay a fee in lieu for the costs of constructing the portion of the Peakway Side Path from the eastern boundary of Site Driveway 1 to Padstone Drive. If Developer is unable to acquire the HOA Easements for market value through reasonable means, the Peakway Side Path shall be relocated closer to the back of curb of Apex Peakway in a location that does not require the HOA Easements. If Developer is unable to acquire the HOA Easements and is unable to design the Peakway Side Path in a manner that does not require acquisition of the HOA Easements, the Peakway Side Path shall terminate at the western boundary of the property's Apex Peakway frontage.

1 [SLIDE 87]

**Revised Proposed Peakway Improvements**  
(Revised Jan 22, 2024. Not included in the staff report).

11. Developer shall extend the Side Path along the western boundary of Tingen Road south of PIN 0741142574 to stub to the northern boundary of the Grace Christian School Property (PIN 0741019204)(the "Grace Connection"). The Grace Connection may require acquisition of off-site rights of way and/or easements over off-site property including, but not limited to, PIN 0741034400, PIN 0741026971, PIN 0741023701, and PIN 0741022140 (collectively, the "Off-Site Rights-of-way"). Developer shall work to acquire the Off-Site Rights-of-way prior to Master Subdivision Plan approval. If Developer is unable to acquire the Off-Site Rights-of-way for market value, in Developer's discretion, Developer shall pay a fee-in-lieu in the amount of the estimated cost of the Grace Connection.

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3 [SLIDE 88]

**Additional Proposed Seymour PUD Conditions**

Added on January 22, 2024 (not included in the staff report)

13. Developer shall either (1) design the portion of Drumlín Drive over the property to include one or more curves so as to not connect directly to Tingen Road, or (2) if Drumlín Drive connects directly to Tingen Road, provide traffic calming measures at the project's connection to the Salem Village Drumlín Drive stub street (the "Traffic Calming Measures"). Developer shall work with Town staff and/or NCDOT during Master Subdivision Plan review to finalize the type, size, and location of the Traffic Calming measures and all Traffic Calming Measures shall be subject to final approval of NCDOT and Town of Apex staff.

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7 [SLIDE 89]

**Additional Proposed Seymour PUD Conditions**

Added on January 22, 2024 (not included in the staff report)

• Developer shall install a high-visibility mid-block crosswalk on Tingen Road between Baberton Drive and the project driveway on Tingen Road north of Apex Peakway. The final location of the crosswalk shall be determined during Master Subdivision Plan review and is subject to review and approval of NCDOT and Town of Apex staff.



1 [SLIDE 90]


**Staff Recommendation**

Planning staff recommends approval of Rezoning #23CZ13 Seymour Mixed Use PUD provided the applicant agrees to the following revised conditions:

Transportation Improvements:

- 5b: Permitting. Staff recommends removing “and the Design Costs shall be credited towards the fee in lieu” from the sentence:

...If the Permitting Body denies the Permit Application, or requires the Permit Application and the Additional Permit Applications to be submitted and reviewed as one application (“Individual Permit”) and the sole justification for the requirement of an individual Permit is the construction of the Peakway Section, then Developer shall construct a reduced Apex Peakway section that terminates at the western boundary of Site Driveway 1 and pay a fee in lieu for all costs to construct the portion of the Peakway Section from Site Driveway 1 to the eastern boundary of Padstone Drive... ~~and the Design Costs shall be credited towards the fee in lieu.~~




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3 [SLIDE 91]

**Staff Recommendation**

Transportation Improvements:

- 5c: Right of Way/Easement Acquisition. Staff recommends the condition read as follows:

**Right of Way/Easement Acquisition.** Construction of the Peakway Section may require acquisition of rights of way and easements over PIN 0741055626 owned by the Salem Village Homeowners’ Association (the “HOA Property”). Developer shall make good faith efforts to acquire the rights of way and easements necessary to construct the Peakway Section as shown in the attached **Exhibit D**. If the Developer is unable to acquire such rights of way and easements through private negotiation and the Town is unwilling or unable to assist in the acquisition of said easements and rights of way, Developer shall redesign the Peakway Section to not require acquisition of rights of way or easements over the HOA Property.



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7 [SLIDE 92]

**Staff Recommendation**


Transportation Improvements:

- 13: Staff recommends revising the Drumlin Drive condition:

**From:**  
Developer shall either (1) design the portion of Drumlin Drive over the property to include one or more curves so as to not connect directly to Tingen Road, or (2) if Drumlin Drive connects directly to Tingen Road, provide traffic calming measures at the project’s connection to the Salem Village Drumlin Drive stub street (the “Traffic Calming Measures”). Developer shall work with Town staff and/or NCDOT during Master Subdivision Plan review to finalize the type, size, and location of the Traffic Calming measures and all Traffic Calming Measures shall be subject to final approval of NCDOT and Town of Apex staff.

**To:**  
**The developer shall install an indirect street connection from Drumlin Drive to Tingen Road requiring drivers to make one or more turns between the Drumlin Drive stub street and Tingen Road.**

**And add:**  
**The developer shall install an indirect street connection from Tice Hurst Lane to Tingen Road requiring drivers to make one or more turns between the Tice Hurst Lane stub street and Tingen Road.**




1 [SLIDE 93]

**Analysis Statement – Land Use**

The proposed 2045 Land Use Map Land classification includes the following:

- Northwest Section: Complies with the Medium Density Residential and Medium/High Density Residential classifications.
- Southwest Section: Complies with the Medium/High Density Residential classification.
- Southeast Section: Complies with the Medium/High Density Residential and Office Employment classifications. The High Density Residential classification is relocated from the Northwest Section. Most of the proposed uses within the new Commercial Services classification are already allowed in districts supported by the Office Employment classification.




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3 [SLIDE 94]

**Analysis Statement - Reasonableness**

If revised conditions as proposed by staff are provided, the rezoning is reasonable in that:

The proposed PUD Plan includes


- Widening of the Apex Peakway along the project frontage to the ultimate section.
- Widening of Tingen Road along the project frontage with a roundabout, bike lanes, a 10 foot wide side path on the western side and a 5 foot sidewalk on the eastern side.
- Greenway construction completed and accepted prior to 50% of the units west of Tingen Road being permitted.
- If warranted by NCDOT, traffic signal will be provided at Apex Peakway and Tingen Road.



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7 [SLIDE 95]


**Analysis Statement – Reasonableness**

- Permitted commercial uses are limited to those that are more compatible with surrounding proposed residential land use.
- Reduced building height and increased buffer opacity between apartments and existing adjacent residential land use.



1 [SLIDE 96]

Tom & Marie Crudele	Joseph Mayer-Salman	Caroline Cockman
Cathy Wurst	Dan Senko	Harry Hill
Jonathan Hill	Krissi Lusardi	Lena Kurris
Liberty Hill	Nancy White	Rochelle Edwards
Sherry Goeders	Stephen Latour	Steven Cockman
Susan Schwartz	Tory Lukasina	Lawrence Kevin
Juliet and Keith Andes		
Written statements received as of Friday Jan 19, 2024 by 5:00pm		



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**Councilmember Mahaffey** asked why the mid-block crosswalk was being added.

**Councilmember Gantt** said that was a request by him, to facilitate access to the bus there and potentially one that comes in on the other side.

**Councilmember Mahaffey** asked if staff had an opinion on this. He said they had said these crossings were dangerous before, and was surprised to see this included.

**Mr. Dalton** said they're not necessarily dangerous, but they just can't put crosswalks anywhere someone may want to cross the street. He said they need to be judicious and make sure they are safe, and make an appeal to NCDOT as part of the process as well. He said they are fine with the way the comments are worded.

**Councilmember Mahaffey** asked if the curve of the road is a concern.

**Mr. Dalton** said that is why the condition is worded as it is, so if it is considered to be deemed unsafe because of the geometric constraint, then it would not be approved.

**Councilmember Gantt** said he thinks people would cross there regardless, and he wants them to be able to do it as safely as possible.

**Councilmember Zegerman** asked if it could be done further south.

**Councilmember Gantt** said that wouldn't be needed because there is a signal light crossing that way. He said this offers a crossing for people to not have to go down to the light, then cross, then go back up to the bus stop. He said they would cross the road where they were anyway.

**Mr. Dalton** said the safest location would be north of the right-in-right-out, so it does not conflict with turning movements, and there would be a protected median at that intersection. He said they are constructing a new crossing for Sparta Lane which will be the new one to service Apex Elementary School.

**Councilmember Gantt** said he thinks the one they have crossing Tingen Road is a great spot, and that's why he asked for this.

**Councilmember Gantt** asked if Wake County Public Schools reached out regarding the removal of the cap on Apex Elementary and school capacity issues.

**Ms. Bunce** said they did not receive communication about that change, and have not requested a letter, as it was very recent.

1 **Councilmember Mahaffey** said it hasn't officially happened yet.

2 **Councilmember Zegerman** asked if there were any proposed improvements to the currently  
3 un signaled crosswalk in the area further west.

4 **Mr. Dalton** said the applicant could propose upgrades to that crosswalk, but at a minimum  
5 would have to include its current standards with any widening. He said they could propose a rapid-  
6 flash beacon system, subject to staff review.

7 **Councilmember Zegerman** said the issue with that intersection is that there are a lot of kids  
8 who use that crosswalk to get to the Salem Village amenities.

9 **Mr. Dalton** said they can evaluate that with changing conditions, and they are open to  
10 looking at improvements. He said the town could also install this separate from zoning.

11 **Councilmember Gantt** asked if this potential change would go into the consideration of the  
12 school's TIA.

13 **Mr. Dalton** said the school TIA was scoped prior to approval of this development. He said  
14 the MOA for that scoping would not include this development traffic or improvement in the analysis.  
15 He said NCDOT is responsible for recommendations on state roads, so they can't require the school  
16 to do improvements.

17 **Councilmember Gantt** asked if their TIA was based on Tingen as it exists currently, and  
18 asked if they have it.

19 **Mr. Dalton** said they do not have the analysis yet.

20 **Councilmember Mahaffey** said they wouldn't be able to have them to anything anyway. He  
21 asked if there was a possibility to rescope their TIA if this gets approved tonight.

22 **Mr. Dalton** said they could revisit that and see what they can do.

23 **Councilmember Gantt** said the internal driveway of that school would be an issue anyway.

24 **Mr. Dalton** said schools follow the NCDOT's guidelines for stacking within school traffic. He  
25 said that is being updated as carpooling increases over time.

26 **Councilmember Killingsworth** asked if the Bradley Terrace stub does not end at the edge  
27 of the property line.

28 **Ms. Cowles** said it's an older development, and is a private road. She said there is a side  
29 connection that locals use. She added that the proposal was to stop it short, and if the HOA of  
30 Bradley Terrace wanted to make the connection, they could.

31 **Councilmember Gantt** said it's a thought for the future in case the connection becomes  
32 desired. He said he thinks it would happen and that's why he asked for it.

33 **Councilmember Killingsworth** wondered how big the gap was.

34 **Councilmember Zegerman** asked if there was a reason why they wouldn't connecting  
35 Canterbury to the main road.

36 **Ms. Cowles** said it's a cul-de-sac.

37 **Councilmember Zegerman** said that could be another option there if connectivity is the  
38 goal.

39 **Ms. Cowles** said it was never a stub street connection.

40

41 **Matthew Carpenter**, of Parker Poe, on behalf of the applicant, gave the following  
42 presentation in regards to Rezoning No. 23CZ13 - Seymour Mixed Use PUD.

43 **[PH8 APPLICANT - SLIDE 1]**



# Seymour Mixed-Use PUD

Rezoning

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## [PH8 APPLICANT - SLIDE 2]

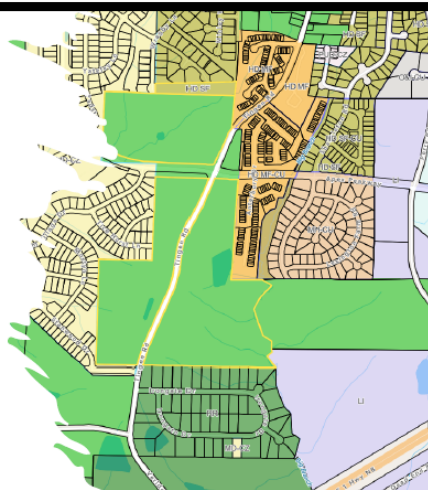
- 3 Parcels
- 81.95 total acres
- Frontage on Tingen Road and Apex Peakway



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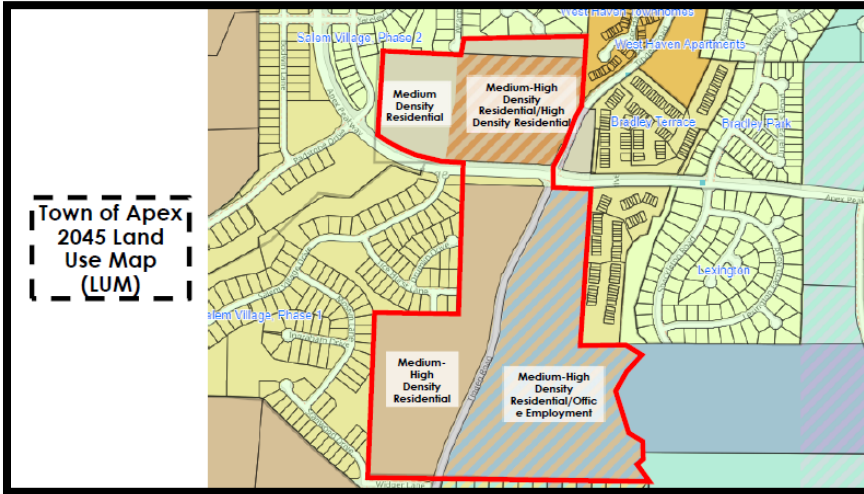
## [PH8 APPLICANT - SLIDE 3]

Existing Zoning – Residential Agricultural (RA) and High-Density Single Family (HD-SF)  
Proposed Zoning – Planned Unit Development Conditional (PUD-CZ)

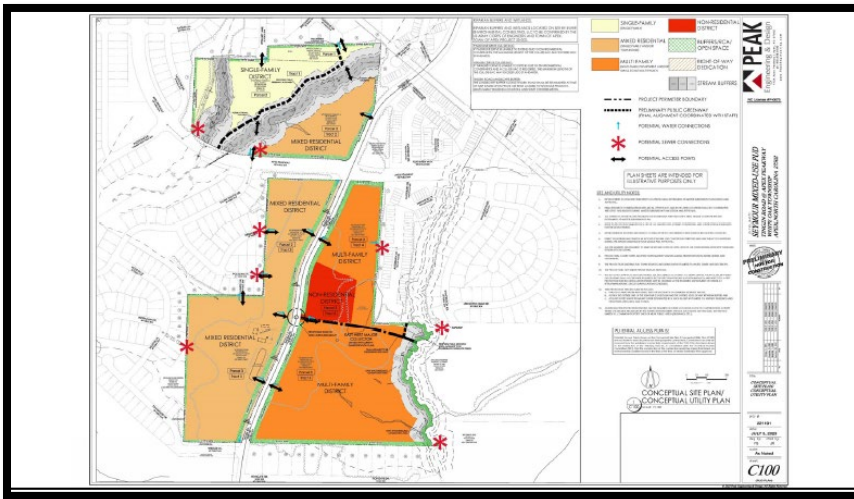


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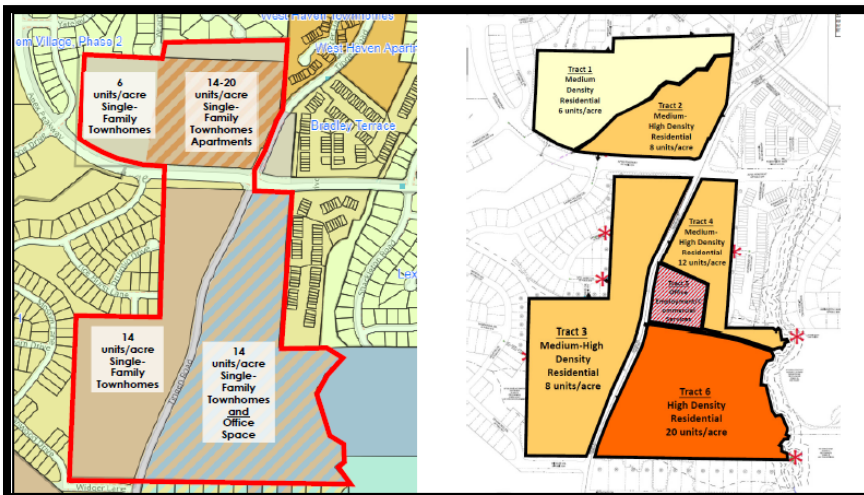
1 [PH8 APPLICANT - SLIDE 4]



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3 [PH8 APPLICANT - SLIDE 5]




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7 [PH8 APPLICANT - SLIDE 6]



1 [PH8 APPLICANT - SLIDE 7]

**Transportation and Pedestrian Infrastructure Improvements**

1. *Widen Apex Peakway to the ultimate section for the length of the project frontage*
2. *Widen and improve over ½ mile of Tingen Road into a 3-lane divided section w/ a roundabout, planted median, and bike lanes*
3. *Construct east/west Major Collector street*
4. *Install traffic signal at Apex Peakway/Tingen*
5. *Pay fee in lieu for portion of future traffic signal at Perry/Apex Peakway*
6. *Construct 10' side path on north side of Apex Peakway and extend offsite to connect to Padstone Drive*
7. *Construct 10' side path on west side of Tingen Road and extend offsite south to connect to Grace Christian School*



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[PH8 APPLICANT - SLIDE 8]

**Changes Since January 8 Planning Board**


1. Project shall widen Apex Peakway to the ultimate section for the length of the property frontage.
2. Public art in the Non-Residential District.
3. The Non-Residential District shall have at least two uses.
4. Apartments will have a green building certification. Developer shall provide copy of certification to staff prior to issuance of a certificate of occupancy.
5. Developer shall either design Drumlin as an indirect connection or install traffic calming measures.
6. Developer shall install a high visibility mid block crosswalk on Tingen Road between Baberton Drive and the project driveway on Tingen.

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[PH8 APPLICANT - SLIDE 9]

**Project Summary**

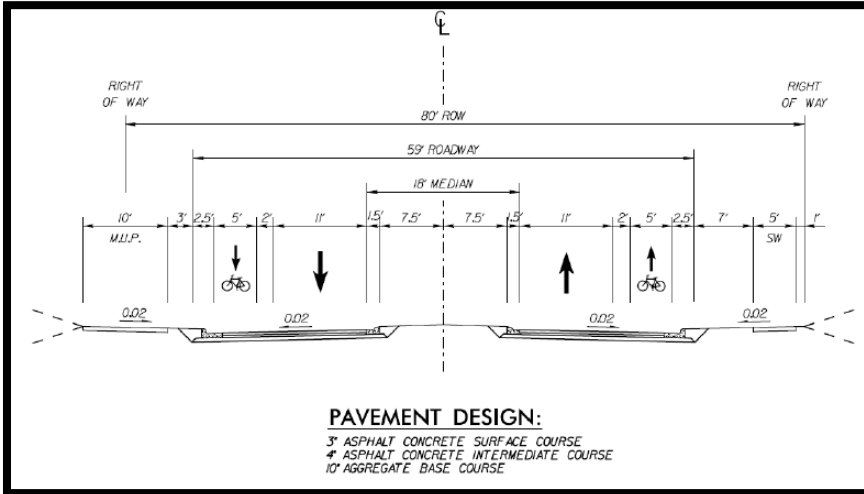
- Consistent with Land Use Map
- Max of 800 units; LUM recommends up to 1,061
- Up to 20 affordable housing units at 80% AMI
- Over \$6 Million in transportation infrastructure improvements that would otherwise have to be funded through a Town CIP
- Widening of Apex Peakway for length of project frontage
- Off-site Side Path connections to Grace Christian School site and Salem Village to close gaps in pedestrian network
- Max height of 3 stories for apartments facing Iron Gate, Tingen Road, and Bradley Terrace
- 30-foot Type A buffer adjacent to Iron Gate
- No townhomes within 65 feet of existing Salem Village lots on stub streets
- Over \$2.3 Million in parks and rec fees



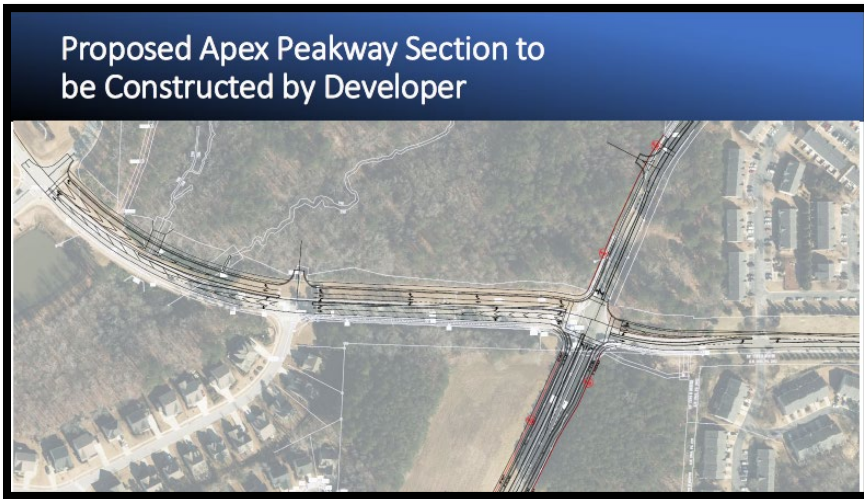
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1 [PH8 APPLICANT - SLIDE 10]



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3 [PH8 APPLICANT - SLIDE 11]



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7 [PH8 APPLICANT - SLIDE 12]



1  
2 **Mayor Pro Tempore Gray** asked for clarity on timing between houses and road construction,  
3 and if houses would be built before roads were fully operable.

4 **Mr. Carpenter** said no, and that different phases of the project would come at different  
5 times. He said the infrastructure for each phase would be required before the CO's were issued for  
6 the homes.

7 **Councilmember Zegerman** said part of the property would depend on the big branch 2  
8 pipeline, and that the eastern portion of the property could not be constructed without it.

9 **Mr. Carpenter** said yes, and this would seek to help the overall sewer issue, and that they  
10 could not connect to the Salem Village pump station.

11 **Councilmember Zegerman** said he wanted to make sure they were not having a  
12 conversation 6 months from now about a variance if big branch 2 does not come to fruition.

13 **Mr. Carpenter** said a variance for sewer would be very difficult.

14 **Councilmember Zegerman** said he just wanted to make things clear up front.

15 **Councilmember Mahaffey** said they typically don't adjudicate sewer capacity through  
16 rezonings, and that it is done through actual capacity calculation. He said the same goes for  
17 stormwater. He says town laws control for those issues.

18 **Councilmember Gantt** asked if a 25-year storm condition was included.

19 **Mr. Carpenter** said yes.

20 **Councilmember Gantt** said that was above and beyond required, and was an EAB  
21 recommendation.

22 **Councilmember Mahaffey** said it may make conditions better then.

23 **Councilmember Zegerman** asked for a minimum type A buffer, rather than removing and  
24 replanting.

25 **Mr. Carpenter** said they look at neighboring uses and intensity, and that's how they arrived  
26 at the wider, thicker buffer to the south. He said on the west side of Tingen Road the development  
27 would be more compatible with the things in the area, and he thinks that is much more compatible  
28 for size and scale. He said he thinks they chose type B because they would to remove more existing  
29 vegetation with type A. He said the goal is to leave more existing vegetation.

30 **Councilmember Killingsworth** asked what the buffer was on the Salem Village side.

31 **Mr. Carpenter** said it was 15-foot type B. He said there is no buffer along the western  
32 portion, as the Salem Village subdivision did not leave any buffer. He said they are really tight there  
33 at Tingen Road.

34 **Councilmember Killingsworth** asked if there was a reason why that was not required with  
35 Salem Village.

36 **Ms. Bunce** said Salem Village was approved before there was a requirement for there to be a  
37 buffer between residential uses, and that change was around 2015 or 2016.

38 **Councilmember Gantt** confirmed the calculations of the buffers for the single-family homes.

39 **Councilmember Zegerman** said he would like to see a 30-foot buffer between the  
40 residential uses. He said if there is not existing vegetation, type A may not be practical, but where  
41 there is, he is asking for it to remain essentially undisturbed.

42 **Mr. Carpenter** said they are comfortable leaving existing trees and vegetation, but he does  
43 not think they can change the buffer sizes given the constraints.

1 **Councilmember Mahaffey** said he asked for a full tree canopy replaced, which he said  
2 seems feasible on that site. He asked why they were unable to commit to doing that.

3 **Mr. Carpenter** said there was a lot of canopy on the eastern side on Tingen and the north  
4 side of the Peakway. He said it was more they don't have the data yet to make that commitment than  
5 that they already knew they couldn't do it. He said he didn't want to make the commitment then not  
6 be able to meet it.

7 **Councilmember Mahaffey** said he had offered some suggestions to mitigate the lack of  
8 school capacity for middle school in the area. He said he recommended a 55+ community, changing  
9 the mix of 1-bedroom and 2-bedroom apartments, and those were not included.

10 **Mr. Carpenter** said they discussed an age restriction, and he said that was at odds with  
11 providing housing for people in the area with different ages, incomes, and conditions. He said that  
12 was the vision of the land use map here, and the age restriction did not accomplish that goal to their  
13 opinion. He said they also didn't want to place that restriction on the site, and in a year or two have a  
14 solution to the middle school capacity issue, then be stuck with 55+.

15 **Councilmember Mahaffey** said he was concerned about the setback distance, and said they  
16 were pretty tight. He asked them to increase them, but they were not included, and asked if he had  
17 any comments.

18 **Mr. Carpenter** said those were all minimums. He said they are not going to be that small on  
19 every home, as that is not workable. He said the low minimums help with site design and flexibility.

20 **Councilmember Mahaffey** said housing staff asked for a stronger housing condition than  
21 offered, as they are offering 5% of the apartment units to be affordable and the request was for 5%  
22 of all units. He said he would also support a larger affordable housing condition. He asked if he had  
23 comments.

24 **Mr. Carpenter** said a lot of the units would be for-sale, and it is a more difficult and complex  
25 process, and is much more restrictive. He said he has heard from builders that people who are trying  
26 to get loans for affordable-locked homes, as they are seen as capped for appreciation. He said  
27 adding more units as affordable to the apartment construction couldn't absorb the cost in the pro-  
28 forma without government financing. He said that could also cause a phasing issue, since they may  
29 not know the total units during the earlier phases.

30  
31 **Mayor Gilbert** opened up the Public Hearing for this item.

32  
33 First to speak was **Joseph Mayer-Salman of 1971 Drumlin Drive:**

34  
35 "Real quickly, while you're getting those I just want to give a shoutout to staff for working with me, I  
36 appreciate their help, they're responsive, and I can tell they care about what they do. So, thanks to  
37 them. So I am Joseph Mayer-Salman of 1971 Drumlin Drive and I am here to represent Drumlin  
38 Drive. So that's next page. I am requesting your help with a zoning condition, I know staff cannot  
39 support this, on principle, but I am asking your help and I am entrusting you to consider what I am  
40 about to share, and not connecting Drumlin Drive to the new development with a road, and instead  
41 connect with a sidewalk or a greenway. So we're going to look through it real quick, about how it's  
42 not essential, we're going to take a look at it, and last but not least, safety. Alright, next page. So, the  
43 vehicular connection I believe is not required, not essential, because the two nearest stub streets you  
44 can see on the map with the red arrows will connect. So there's lot of connectivity in this area, I



1 actually looked to find another place in Apex, I asked staff about it as well, and I could not find  
2 another place with 3 this close that connect. In addition, there are no markings or signs on Drumlin  
3 Drive that it is a stub street, like the other 2 stub streets, or how a stub street should be marked.  
4 Alright next page. It has been built and utilized as a cul-de-sac for over a decade, so traffic flows  
5 around in a circle, it's less than 600 feet long like a cul-de-sac should be per the UDO, and has a  
6 landscaped center island. Vehicles go around it in a circle without backing up, including the trash  
7 truck. Alright next page. Drumlin Drive also has 150 feet of frontage with an HOA maintained open  
8 space, so today kids of all ages, and I do mean all ages, I'll show you that shortly, congregate here to  
9 play. When Ticehurst Lane connects, this will be the only safe space remaining for those kids to play.  
10 Next page. So this is a picture of a regular day in October, you can see the lawn inflatables, this is  
11 before Halloween, and you can count 16, there's really 17 there's someone behind a tree my wife  
12 said I couldn't mark them because you couldn't see them, but they're out here playing in the open  
13 space out here having fun, they're actually playing 3 different games. There's football, there's  
14 baseball, and there's volleyball back in the corner. Alright next page, I am going to skip that,  
15 because it's actually been covered prior to getting to my section, so I will skip it. I think the buffer  
16 piece here has been covered as well, but the other thing I would like to ask for here is having two  
17 story units right along the buffer with Salem Village, and that's because the homes in Salem Village  
18 are of a similar size and having a three-story thing right on the edge there would be kind of towering  
19 over the homes along the buffer, especially if the buffer is thin and not the 30 foot type A requested  
20 here and asked about before. And I can see I am out of time, so thank you."

21  
22 **Mayor Gilbert** thanked Mr. Mayer-Salman for his comments.

23  
24 Next to speak was **Mettina Damm** of 1628 Salem Village Drive:

25  
26 "Good night, Mayor and City Council members, I would like the town to review the 23CZ13  
27 Rezoning Project and invalidate the Planning Board vote on January 8<sup>th</sup>, with a conflict of official  
28 conduct. City Councils and Planning Board members have a tunnel vision in Seymour Rezoning  
29 project, the focus on Apex Peakway and they neglect crucial aspects presented by the Apex citizens.  
30 With a month to review before motions are made to the vote, complete and sound compound traffic  
31 impact report. There is no school capacity at any level, nor will the school be built in the next 5 years.  
32 Sewer lines, foot lines, ecologic preservation, need to go with town guidelines. Our community has  
33 clear demands on this project. Medium density, no more than 400 units, 25% of these units are  
34 residents aged 55+, no commercial areas, preserve at least 30% of the trees, real commitment for  
35 the developer, build a park, 100 years stormwater management plan, conduct a traffic study, include  
36 all projects, Grace Christian, Hughes and Peakway intersection along with bumpers and review traffic  
37 lights. Review the buffers in Salem Village. Only medium density will resolve most of the issues  
38 today, and save millions of dollars. Salem Village has 400 houses, and the land is bigger than the  
39 Seymour one. This will be comparable and fit with the Apex city guidelines. 100 of these units, 25%,  
40 should be 55%, to increase the chance that our kids, not the developer's kids, not the Seymour kids,  
41 our kids, stay close and don't spend one hour on the bus. No commercial areas, that comes with  
42 high density. 94 percent tree removal. To the environment zoning board, we implore. Raise your  
43 development standards, and ensure developers cover 50% of the green lights. You approve this  
44 project with only 20%. The developer agreed only with 15 of our 73 suggestion. Don't kill the trees in

1 Apex. Our children deserve to walk in the park. We refuse to raise casualties due to planning traffic.  
2 We demand you invalidate the Planning Board meeting on January 8<sup>th</sup>, all past votes where member  
3 Alyssa Byrd has a conflict of interest, her vote to send emails regarding the Seymour 23CZ23  
4 proposal, we have documents recording all the issues in these meetings. If this is approved today  
5 without review, the City of Apex can be held legally, financially, and accountable for potential  
6 frauding, sewer problems, and potential casualties resulting from inadequate planning. City Council  
7 members, you have a serious responsibility. Thank you.”  
8

9 **Mayor Gilbert** thanked Ms. Damm for her comments.

10  
11 Next to speak was **Dave Zonca** of 1718 Minley Way:

12  
13 “Good evening, ladies and gentlemen, I appreciate the time. One of the things that I wanted to bring  
14 up is a little off the radar screen when looking at the presentations. Around this development is the  
15 area of Tingen Road from Apex Peakway to Salem Street, crossing the railroad tracks. And James  
16 Street, from say around Hughes Street, to Apex Peakway. I moved to Apex in 2015, first home built,  
17 October 15<sup>th</sup> we moved in, Apex Manors. Not Apex Village, Apex Manors, directly behind the  
18 Elementary School. I can frame my future concerns based on today’s state. Today, particularly  
19 around, well there’s been some conversations around Apex Elementary and what the future is and  
20 the traffic loads, I can tell you it’s a mess there. It’s a safety hazard, and it’s a congestion issue. Today,  
21 you can’t make a turn off of James Street crossing over Tingen and see traffic coming both  
22 directions. It’s a hope and a prayer. There are cars parked all along James Street, both sides,  
23 because there’s not enough room to stage. There’s barely enough room for a car to get through  
24 there, and you frequently have to cross over the yellow line into the opposing lane to get around  
25 traffic. There are cars that are double parked on James Street, further down the traffic circle, with  
26 their flash and flashers blinking. Why? Because parents don’t want to sit in that line for staging, so  
27 they park their cars on Miller Street, Minley Way, and on James Street, and they pick up their kids  
28 and take them back to the car. There are times you cannot even access the neighborhood because  
29 the traffic circle is blocked, and there are so many cars on the street that you can’t get through.  
30 That’s today’s state. I think that there are opportunities to improve that, until the development comes  
31 in place. I don’t know what the future impact is going to be, when the Peakway is going to be  
32 extended over Salem Street, when Tingen will be closed at the railroad tracks and what that’s going  
33 to do to traffic patterns. It’s going to be a lot of variables. What’s the staging of the new development  
34 and what are the number of people that are going to be coming into that area. When the Peakway is  
35 going to be completed, when streets are going to be closed. I have no idea how to project that  
36 traffic flow. But what I can tell you is I think the problem is going to move from where it is today, from  
37 everybody staging on James Street, which is not designed for people to be parking on both sides. I  
38 think that’s something we need to address today, but also keep in mind as we’re doing the planning,  
39 what’s the future going to be in that area that I think is being overlooked.”  
40

41 **Mayor Gilbert** thanked Mr. Zonca for his comments.

42  
43 Next to speak was **Stephen LaTour** of 1560 Ticehurst Lane:  
44

1 "Mayor and Council, good evening, my name is Stephen LaTour and I live at 1560 Ticehurst Lane,  
2 just west of the proposed development. I have several concerns that I believe require conditions  
3 being attached to this zoning change. I do object to the construction of thru cuts on the current  
4 stubs. There are 3 stubs, all within 150 feet of each other, 2 of the stubs are within 159 feet of each  
5 other, thus the amount of traffic that is going to be generated in a small area could be quite high. I  
6 really don't think that the UDO should require connections in all cases. These are narrow streets, you  
7 can only have one lane of traffic moving if someone is parked on the side of the road, and there are  
8 sidewalks on only one side. Those kinds of streets should not be subject to stub connection. I do  
9 appreciate changing connections to indirect, that certainly will help, but I don't think that's a  
10 sufficient condition. I also believe the minimum distance of only 65 feet between townhomes and the  
11 single-family homes in Salem Village should be increased, I suggest 200 feet. 65 feet is just a little  
12 more than one typical lot width in Salem Village. There's also a substantial grade level difference at  
13 the top of Ticehurst between the Seymour property and Salem Village, it's about 15-18 feet higher,  
14 which increases the height of those townhomes relative to the homes in Salem Village. I really think  
15 that minimum distance should be much greater certainly than 65 feet. The minimum lot size of 500  
16 square feet is too small for the portions of track 3 bordering Salem Village. The developers have not  
17 considered consistency with Salem Village as-built. I'm not asking that the minimum lot size be  
18 higher elsewhere, just close to Salem Village. The lots in that area are 8,000 to 10,000 square feet, so  
19 I think the minimum lot size bordering Salem Village there maybe within 200 feet or so should be  
20 8,000 square feet. Those are my concerns and I hope that you will consider them, thank you."

21  
22 **Mayor Gilbert** thanked Mr. LaTour for his comments.

23  
24 Next to speak was **Terry Ryan** of 1781 Yately Lane:

25  
26 "I've been cycling for over 50 years, and I typically put on several thousand miles a year. Now after  
27 Lori Cove was tragically hit up in Cary about 5 years ago, I've been concentrating basically off-road.  
28 I've been doing the ATT, you know about the push button flashing light, and I'd say about 75% of the  
29 cars actually stop when that is activated. It's not necessarily a huge issue, I mean it is but the cyclists  
30 are used to looking for vehicles. Now, the kids going across Apex Peakway to the swimming pool are  
31 not going to be used to that, so I would ask the Council that as a condition of approving it, the  
32 developer install a push-button flashing stop light at the intersection of Apex Peakway and Padstone,  
33 such that when they hit that, it's going to make the cars going down Apex Peakway stop. I think that's  
34 for the kid's safety. That's number 1. Number 2 is with Councilmember Zegerman, I absolutely agree  
35 with him that the design of having two 5 foot lanes, and then having a 10 foot elevated one, you're  
36 better off getting rid of the street level 5-foot lanes and make one 20 foot wide bi-directional bike  
37 lane. And, also like the Councilman, I've cycled in Europe and they're far advanced. And that's they  
38 way to go. So I'm just saying it doesn't cost any more, and it's going to be a whole lot more effective,  
39 because as a cyclist if I'm going down Tingen, I'm certainly not going to take the bike lane that's  
40 street level if there's a bike path that's available. Number 3, and that is with the two lane bridge  
41 going over US 1. That is a recipe for disaster, because you've got 3 lanes both ways, and you've got  
42 pedestrians, and when they all meet they're at the bridge, and it's a recipe for disaster. And  
43 unfortunately the cyclists will lose. Thank you."

44

1           **Mayor Gilbert** thanked Mr. Ryan for his comments.

2  
3           Next to speak was **Kyle Corley** of 333 Anterbury Drive:

4  
5           "I guess before voting the real thing to consider is we keep hearing about the infrastructure. To be  
6 honest, I mean our schools are already capped, so if you build all these multi-family homes, single-  
7 family homes, where are you going to put them. I get a high school is going to be built in 5 years, an  
8 elementary school is going to be built in 5 years. But I mean, like someone mentions, what about  
9 Middle Schools? My daughter is in 6<sup>th</sup> grade, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and then she goes to high school. So, what  
10 about the middle school people? There's just no infrastructure to be honest., You've got schools,  
11 you've got traffic, there's a new shopping thing built near Wal-Mart, I think one shop has been filled.  
12 And you've got employers who are looking and wanting, need employees, so I get you need people  
13 but yet, I don't see the infrastructure. I've grown up in a small town, I'm from Alabama, Homewood  
14 which is right outside Birmingham, small town I get you gotta grow. But to grow successfully you  
15 need to have a stable infrastructure in place, and I just don't see that right now in Apex. And I think  
16 we need to look at the infrastructure first, get that in place, and then we can add this new  
17 development, and all these homes. The townhomes are right up next to each other, you have no  
18 yards or anything like that, you're living pretty much on top of each other, that's like New York, all  
19 Northeast, they live on top of each other. That's just a recipe for disaster with public health, I mean  
20 Covid showed the nation that. And to go back to the question earlier, there's only one way in and  
21 out of Anterbury Drive, there's a pond, there's a roundabout, cul-de-sac, if you're going to be  
22 inserting that, having a second exit off Anterbury needs to be discussed. I think that's everything,  
23 thank y'all for your time."  
24

25           **Mayor Gilbert** thanked Mr. Corley for his comments.

26  
27           Next to speak was **Jean Radke** of 340 Anterbury Drive:

28  
29           "I just had to present tonight my objections to the Seymour PUD, besides the congestion, noise, the  
30 additional development, the destruction of the property, the woods and things like that. The biggest  
31 concern to me is the traffic, I think it's going to be a traffic, it's going to cause traffic misery. With 800  
32 units expected, a conservative estimate might be 1600 more cars right in that area along those local  
33 streets. Then there's congestion down Tingen at Apex Elementary School, in the other direction  
34 they're going the build Grace Christian School as I understand it, that will have to accommodate  
35 1200 students, and they do not offer bus service. So that's how many more vehicles travelling these  
36 roads right in this local area. The only access into my community on Anterbury Drive is right off the  
37 Peakway, about maybe 200 feet from Tingen, and I think if there's all this traffic and a stop light put  
38 up at the corner at Tingen and Apex Peakway, we're going to have a hard time getting in and out of  
39 our development, because like I said we're very close to that intersection. In addition to these traffic  
40 problems, in that local area down the Peakway a little ways across from Wal-Mart was the new  
41 development I believe with 164 apartments. There's more traffic, more cars on these same few  
42 streets. At the busiest times of day, sometimes coming home on US 1 and exiting and trying to exit  
43 onto Williams Street on Exit 95, some of the traffic is stopped in the lanes out on US 1 where it  
44 should be moving, they're at a stand still in the travel lanes because there's that many cars exiting

1 there. So, I would ask you to please make a prudent decision for the citizens of Apex and reject this  
2 proposal for the Seymour PUD, and a couple of my neighbors are with me tonight, they asked that I  
3 let you know that they would also, if this goes forward, at least the 30-foot buffers that you proposed.  
4 Thank you very much for your time.”

5  
6 **Mayor Gilbert** thanked Ms. Radke for her comments.

7  
8 Next to speak was **Andre Powell** of 311 Anterbury Drive:

9  
10 “I don’t want to beat a dead horse, but I’m going to beat it. The issue is traffic. The sexy part of their  
11 proposal is the infrastructure, the issue is you won’t get the infrastructure up to fix the problem. It’s  
12 horrendous. So leaving out of my home in Bradley Terrace, I pick a way to go depending on which  
13 day of the week it is. Because traffic is bad. If I have to go down into Apex, I have to drive around to  
14 beat the traffic, because I can’t pass Apex Elementary. It’s not a fun game, it’s kind of like being in  
15 New York, but there’s no subway. So I say all that to say this, what they are proposing sounds great if  
16 you can actually execute it. I don’t know the company, I’m just being honest. A great plan without  
17 execution is a failure to me. The second thing I would be concerned about, my daughter is at NC  
18 State right now so I don’t have any kids in school, but you know where I wouldn’t move to? A place  
19 that didn’t have schools. If I had to do it all over again, and this is what we were doing to ourselves  
20 on purpose. Not planning for the future of our children, I wouldn’t move to Apex. One of the reasons  
21 we picked Apex was the proximity to Cary where I used to work at, the schools are great, but when  
22 we start picking away the real choices of why people buy homes, you become a less desirable place.  
23 I’ll end with this. I have a friend who lives in Fuquay, I went to see him from Downtown Raleigh. It  
24 took me an hour and 20 minutes to get from downtown Raleigh to Fuquay. You know one of the  
25 biggest complaints is for Fuquay and Holly Springs, the traffic. And I think we’re starting to duplicate  
26 the same problem in Apex. As I am picking on Emily, dude it took me an hour and 20 minutes to  
27 gets here. I go back home, and it’s like, it took me a long time to get back home in Apex, because  
28 the traffic is swelling. Nobody’s fault, but we can actually be more proactive and reduce that issue.  
29 The second concern is the schools. I would not gamble to move to a place that said we’ll see what  
30 happens in 5 years. As all of my kids are grown that’s not the issue. I can think of other smaller,  
31 younger families who do not consider that to be an option. So that’s all.”

32 **Mayor Gilbert** thanked Mr. Powell for his comments.

33  
34 Next to speak was **Ryan Shealey** of 530 Old Mill Village Drive:

35  
36 “I walked here, so there was no traffic, So I have some notes out of randomness, we are talking about  
37 this new development, and new is scary I get it. But one thing that I kind of noticed was there was  
38 that crosswalk that I believe Brett wanted, love it, but the idea of yellow flashing crossings which was  
39 an option apparently, may not be sufficient. The traffic might be low enough to never need it, but if it  
40 is ever something that’s coinsdierewd a hawk design is better if you know what that is. It’s basically  
41 you push a button and it’s like a red light out of nowhere. It’s not a full traffic light it’s just a red light.  
42 Going to the bike ability, going to the bike ability, the multi-use path is the sidepath, someone  
43 mentioned that before, no one is going to bike on that better, it’s just a waste of space. But I can  
44 understand that if you want traffic calming and you can’t get tree lined streets that is a way to make it

1 look like there's a bike lane there so it slows you down, but it does allow for fire and police. So  
2 overall, it's not horrible if you can't get an Amsterdam designed street, that's probably as good as  
3 you're going to get. I would like to see of course a sidepath on both ends but that; just me I like  
4 biking. In fact, I sold my car when I moved to Old Mill Village, we just have one car we're a one car  
5 family, I bike everywhere, it's great. Not everyone is as privileged as me to have access to bike  
6 facilities, so I get it, the Tingen Road looks great from the Peakway going south, but the Peakway  
7 going north could use some improvement. As far as all that traffic going to the elementary school,  
8 we've got to get rid of cars. I don't care what anybody says that ever speaks at this stand, we have too  
9 many cars in America, Amsterdam has 50% of their people having cars, I get it they've built that way  
10 since the 70's and they have crazy high gas prices, but there are better ways to do it here. And if you  
11 know what strong towns is, strong towns is an organization across American trying to fix the urban  
12 experiment, the suburban rather and reduce the number of cars we have and get more places like  
13 downtown Apex everywhere. Parking minimums that's another thing. So Raleigh and Durham got rid  
14 of their parking minimums so that we can have more diverse developments, I'm just wondering  
15 when Apex and Cary is going to follow suit. I saw the recent plan on the S line development, I'm very  
16 excited about that. Thank you for your time. "

17  
18 **Mayor Gilbert** thanked Mr. Shealey for his comments.

19  
20 **Mayor Gilbert** said they would begin with discussion and a possible vote for Public Hearing  
21 7.

22 **Councilmember Zegerman** asked about the connection of Anterbury Drive to the east west  
23 connector earlier. He asked if the proposed improvement would extend to Anterbury Drive.

24 **Mr. Cash**, with Kimley Horn and Associates, said they extended the tapers past Anterbury to  
25 provide left turn lanes into that road.

26 **Mayor Pro Tempore Gray** said the concerns that have been brought to them on James  
27 Street and around Salem are things they need to get further study on. He asked if staff could take a  
28 look at that. He said he thinks these are transportation changes the town needs to make, so he  
29 would make a motion to approve.

30  
31 A **motion** to approve was made by **Mayor Pro Tempore Gray**, seconded by  
32 **Councilmember Killingsworth**, to approve the Apex Transportation Plan for Rezoning 23CZ13  
33 Seymour PUD.

34  
35 **Councilmember Gantt** asked what would happen if they approve PH7 if they denied PH8.

36 **Ms. Cox** said they want to discuss 8 before the vote for 7, unless they want to approve the  
37 transportation plan amendments regardless.

38 **Councilmember Zegerman** said he would prefer to discuss item 8 prior to discuss either.

39  
40 **Mayor Pro Tempore Gray** withdrew his prior motion.

41  
42 **Councilmember Zegerman** asked the applicant about the building height of the homes  
43 bordering the existing communities. He asked if he was right to think there would be at least one



1 single-family residence prior to the townhomes, and that the single family residence would be  
2 limited to a two-story building.

3 **Mr. Carpenter** said practically he thinks there will be a row of single-family homes. He said  
4 the condition does not allow townhomes within 65 feet. Of the property line, so they could have  
5 open space then townhomes. He said they do not know for sure yet, and it may be market driven. He  
6 said the height limit is 3 stories on single family and that is the same for townhomes.

7 **Councilmember Zegerman** said they don't have a precedent of requiring stubs unless there  
8 are extreme conditions. He asked what removing one of those would mean in terms of the other  
9 connections, and if that would work for them.

10 **Mr. Carpenter** said he is okay limiting one or more of those connections, and they know  
11 Council has normally done that. He said that's how they arrived at indirect connection. He said they  
12 could remove one and have it still work.

13 **Councilmember Zegerman** said he would really like to see the 30-foot properties.

14 **Mr. Carpenter** said he thinks they will stick with 15, he would have to talk about other  
15 options.

16 **Councilmember Zegerman** said it seems like there may be other options, and he thinks now  
17 would be the time to make that commitment.

18 **Mr. Carpenter** asked if he wanted that along the property line or just in the northern section.

19 **Councilmember Zegerman** said he wants that where it borders existing property.

20 **Mr. Carpenter** said he thinks they need to with 15 for now. He said townhomes aren't much  
21 more intense, especially with a 15 foot buffer.

22 **Mayor Gilbert** asked Director Johnson about his thoughts on this in regards to other things  
23 he has worked on in his career.

24 **Director Johnson** said Wake County's growth is really strong, and school construction always  
25 seems to be lagging behind. He said eh assumes Wake County will find a way to make the school  
26 issue works.

27 **Councilmember Gantt** said he thinks the Depot 499 is very dense and has two schools close  
28 by. He said that is comparable.

29 **Councilmember Mahaffey** said he is not going to support the project. He said he didn't get  
30 his trees, and he suggested several mitigations that were not agreed to, and there wer other  
31 conditions that were not included. He said he wanted to be clear that density was not a reason he  
32 was not supporting it. He said the land use map here calls for up to 1000 homes and has for a  
33 decade. He said if it gets turned down, there may be another development that large. He said the  
34 developer has also made an effort to move to the east side of Tingen. He said Wake County caps  
35 schools, and has the existing residence stay. He said the kids that may move in here would have to  
36 go to farther away schools in that scenario. He say Apex Middle is nearly full, but Lufkin is not. He  
37 said the 5-year projections are solid, and those schools are under construction today. He said there's  
38 longer term stuff for a middle school in the area. He said the carpool for Apex Elementary school,  
39 and it's the same at any school. He said not to go by the schools during those times.

40 **Councilmember Zegerman** said he has been fretting over this one. He said as a Salem  
41 Village resident, he empathizes with some of the reasons for not liking this development. He said he  
42 has to separate himself from that as a Councilmember. He said he wishes he got his 30 feet of trees  
43 here tonight, and that put him back in the tossup stage. He said that if this does get turned down,  
44 another development may bring more homes than this would. He said Grace Christian is still going

1 to happen, and the traffic would still hit the road. He said this would bring a signal, and Tingen  
2 would be widened with sidewalks and paths, which would not exist without this, or the town would  
3 have to fund it. He said he really wants his 30 feet of trees. He said it will be a last minute decision on  
4 his part and he would want to hear from the rest of Council.

5 **Mayor Pro Tempore Gray** said his points are illustrating the larger issues that are inherent  
6 when there is something like this. This is a constant balancing act, with a number of factors and  
7 issues to get to a resolution of a problem. He said there can be something to resolve the issue, and  
8 there are some things he wishes they got, such as more affordable housing. He said the traffic issue  
9 is the biggest concern. He said he would love to reduce the number of cars, but that is a larger  
10 societal issue they have to address. He said from the whole town perspective, this solves a lot of the  
11 bigger problems in the area. He said it does so to allow them to deal with other issues that may not  
12 be high priority for the state. He said he agreed with Board Member Sherman a lot, on that they  
13 shouldn't make big changes to the LUM unless it makes things better. He said this change from the  
14 LUM does make things better. He said they have heard what people have had to say, even if they  
15 may not agree. He said they won't solve every problem today, like school capacity. He said his kid  
16 goes to Lufkin which is 2/3 full. He said it only is because of a fear of year-round school. He said they  
17 still are great teachers and programs. He said this is a creative solutions for a big problem in the  
18 area, and he has no problems supporting it.

19 **Councilmember Killingsworth** said they have heard the community, and wanted to make  
20 sure they knew that. She said the number 1 problem they hear about in Apex is traffic related. She  
21 said they cannot solve it alone. She said the big problem is with the General Assembly, because they  
22 have created the constraints that have handcuffed the town to have the problem they do with this  
23 now. She said the town has to pay for transportation improvements to schools, including private  
24 schools. Any requirement for those improvements has to be town funded. She said the town is not  
25 allowed to fully address transportation impact, because the state does not allow them to charge  
26 impact fees. She said that is not a town issue, but they have to be the ones to solve. She said they  
27 have solved it within the development that come in, and that's all they can do. She said state laws are  
28 why the town is behind. She said not doing the stubs will kick them later on. She said creating as  
29 much connectivity as possible is the way to fix the issues. She said this is not a perfect project, but it  
30 solves a lot of issues. She said she would like to see bigger buffer, but she would like to have seen  
31 Salem Village dedicate those buffers in the first place, and then there would not be an issue. She  
32 said the affordable housing is not perfect, but this is getting some built affordable housing. She said  
33 she is in support of this, and feels like it solves their biggest issues in the area.

34 **Councilmember Gantt** said they connect stub streets in Apex, and he hates the request not  
35 to. He said he wishes it would never be asked again. He said he heard that Salem Village folks  
36 wished they would extend that development to Tingen. He said that bugs him because the average  
37 home price in Salem Village recently has been \$775,000. He said he thinks that puts everybody who  
38 works for the town, and almost all public employees, out of reach to afford those houses. He said  
39 Depot 499 will be around \$450,000. He said apartments are also going to be more attainable for  
40 housing, and none of that would happen if they extended Salem Village further. He said this area will  
41 be much more walkable, and the developer has added more things to further that.

42  
43 A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore Gray**, to  
44 approve the Apex Transportation Plan for Rezoning 23CZ13 Seymour PUD.

1  
2 **VOTE: UNANIMOUS (5-0)**

3  
4 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**  
5 **Killingsworth**, to approve Rezoning No. 23CZ13 - Seymour Mixed Use PUD.

6  
7 **VOTE: 3-2, with Councilmember Mahaffey and Councilmember Zegerman dissenting.**

8  
9  
10 **[CLOSED SESSION]**

11  
12 A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember**  
13 **Mahaffey**, to enter into Closed Session pursuant to **NCGS § 143-318.11(a)(5) and NCGS §143-**  
14 **318.11(a)(3)**

15  
16 **VOTE: UNANIMOUS (5-0)**

17  
18  
19 Council entered into closed session at **11:09 p.m.**

20  
21 **CS1 Steve Adams, Real Estate/Utilities Acquisition Specialist**

22  
23 **NCGS § 143-318.11(a)(5):**

24 *"To establish, or to instruct the public body's staff or negotiating agents concerning the position to*  
25 *be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a*  
26 *contract or proposed contract for the acquisition of real property by purchase, option, exchange, or*  
27 *lease; or (ii) the amount of compensation and other material terms of an employment contract or*  
28 *proposed employment contract."*

29  
30  
31 **CS2 Councilmember Terry Mahaffey**

32  
33 **NCGS §143-318.11(a)(3):**

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

36  
37  
38 Council returned to open session at **11:38 p.m.**

39  
40  
41 **[ADJOURNEMENT]**

42  
43 **Mayor Gilbert** adjourned the meeting at **11:39 p.m.**

44  
45 Jacques K. Gilbert  
46 Apex, Mayor  
47

- 1 Allen Coleman, CMC, NCCCC
- 2
- 3 Town Clerk to the Apex Town Council
  
- 4 Submitted for approval by Apex Town Clerk Allen Coleman.

**DRAFT MINUTES**

**TOWN OF APEX  
SPECIAL TOWN COUNCIL MEETING  
SATURDAY, FEBRUARY 3, 2024  
8:30 A.M.**

The Apex Town Council met for a Special Meeting on Saturday, February 3, 2024 at 8:30 a.m. at the Apex Town Hall located at 73 Hunter Street in Apex, North Carolina.

The purpose of the Special Town Council meeting was to enter into closed session pursuant to North Carolina General Statutes NCGS § 143-318.11(a)(6) - quoted below:

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.”

This meeting was open to the public.

**[ATTENDANCE]**

Elected Body

- Mayor Jacques K. Gilbert (*presiding*)
- Mayor Pro-Tempore Ed Gray
- Councilmember Brett Gantt
- Councilmember Audra Killingsworth
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman (*participated remotely*)
- Absent: None

Town Staff

- Town Clerk Allen Coleman
- All other staff members will be identified appropriately below.

**Mayor Gilbert** called the meeting to order at **8:37 a.m.**

**[CLOSED SESSION]**

A **motion** was made by **Mayor Pro-Tempore Gray**, seconded by **Councilmember Killingsworth**, to enter into Closed Session pursuant to NCGS § 143-318.11(a)(6).

**DRAFT MINUTES | SATURDAY, FEBRUARY 3, 2024**  
**APEX TOWN COUNCIL**

1 **VOTE: UNANIMOUS (5-0), with Councilmember Zegerman participating**  
2 **remotely.**

3  
4 Council entered into Closed Session at **8:37 a.m.**

5  
6 Council returned to Open Session at **12:27 p.m.**

7  
8 **Mayor Gilbert** announced a recess until **1:00 p.m.**

9  
10 **Mayor Gilbert** reconvened the meeting at **1:03 p.m.**

11  
12 A **motion** was made by **Mayor Pro-Tempore Gray**, seconded by **Councilmember**  
13 **Killingsworth**, to enter in to Closed Session pursuant to NCGS § 143-318.11(a)(6).

14  
15 **VOTE: UNANIMOUS (5-0), with Councilmember Zegerman participating**  
16 **remotely.**

17  
18 Council entered into Closed Session at **1:03 p.m.**

19  
20 Council returned to Open Session at **2:26 p.m.**

21  
22 **Mayor Gilbert** adjourned the meeting at **2:26 p.m.**

23  
24  
25  
26

Jacques K. Gilbert  
Mayor

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

29  
30 Submitted for approval by Town Clerk Allen Coleman and approved on \_\_\_\_\_.

31



**DRAFT MINUTES**

**TOWN OF APEX  
SPECIAL TOWN COUNCIL MEETING  
SUNDAY, FEBRUARY 4, 2024  
3:00 P.M.**

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The Apex Town Council met for a Special Meeting on Sunday, February 4, 2024 at 3:00 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex, North Carolina.

The purpose of the Special Town Council meeting was to enter into closed session pursuant to North Carolina General Statutes NCGS § 143-318.11(a)(6) - quoted below:

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.”

This meeting was open to the public.

**[ATTENDANCE]**

Elected Body

- Mayor Jacques K. Gilbert (*presiding*)
- Mayor Pro-Tempore Ed Gray
- Councilmember Brett Gantt
- Councilmember Audra Killingsworth
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman (*participated remotely*)
- Absent: None

Town Staff

Town Clerk Allen Coleman  
All other staff members will be identified appropriately below.

**Mayor Gilbert** called the meeting to order at **3:01 p.m.**

**[CLOSED SESSION]**

A **motion** was made by **Mayor Pro-Tempore Gray**, seconded by **Councilmember Killingsworth**, to enter into Closed Session pursuant to NCGS § 143-318.11(a)(6).

**DRAFT MINUTES | SUNDAY, FEBRUARY 4, 2024**  
**APEX TOWN COUNCIL**

1           **VOTE: UNANIMOUS (5-0), with Councilmember Zegerman participating**  
2 **remotely.**

3  
4 Council entered into Closed Session at **3:01 p.m.**

5  
6 Council returned to Open Session at **6:03 p.m.**

7  
8           **Mayor Gilbert** adjourned the meeting at **6:03 p.m.**

9  
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16  
17

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: February 13, 2024

## Item Details

Presenter(s): Jonathan K. Jacobs, P.E., CFM, Assistant Director

Department(s): Water Resources

### Requested Motion

Motion to approve a Fee-in-Lieu (FIL) in the amount of \$10,870.95 for an 8-inch DIP Sewer Main located in the Friendship Village Subdivision.

### Approval Recommended?

Yes

### Item Details

Staff is recommending collection of a FIL of construction for a segment of 8-inch sewer main as part of the Friendship Village Subdivision development project. As required by Section 701.A.1.p of the Town's Engineering Specifications, all development projects shall provide sewer main extensions along any and all-natural drainage courses located within the property line boundaries to account for future upstream development. Approximately 71 feet of proposed sewer main would impact an existing wetland, which cannot be permitted until a future extension is proposed. If upstream development occurs in this location, these FIL funds can be utilized to assist in the construction of the sewer main.

### Attachments

- CN10-A1: Sealed FIL Estimate - Friendship Village Subdivision - Fee-in-Lieu (FIL)
- CN10-A2: Utility Plan Excerpt - Friendship Village Subdivision - Fee-in-Lieu (FIL)





Engineering & Design

January 10, 2024

Town of Apex  
Engineering Department  
P.O. Box 250  
Apex, NC 27502

Re: Friendship Village – Engineers Estimate for Fee-in-Lieu  
Apex, NC

The noted project is located at the intersection of Evans Road and Humie Olive Road. Per Town requirements, a sewer line is required to be installed to “upstream” properties. Due to existing wetlands, extension to one of the project’s boundaries is not possible. Specifically, a sewer stub at Vetrina Way, near proposed lot #59. Therefore, this project requests a fee-in-lieu payment in place of the full sewer extension. Below is an estimate of the cost to install an 8” DIP sewer line where the existing wetland prevents installation. Unit Prices taken from contractor’s proposal.

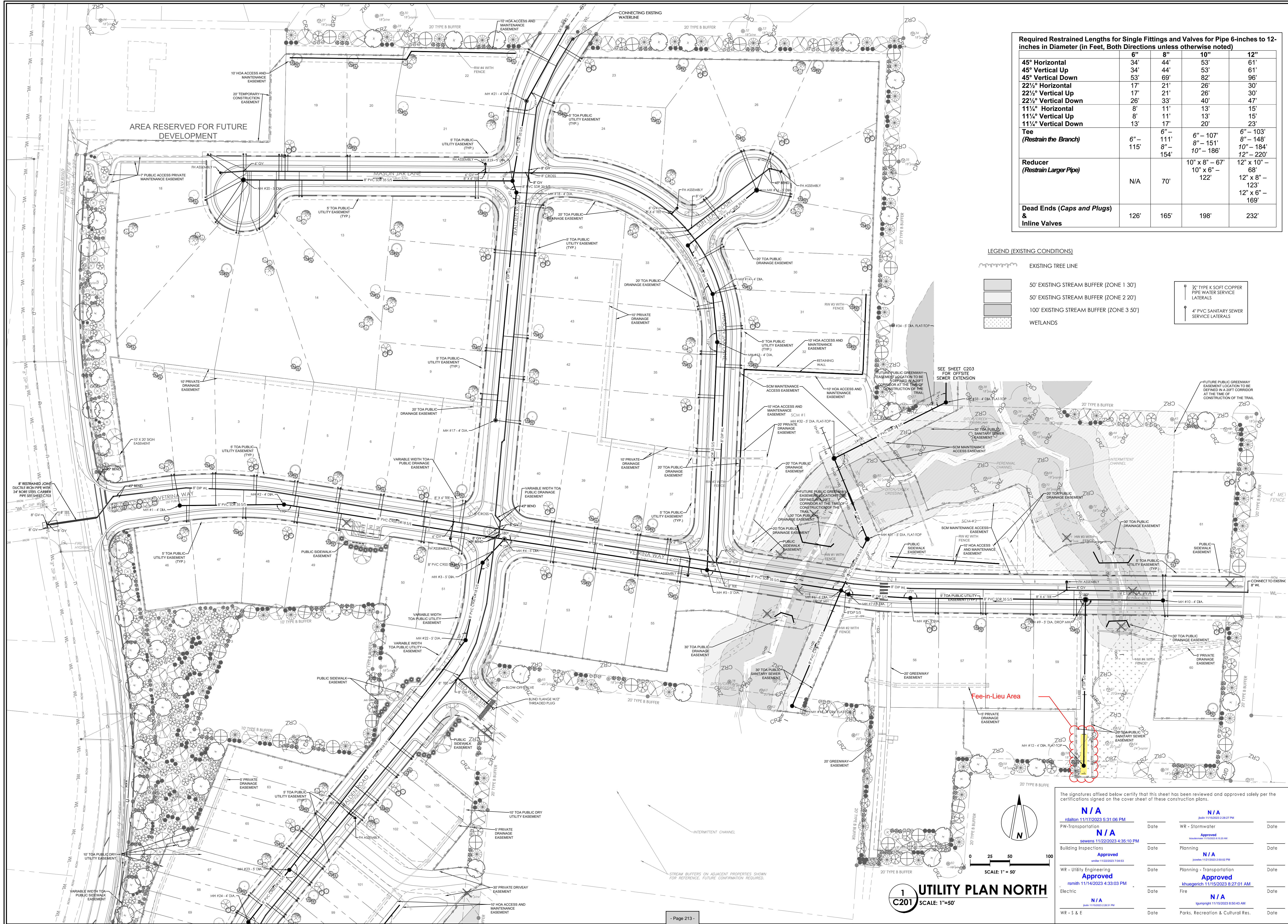
Item	Unit Cost	Quantity	Total
8" DIP Sewer 6' Deep	\$68/LF	71 LF	\$ 4,828.00
Sewer Manhole 6' Deep	\$3,625/EA	1 EA	\$ 3,625.00
Clearing	\$500/LS	1 LS	\$ 500.00
Erosion Control	\$500/LS	1 LS	\$ 500.00
<b>Total</b>			<b>\$ 9,453.00</b>
Mobilization - 15% of Estimate =			\$ 1,417.95
<b>Final Estimate</b>			<b>\$ 10,870.95</b>

Sincerely,

Daniel H. Woods, P.E.  
Peak Engineering & Design, PLLC





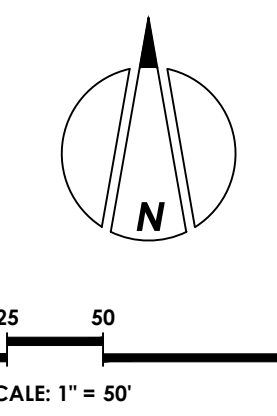


**Required Restrained Lengths for Single Fittings and Valves for Pipe 6-inches to 12-inches in Diameter (in Feet, Both Directions unless otherwise noted)**

	6"	8"	10"	12"
<b>45° Horizontal</b>	34'	44'	53'	61'
<b>45° Vertical Up</b>	34'	44'	53'	61'
<b>45° Vertical Down</b>	53'	69'	82'	96'
<b>22½° Horizontal</b>	17'	21'	26'	30'
<b>22½° Vertical Up</b>	17'	21'	26'	30'
<b>22½° Vertical Down</b>	26'	33'	40'	47'
<b>11¼° Horizontal</b>	8'	11'	13'	15'
<b>11¼° Vertical Up</b>	8'	11'	13'	15'
<b>11¼° Vertical Down</b>	13'	17'	20'	23'
<b> Tee (Restrained the Branch)</b>	6" - 115'	6" - 111'	6" - 107' 8" - 151' 10" - 186'	6" - 103' 8" - 148' 10" - 184' 12" - 220'
<b> Reducer (Restrained Larger Pipe)</b>	N/A	70'	10" x 8" - 67' 10" x 6" - 122'	12" x 10" - 68' 12" x 8" - 123' 12" x 6" - 169'
<b> Dead Ends (Caps and Plugs) &amp; Inline Valves</b>	126'	165'	198'	232'

- LEGEND (EXISTING CONDITIONS)**
- EXISTING TREE LINE
  - 50' EXISTING STREAM BUFFER (ZONE 1 30')
  - 50' EXISTING STREAM BUFFER (ZONE 2 20')
  - 100' EXISTING STREAM BUFFER (ZONE 3 50')
  - WETLANDS

- 2" TYPE K SOFT COPPER PIPE WATER SERVICE LATERALS
- 4" PVC SANITARY SEWER SERVICE LATERALS



**1 C201 UTILITY PLAN NORTH**  
SCALE: 1" = 50'

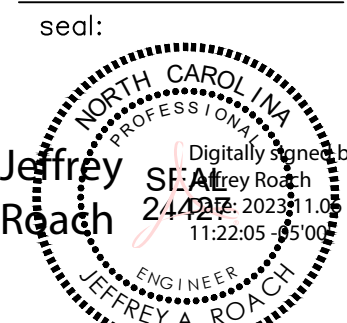
The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

Signature	Date	Signature	Date
N/A	11/17/2023 5:31:06 PM	N/A	11/15/2023 2:28:27 PM
PW-Transportation	11/22/2023 4:35:10 PM	Approved	11/22/2023 4:35:10 PM
Building Inspections	11/14/2023 4:33:03 PM	Approved	11/15/2023 8:27:01 AM
WR - Stormwater	11/15/2023 8:50:43 AM	N/A	11/15/2023 8:50:43 AM
WR - S & E		Parks, Recreation & Cultural Res.	



NC License #P-0673

Project: **FRIENDSHIP VILLAGE**  
2912 WALDEN ROAD  
BUCKHORN  
APEX, NORTH CAROLINA 27502



No.	DATE	REVISION
1	August 1, 2023	Construction Drawing Release No. 1
2	September 6, 2023	Construction Drawing Release No. 2
3	October 14, 2023	Construction Drawing Release No. 3
4	February 7, 2024	Construction Drawing Release No. 4

title: **UTILITY PLAN NORTH**

proj #: **180903**  
date: **June 1, 2022**  
dwg by: **chkd by: JE JR**  
scale: **As Noted**  
sheet: **C201**  
CONSTRUCTION DRAWINGS



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Steve Adams, Utilities Acquisition / Real Estate

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to approve a resolution entitled Resolution to Abandon Portion of Existing Public Utility Easement at Primrose School Property, located at 614 Old Mill Village Drive.

### Approval Recommended?

Yes

### Item Details

The Town of Apex currently has a Public Waterline easement on the property at 614 Old Mill Village Drive on Book of Maps 2007 Page 907.

As part of a new construction project the owner is requesting install a new waterline into a new easement and abandon the portion of existing easement no longer being utilized.

Town staff has determined that the area being abandoned is no longer required and a new easement is being dedicated to cover the new waterline.

Staff recommends donation of the land and easements.

### Attachments

- CN11-A1: Resolution - Abandon Existing Utility Easements - Primrose School Site
- CN11-A2: Map showing original easement area - Resolution - Abandon Existing Utility Easements - Primrose School Site
- CN11-A3: Exhibit A showing area to be abandoned and new dedication - Resolution - Abandon Existing Utility Easements - Primrose School Site





**RESOLUTION NO. 24-\_\_\_\_\_**

**A Resolution to Abandon Existing Public Utility Easement**

WHEREAS, Andoria Enterprises, LLC (the “**Owner**”) is the owner of a certain tract of land in or near the Town of Apex which is described in the deed recorded in Deed Book 18897, Page 0978, Wake County Registry (the “**Subject Property**”);

WHEREAS, public utility easement interests across the Subject Property were conveyed to the Town by an instrument recorded in Book of Maps 2007, Pages 0907-0908, Wake County Registry;

WHEREAS, the Owner desires the Town to abandon any interest that the Town has in that public utility easement in that certain area designated as "VARIABLE TOA PUE B.M. 2007, PG. 908 HEREBY ABANDONED (HATCHED) AS DESCRIBED USING L1 – L8" as shown on that certain survey plat entitled “EXHIBIT MAP FOR TOWN OF APEX” prepared by Smith & Smith Surveyors, P.A., dated January 19, 2024, said survey being attached hereto as Exhibit A; (the "**Abandoned Easement**");

WHEREAS, the Abandoned Easement is further labeled and identified on Exhibit A as follows:

VARIABLE TOA PUE B.M. 2007, PG. 908 HEREBY ABANDONED (HATCHED) AS DESCRIBED USING L1 – L8

WHEREAS, the Town has no need for the Abandoned Easement and it has no market value; and

WHEREAS, the Town Council considers it advisable to abandon the Abandoned Easement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council as follows:

1. The Town Council of the Town of Apex hereby abandons any and all interest it has in the Abandoned Easement as shown on Exhibit A attached hereto in accordance with Paragraph (2) below, provided however, the Town specifically retains any and all property interest it may have in the property not specifically identified as abandoned herein.

2. The Abandoned Easement shall be abandoned effective upon, and only upon, the recording of instruments at the Wake County Register of Deeds that convey to the Town of Apex the area labeled “20’ TOA PUE (WATER) 0.0038 AC. ~ 167 SF. (SHADED) AS DESCRIBED USING L9 – L13” as shown on Exhibit A attached hereto.

3. That the Town Manager or Deputy Town Manager is hereby authorized to make, execute, and deliver to the owners of the Subject Property an instrument, in a form

suitable for recording, releasing whatever interest the Town might have in and to the Abandoned Easement.

Upon motion duly made by Council Member \_\_\_\_\_, and duly seconded by Council Member \_\_\_\_\_, the above Resolution was duly adopted by the Apex Town Council at the meeting held on the \_\_\_ day of \_\_\_\_\_ 2024, in the Town Hall.

Upon call for a vote the following Council Members voted in the affirmative:

\_\_\_\_\_  
\_\_\_\_\_

and the following Council Members voted in the negative:

\_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_ day of \_\_\_\_\_ 2024.

TOWN OF APEX

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

ATTEST:

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

**JESSE A. NORRIS, HEIRS  
(PARCEL A & C)**

**RIGHT OF WAY  
DEDICATION AREA**

TOTAL AREA = 2.53 ACRES (BY DEED)  
R/W DEDICATED = 12,515 SQ.FT. OR 0.29 AC.

PARCEL "A" 8,723 SQ.FT. OR 0.200 AC.  
PARCEL "B" 82,660 SQ.FT. OR 1.898 AC.  
PARCEL "C" 3,792 SQ.FT. OR 0.087 AC.  
PARCEL "D" 308 SQ.FT. OR 0.007 AC.

**APEX FIRST DEVELOPMENT, LLC  
(PARCEL B & D)**

TOTAL = 95,483 SQ.FT. OR 2.192 AC.

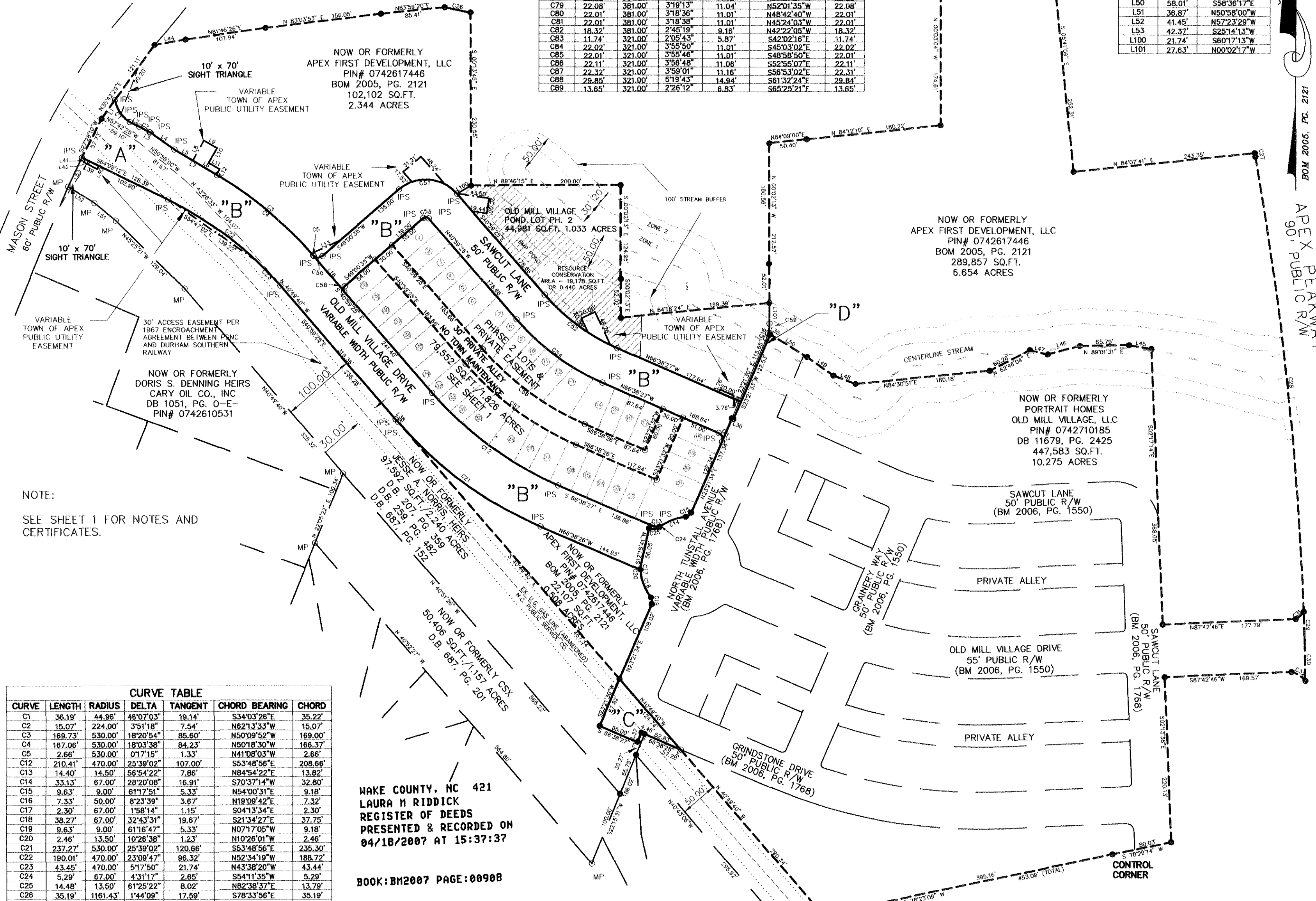
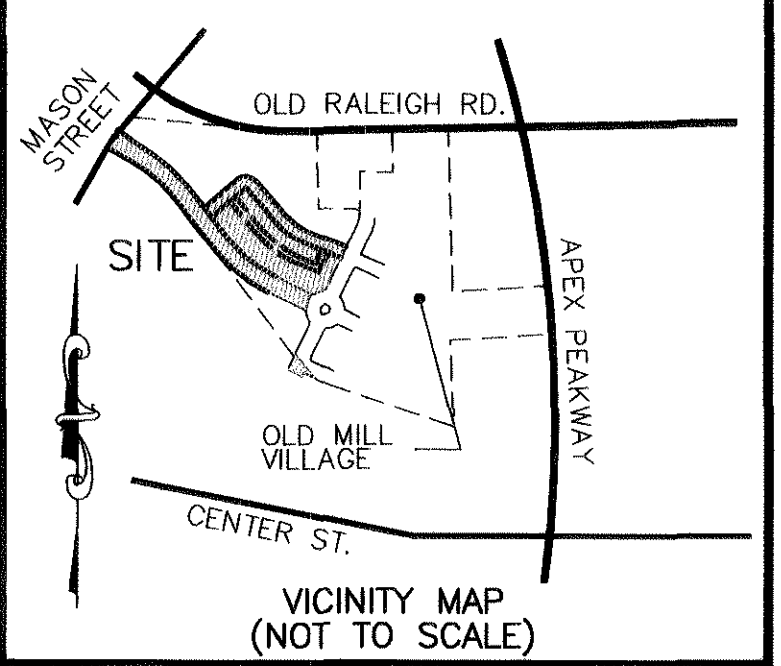
TOTAL AREA = 621,564 SQ.FT. OR 14.269 AC.  
R/W DEDICATED = 82,660 SQ.FT. OR 1.898 AC.

AREA REMAINING = 538,904 SQ.FT. OR 12.372 AC.

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD BEARING	CHORD
C60	13.23'	470.00'	1'36"48"	6.62'	N65°50'03"W	13.23'
C61	31.82'	470.00'	3'52"43"	15.91'	N63°05'17"W	31.81'
C62	22.02'	470.00'	2'41"03"	11.01'	N59°48'24"W	22.02'
C63	41.09'	470.00'	5'06"32"	20.58'	N55°57'37"W	41.07'
C64	45.78'	470.00'	5'34"51"	22.91'	N50°39'55"W	45.78'
C65	22.11'	470.00'	2'41"41"	11.05'	N46°31'39"W	22.10'
C66	22.03'	470.00'	2'41"08"	11.02'	N43°50'15"W	22.03'
C67	12.34'	470.00'	1'30"16"	6.17'	S41°44'33"E	12.34'
C68	12.34'	411.00'	1'43"14"	6.17'	S41°51'02"E	12.34'
C69	22.04'	411.00'	3'04"20"	11.02'	S44°14'49"E	22.04'
C70	22.14'	411.00'	3'05"10"	11.07'	S47°19'34"E	22.14'
C71	32.90'	411.00'	4'35"12"	16.46'	S51°09'45"E	32.89'
C72	32.22'	411.00'	4'29"31"	16.12'	S55°42'06"E	32.21'
C73	22.02'	411.00'	3'04"13"	11.02'	S59°28'58"E	22.02'
C74	29.48'	411.00'	4'06"37"	14.75'	S63°04'23"E	29.48'
C75	10.85'	411.00'	1'30"45"	5.43'	S65°53'05"E	10.85'
C76	22.62'	381.00'	3'24"03"	11.31'	N64°56'26"W	22.61'
C77	41.30'	381.00'	6'12"41"	20.67'	N60°08'03"W	41.28'
C78	22.22'	381.00'	3'20"32"	11.12'	N55°21'27"W	22.22'
C79	22.08'	381.00'	3'19"13"	11.04'	N52°01'35"W	22.08'
C80	22.01'	381.00'	3'18'36"	11.01'	N48°42'40"W	22.01'
C81	22.01'	381.00'	3'18'38"	11.01'	N45°24'03"W	22.01'
C82	18.32'	381.00'	2'45'19"	9.16'	N42°22'05"W	18.32'
C83	11.74'	321.00'	2'05'43"	5.87'	S42°02'16"E	11.74'
C84	22.02'	321.00'	3'55'50"	11.01'	S45°03'02"E	22.02'
C85	22.01'	321.00'	3'55'46"	11.01'	S48°58'50"E	22.01'
C86	22.11'	321.00'	3'59'01"	11.06'	S52°53'07"E	22.11'
C87	22.32'	321.00'	3'59'01"	11.16'	S56°33'02"E	22.31'
C88	29.85'	321.00'	5'19'43"	14.94'	S61°32'24"E	29.84'
C89	13.65'	321.00'	2'26'12"	6.83'	S65°25'21"E	13.65'

LINE	LENGTH	BEARING
L1	30.91'	N35°42'28"E
L2	14.28'	S64°09'12"E
L3	1.24'	S58°28'34"E
L4	39.27'	S53°33'38"E
L5	28.58'	S59°22'12"E
L6	36.95'	S59°22'12"E
L7	86.35'	N59°22'12"W
L8	30.36'	N29°23'09"E
L9	20.00'	S60°36'51"E
L10	22.61'	S29°23'09"W
L11	16.94'	S60°36'51"E
L12	8.56'	S29°23'09"W
L13	55.15'	N67°26'04"E
L14	10.47'	N65°35'01"E

LINE	LENGTH	BEARING
L16	62.74'	N40°59'25"W
L35	3.07'	S58°36'16"E
L36	2.50'	N66°39'27"W
L37	13.50'	N23°21'34"E
L38	5.14'	N40°59'25"W
L39	20.01'	N62°47'54"W
L40	5.07'	S29°06'51"W
L41	4.59'	N28°06'51"E
L42	20.03'	N64°09'12"W
L43	20.00'	S43°51'13"E
L44	42.18'	N79°57'03"E
L45	30.37'	S80°23'09"E
L46	44.22'	N75°14'52"E
L47	24.70'	S75°54'43"E
L48	31.68'	S69°28'23"E
L49	43.10'	S54°52'58"E
L50	58.01'	S58°36'17"E
L51	36.87'	N50°58'00"W
L52	41.45'	N57°23'29"W
L53	42.37'	S25°14'13"W
L100	21.74'	S60°17'13"W
L101	27.63'	N00°02'17"W



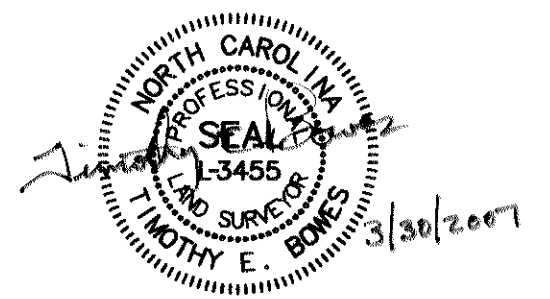
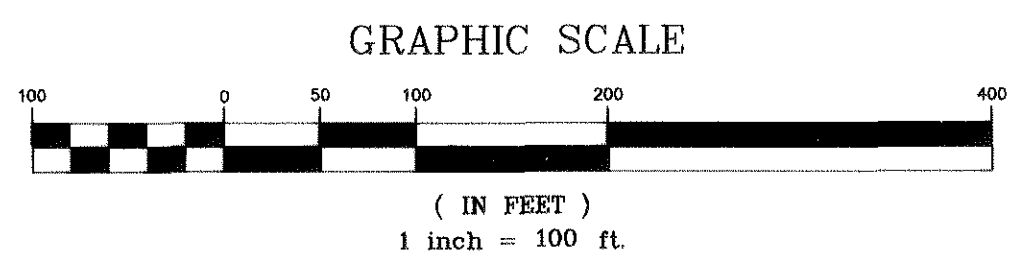
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD BEARING	CHORD
C1	36.19'	44.98'	48°07'03"	19.14'	S34°03'26"E	35.22'
C2	15.07'	224.00'	3°51'18"	7.94'	N62°13'33"W	15.07'
C3	169.73'	530.00'	18°20'54"	85.80'	N50°09'52"W	169.00'
C4	167.06'	530.00'	18°03'38"	84.23'	N50°18'30"W	166.37'
C5	2.66'	530.00'	0°17'15"	1.33'	N41°08'03"W	2.66'
C12	210.41'	470.00'	25°39'02"	107.00'	S53°48'56"E	208.66'
C13	14.40'	14.50'	56°54'22"	7.86'	N84°54'22"E	13.82'
C14	33.13'	67.00'	28°20'08"	16.91'	S70°37'14"W	32.80'
C15	9.63'	9.00'	61°17'51"	5.33'	N54°00'31"E	9.18'
C16	7.33'	9.00'	8°23'39"	3.67'	N19°09'42"E	7.32'
C17	2.30'	67.00'	1°58'14"	1.15'	S04°13'34"E	2.30'
C18	38.27'	67.00'	32°43'31"	19.67'	S21°34'27"E	37.75'
C19	9.63'	9.00'	61°16'47"	5.33'	N07°17'05"W	9.18'
C20	2.46'	13.50'	10°26'38"	1.23'	N10°26'01"W	2.46'
C21	237.27'	530.00'	25°39'02"	120.66'	S53°48'56"E	235.30'
C22	190.01'	470.00'	23°09'47"	96.32'	N52°34'19"W	188.72'
C23	43.45'	470.00'	51°7'50"	21.74'	N43°38'20"W	43.44'
C24	5.29'	67.00'	4°31'17"	2.65'	S54°11'35"W	5.29'
C25	14.48'	13.50'	61°28'22"	8.02'	N82°38'37"E	13.79'
C26	35.19'	1161.43'	1°44'08"	17.59'	S78°33'56"E	35.19'
C27	4.80'	3180.35'	0°05'11"	2.40'	N10°05'53"W	4.80'
C28	610.95'	4349.12'	8°02'56"	305.98'	N06°03'43"W	610.45'
C29	37.21'	4349.12'	0°29'25"	18.60'	N01°47'33"W	37.21'
C30	54.64'	4438.99'	0°42'19"	27.32'	N01°12'33"W	54.64'
C31	14.82'	30.50'	27°50'43"	7.56'	N47°23'44"E	14.68'
C32	22.37'	30.50'	42°01'08"	11.71'	N57°56'18"W	21.87'
C50	14.12'	9.00'	89°51'58"	8.98'	S86°03'26"E	12.71'
C51	86.39'	55.00'	90°00'01"	55.00'	N85°59'24"W	77.78'
C52	121.32'	271.00'	25°39'02"	61.70'	S53°48'56"E	120.31'
C53	14.14'	9.00'	89°59'59"	9.00'	N21°38'28"W	12.73'
C54	143.71'	321.00'	25°39'02"	73.08'	S53°48'56"E	142.51'
C55	7.85'	5.00'	90°00'03"	5.00'	N85°59'23"W	7.07'
C56	170.57'	381.00'	25°39'02"	86.74'	S53°48'56"E	169.15'
C57	164.00'	411.00'	25°39'02"	83.57'	S53°48'56"E	162.47'
C58	7.85'	5.00'	90°00'00"	5.00'	S04°00'35"W	7.07'
C59	13.09'	49.92'	150°13'33"	6.58'	N07°27'59"E	13.05'

WAKE COUNTY, NC 421  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
04/18/2007 AT 15:37:37

BOOK: BM2007 PAGE: 00908

FILED FOR REGISTRATION  
DATE  
LAURA M. RIDDICK  
REGISTER OF DEEDS  
WAKE COUNTY  
BY:  
ASST/DEPUTY  
TIME:

BOOK: 5007 PAGE: 908



407 Gorman St.  
Suite 101  
Raleigh, North Carolina 27607  
919-833-7336  
Fax: 919-833-7337  
www.bbmassociates.com

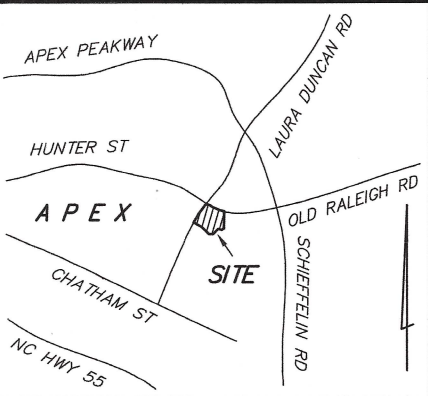
FINAL SUBDIVISION PLAT  
FOR  
**OLD MILL VILLAGE  
LOT 2**  
WHITE OAK TOWNSHIP  
WAKE COUNTY NORTH CAROLINA

LEGEND	DATE	SCALE
□ CONCRETE MONUMENT	3-07-07	1"=100'
○ SET IRON PIPE (IPS)	REVISIONS	DRAWN BY TEB
○ MAP/DEED POINT (MP)		CHECKED BY WCP
● EXISTING IRON PIPE		SHEET # 2
▲ CONTROL CORNER		PROJECT # AFD007.01
— LINES SURVEYED		OF 2
- - - LINES NOT SURVEYED		

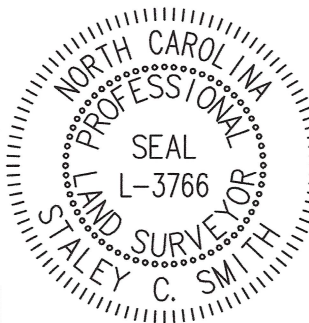
PIN #0742617446  
PARCEL ZONING : PUD-CU



# EXHIBIT A



VICINITY MAP (NOT TO SCALE)



NOTES:

- (a) THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
- (b) NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
- (c) THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
- (d) THIS MAP DOES NOT MEET NCGS 47-30 REQUIREMENTS FOR RECORDATION.
- (e) ALL DISTANCES SHOWN HEREON ARE U.S. SURVEY FOOT UNIT HORIZONTAL GROUND MEASUREMENTS.
- (f) AREA DETERMINED BY COORDINATE GEOMETRY METHOD.

I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:

D.B. 18897, PG. 978

THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: +10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 (m) AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 2ND DAY OF FEBRUARY, A.D., 2024.

THIS SURVEY SHOWN HEREON IS OF ANOTHER CATEGORY, SUCH AS A RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

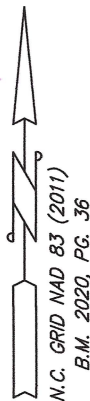
*Staley C. Smith*

Professional Land Surveyor

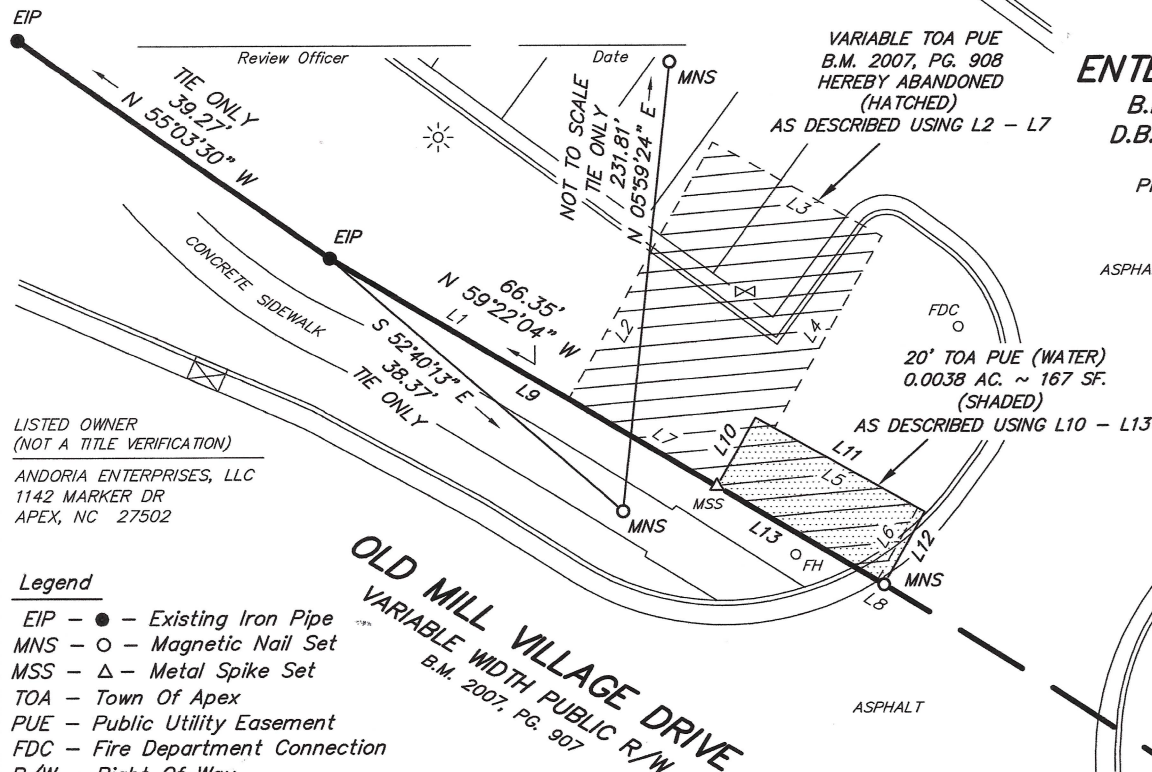
L-3766

License Number

LINE	BEARING	LENGTH
L1	S 59°22'04" E	28.58'
L2	N 29°23'17" E	30.36'
L3	S 60°36'43" E	20.00'
L4	S 29°23'17" W	22.61'
L5	S 60°38'17" E	16.94'
L6	S 29°23'17" W	8.56'
L7	N 59°22'04" W	36.95'
L8	S 59°22'04" E	0.82'
L9	S 59°22'04" E	46.35'
L10	N 29°23'17" E	8.13'
L11	S 60°36'43" E	20.00'
L12	S 29°23'17" W	8.56'
L13	N 59°22'04" W	20.00'

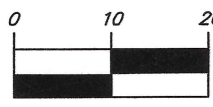


I, \_\_\_\_\_, Review Officer of Wake County, certify that this Plat meets all statutory requirements for recording.



**ANDORIA ENTERPRISES, LLC**  
 B.M. 2020, PG. 36  
 D.B. 18897, PG. 978

PIN 0742-61-2827



U.S. SURVEY FOOT  
 1 inch = 20 ft.

LISTED OWNER  
 (NOT A TITLE VERIFICATION)  
 ANDORIA ENTERPRISES, LLC  
 1142 MARKER DR  
 APEX, NC 27502

- Legend**
- EIP - Existing Iron Pipe
  - MNS - Magnetic Nail Set
  - MSS - Metal Spike Set
  - TOA - Town Of Apex
  - PUE - Public Utility Easement
  - FDC - Fire Department Connection
  - R/W - Right Of Way
  - Water Valve
  - FH - Fire Hydrant
  - \* - Area Light
  - Curb Inlet

NAD 83 (2011) - NORTH AMERICAN DATUM 1983

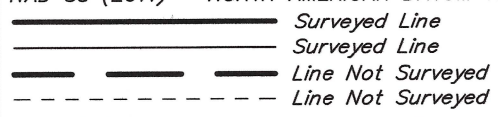


EXHIBIT MAP FOR  
**TOWN OF APEX**  
 TOWN OF APEX, WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

<p><b>Smith &amp; Smith, Surveyors, P.A.</b></p>	PLAN DATE JANUARY 19, 2024
	SCALE 1" = 20'
	PIN 0742-61-2827
	PROJ. No. 19-13

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## 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 Case No. 23CZ13 Seymour Mixed Use PUD, Barnett Properties, LLC, petitioner, for the property located at 0, 0, and 0 Tingen Road (PINs 0741142574; 0741152543; 0741155913).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Case No. 23CZ13 was approved at the January 23, 2024 Town Council meeting.

### Attachments

- CN12-A1: Statement and Ordinance - Rezoning Case No. 23CZ13 Seymour Mixed Use PUD - Statement and Ordinance
- CN12-A2: Legal Description - Rezoning Case No. 23CZ13 Seymour Mixed Use PUD - Statement and Ordinance
- CN12-A3: Attachment B - Seymore Mixed-Use Planned Unit Development (PUD) - Rezoning Case No. 23CZ13 Seymour Mixed Use PUD - Statement and Ordinance



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 81.9 ACRES LOCATED AT 0, 0, and 0 TINGEN ROAD FROM RESIDENTIAL AGRICULTURAL (RA) AND HIGH DENSITY SINGLE-FAMILY RESIDENTIAL (HDSF) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)  
#23CZ13**

**WHEREAS**, Barnett Properties, LLC (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of July 2023 (the “Application”). The proposed conditional zoning is designated #23CZ13;

**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 #23CZ13 before the Planning Board on the 8<sup>th</sup> day of January 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of January 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ13. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 5 to 4 for the application for #23CZ13;

**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 #23CZ13 before the Apex Town Council on the 23<sup>rd</sup> day of January 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of January 2024. 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 #23CZ13 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 not 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, Medium/High Density Residential, High Density Residential, and Office Employment and approval of this rezoning will automatically amend the 2045 Land Use Map to Medium Density Residential, Medium/High Density Residential, High Density Residential, Office Employment and Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) with a maximum number of 800 residential units. The rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will provide commercial services and flexibility to accommodate the growth in population 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 includes widening of the Apex Peakway along the project frontage to the ultimate section width; widening of Tingen Road along the project frontage with a roundabout, bike lanes, a 10 foot wide side path on the western side and a 5 foot wide sidewalk on the eastern side; Greenway construction completed and accepted prior to 50% of the units west of Tingen Road being permitted; if warranted by NCDOT, traffic signal will be provided at Apex Peakway and Tingen Road; permitted commercial uses that are limited to those that are more compatible with surrounding proposed residential land use; and reduced building height and increased buffer opacity between apartments and existing adjacent residential land use; and

**WHEREAS**, the Apex Town Council by a vote of 3 to 2 approved Application #23CZ13 rezoning the subject tract located at 0, 0, and 0 Tingen Road from Residential Agricultural (RA) and High Density Single-Family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-CZ).

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

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



**Ordinance Amending the Official Zoning District Map #23CZ13**

**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) and High Density Single-Family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-CZ), 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 all of the following conditions in Attachment "B" Seymour Mixed Use 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 \_\_\_\_\_ 2024.

**TOWN OF APEX**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**EXHIBIT A**  
**Legal Description**  
**The Property**

**PIN 0741142574; 57.878 acres**

***Tract 1A (portion of PIN west of Tingen Road)***

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point with said centerline South 23°25'02" West 63.24 feet to a point, thence South 23°57'24" West 97.36 feet to a point, thence South 24°26'36" West 92.47 feet to a point, thence South 25°06'17" West 59.76 feet to a point, thence South 26°16'53" West 52.09 feet to a point, thence South 27°57'15" West 99.30 feet to a point, thence South 28°01'32" West 106.09 feet to a point, thence along a curve to the left having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of South 19°19'56" West 278.25 feet to a point, thence South 07°37'37" West 107.82 feet to a point, thence South 08°28'32" West 130.97 feet to a point, thence along a curve to the right having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of South 17°59'27" West 217.12 feet to a point, thence South 24°06'54" West 110.88 feet to a point, thence South 24°35'47" West 103.44 feet to a point, thence South 24°35'57" West 106.01 feet to a point, thence South 24°26'31" West 102.75 feet to a point, thence South 23°49'47" West 90.16 feet to a point, thence South 22°33'59" West 106.51 feet to a point, thence along a curve to the left having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of South 19°00'25" West 182.86 to a point, thence South 15°37'11" West 15.50 feet to a point, thence leaving said centerline North 89°01'35" West 471.57 feet to a point, thence North 01°40'54" East 1,109.12 feet to an existing iron pipe, thence South 89°00'54" East 563.31 feet to an existing iron pipe, thence North 02°35'35" East 886.13 feet to a new iron pipe, thence South 88°06'47" East 592.52 feet to the point and place of beginning, containing an area of 25.548 acres (1,112,857 Sq Ft) more or less.

**Save and Except the following Public Right of Way:**

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point with said centerline South 23°25'02" West 63.24 feet to a point, thence South 23°57'24" West 97.36 feet to a point, thence South 24°26'36" West 92.47 feet to a point, thence South 25°06'17" West 59.76 feet to a point, thence South 26°16'53" West 52.09 feet to a point, thence South 27°57'15" West 99.30 feet to a point, thence South 28°01'32" West 106.09 feet to a point, thence along a curve to the left having a radius of 715.88', an arc length of 280.03', and a chord bearing and distance of South 19°19'56" West 278.25 feet to a point, thence South 07°37'37" West 107.82 feet to a point, thence South 08°28'32" West 130.97 feet to a point, thence along a curve to the right having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of South 17°59'27" West 217.12 feet to a point, thence South 24°06'54" West 110.88 feet to a point, thence South 24°35'47" West 103.44 feet to a point, thence South 24°35'57" West 106.01 feet to a point, thence South 24°26'31" West 102.75 feet to a point, thence South 23°49'47" West 90.16 feet to a point, thence South 22°33'59" West 106.51 feet to a point, thence along a curve to the left having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of South 19°00'25" West 182.86 feet to a point, thence South 15°37'11" West 15.50 feet to a point, thence leaving said centerline North 89°01'35" West 31.01 feet to a new iron pipe on the

western right of way of Tingen Road (SR 1153) (60' Public R/W), thence with said right of way North 15°37'11" East 23.27 feet to a new iron pipe, thence along a curve to the right having a radius of 1,453.87 feet, an arc length of 186.74 feet, and a chord bearing and distance of North 19°00'28" East 186.61 feet to a new iron pipe, thence North 22°33'59" East 106.81 feet to a new iron pipe, thence North 23°49'47" East 90.66 feet to a new iron pipe, thence North 24°26'31" East 102.95 feet to a new iron pipe, thence North 24°35'57" East 106.05 feet to a new iron pipe, thence North 24°35'47" East 103.31 feet to a new iron pipe, thence North 24°06'54" East 111.16 feet to a new iron pipe, thence along a curve to the left having a radius of 784.07 feet, an arc length of 209.66 feet, and a chord bearing and distance of North 18°01'22" East 209.04 feet to a point, thence North 08°28'32" East 130.26 feet to a new iron pipe, thence North 07°37'37" East 107.73 feet to a new iron pipe, thence along a curve to the right having a radius of 745.88 feet, an arc length of 291.24 feet, and a chord bearing and distance of North 19°18'06" East 289.39 feet to a new iron pipe, thence North 28°01'32" East 105.42 feet to a new iron pipe, thence North 27°57'15" East 98.85 feet to a new iron pipe, thence North 26°16'53" East 51.35 feet to a new iron pipe, thence North 25°06'17" East 59.28 feet to a new iron pipe, thence North 24°26'36" East 92.17 feet to a new iron pipe, thence North 23°57'24" East 97.09 feet to a new iron pipe, thence North 23°25'02" East 51.27 feet to a new iron pipe, thence leaving said right of way South 88°06'47" East 32.25 feet to the point and place of beginning, containing an area of 1.464 acres (63,756 Sq Ft) more or less.

***Tract 1B (portion of PIN east of Tingen Road)***

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point leaving said centerline South 88°06'47" East 155.35 feet to a new iron pipe on the southern right of way of Apex Peakway (Variable Width Public R/W), thence with said right of way along a curve to the left having a radius of 617.60 feet, an arc length of 121.30 feet, and a chord bearing and distance of South 86°52'28" East 121.10 feet to a new iron pipe, thence South 03°58'40" West 624.02 feet to a new iron pipe, thence leaving said right South 04°00'20" West 436.18 feet to a new iron pipe, thence South 89°53'29" East 342.63 feet to the centerline of Reedy Branch creek, thence with said centerline South 45°59'57" East 23.54 feet to a point, thence North 72°48'38" East 3.15 feet to a point, thence North 75°15'06" East 7.35 feet to a point, thence North 33°10'05" East 10.52 feet to a point, thence South 87°46'19" East 4.17 feet to a point, thence South 54°39'36" East 5.14 feet to a point, thence South 26°52'35" East 6.27 feet to a point, thence South 20°43'30" East 5.83 feet to a point, thence South 17°30'23" East 26.61 feet to a point, thence South 00°46'07" West 17.43 feet to a point, thence South 41°53'01" East 17.39 feet to a point, thence South 80°40'52" East 3.58 feet to a point, thence North 64°11'19" East 10.70 feet to a point, thence North 77°37'26" East 8.01 feet to a point, thence North 57°26'38" East 10.89 feet to a point, thence South 39°31'24" East 5.85 feet to a point, thence South 16°35'15" East 18.37 feet to a point, thence South 52°00'14" West 6.84 feet to a point, thence South 86°55'46" West 2.50 feet to a point, thence North 72°28'55" West 7.42 feet to a point, thence South 49°09'46" West 4.26 feet to a point, thence South 30°48'02" West 9.18 feet to a point, thence South 05°29'05" West 12.58 feet to a point, thence South 45°26'24" West 14.06 feet to a point, thence South 31°17'05" West 17.08 feet to a point, thence North 73°30'37" West 8.10 feet to a point, thence North 23°04'10" West 5.83 feet to a point, thence North 58°50'48" West 5.96 feet to a point, thence South 67°39'22" West 14.33 feet to a point, thence North 75°24'16" West 12.70 feet to a point, thence South 75°30'50" West 6.52 feet to a point, thence South 50°39'50" West 9.78 feet to a point, thence South 70°43'21" West 6.02 feet to a point, thence North 84°04'50" West 7.27 feet to a point, thence South 88°14'07" West 6.43 feet to a point, thence South 32°57'14" West 12.23 feet to a point, thence South 09°13'26" East 11.02 feet to a point, thence South 63°40'59" West 7.26 feet to a point, thence South

35°43'18" West 2.50 feet to a point, thence South 22°56'31" East 6.85 feet to a point, thence South 43°58'43" East 22.14 feet to a point, thence South 33°07'42" East 6.85 feet to a point, thence South 44°25'37" West 4.93 feet to a point, thence South 51°32'26" West 7.42 feet to a point, thence South 02°43'51" West 11.17 feet to a point, thence South 61°27'14" West 19.32 feet to a point, thence North 82°36'48" West 5.54 feet to a point, thence North 53°31'02" West 9.54 feet to a point, thence South 88°36'59" West 9.49 feet to a point, thence South 22°02'30" West 5.70 feet to a point, thence South 18°20'34" East 15.39 feet to a point, thence South 25°37'43" West 3.15 feet to a point, thence South 54°07'06" West 13.28 feet to a point, thence South 34°52'02" West 10.35 feet to a point, thence South 09°23'18" West 10.61 feet to a point, thence South 44°07'39" West 4.22 feet to a point, thence South 89°47'26" West 8.89 feet to a point, thence North 80°07'48" West 5.77 feet to a point, thence South 65°53'06" West 5.32 feet to a point, thence South 15°32'10" West 4.41 feet to a point, thence South 23°55'15" East 10.55 feet to a point, thence South 15°11'19" East 21.46 feet to a point, thence South 35°01'48" West 6.12 feet to a point, thence South 26°01'17" West 9.60 feet to a point, thence South 06°36'28" East 12.87 feet to a point, thence South 11°03'20" West 10.19 feet to a point, thence South 25°40'29" East 14.41 feet to a point, thence South 34°17'23" West 5.28 feet to a point, thence South 79°48'16" West 9.03 feet to a point, thence South 65°51'20" West 8.26 feet to a point, thence South 52°11'41" West 1.76 feet to a point, thence South 08°11'55" West 9.70 feet to a point, thence South 26°03'32" East 24.42 feet to a point, thence South 35°44'54" East 8.26 feet to a point, thence South 24°23'03" West 5.72 feet to a point, thence North 89°45'08" West 3.90 feet to a point, thence South 73°20'10" West 4.45 feet to a point, thence South 61°29'12" West 2.31 feet to a point, thence South 21°12'21" West 6.40 feet to a point, thence South 33°05'35" East 10.05 feet to a point, thence South 59°21'18" East 21.66 feet to a point, thence North 54°11'23" East 2.39 feet to a point, thence North 42°50'40" East 3.89 feet to a point, thence North 10°37'44" East 16.46 feet to a point, thence North 40°30'56" East 6.51 feet to a point, thence North 77°03'47" East 11.15 feet to a point, thence South 71°44'26" East 2.27 feet to a point, thence South 31°13'39" East 9.65 feet to a point, thence South 07°04'43" East 19.93 feet to a point, thence South 41°22'14" West 12.19 feet to a point, thence South 12°53'55" East 5.36 feet to a point, thence South 68°10'25" East 14.80 feet to a point, thence South 43°34'27" East 6.47 feet to a point, thence South 22°10'19" East 2.68 feet to a point, thence South 32°04'22" West 9.18 feet to a point, thence South 10°02'38" West 3.84 feet to a point, thence South 51°23'30" East 17.86 feet to a point, thence South 14°34'28" East 4.76 feet to a point, thence South 26°55'19" West 2.80 feet to a point, thence South 48°09'33" West 11.86 feet to a point, thence South 15°13'15" West 4.85 feet to a point, thence South 40°38'00" East 4.46 feet to a point, thence South 78°40'18" East 3.42 feet to a point, thence South 56°50'32" East 11.21 feet to a point, thence South 16°28'14" East 9.82 feet to a point, thence South 02°23'20" West 2.19 feet to a point, thence South 32°26'48" West 9.27 feet to a point, thence South 80°13'52" West 7.07 feet to a point, thence South 44°01'57" West 2.27 feet to a point, thence South 02°34'15" East 6.80 feet to a point, thence South 31°15'37" East 13.55 feet to a point, thence South 75°12'40" East 11.31 feet to a point, thence South 21°53'48" East 3.77 feet to a point, thence South 08°57'43" East 4.34 feet to a point, thence South 09°09'45" West 7.09 feet to a point, thence South 21°58'35" West 8.02 feet to a point, thence South 32°59'50" West 3.04 feet to a point, thence South 23°58'52" East 5.48 feet to a point, thence South 52°07'55" East 13.11 feet to a point, thence South 25°26'04" East 13.81 feet to a point, thence South 51°03'25" East 11.15 feet to a point, thence South 35°51'01" East 8.96 feet to a point, thence South 71°58'21" East 3.42 feet to a point, thence North 51°21'46" East 12.63 feet to a point, thence South 85°48'11" East 21.94 feet to a point, thence South 61°09'23" East 5.40 feet to a point, thence South 37°21'25" East 12.74 feet to a point, thence South 05°25'52" East 10.46 feet to a point, thence South 57°01'18" East 17.03 feet to a point, thence South 18°45'31" West 10.60 feet to a point, thence South

25°18'11" East 4.17 feet to a point, thence South 44°04'01" East 3.46 feet to a point, thence South 59°21'42" East 12.66 feet to a point, thence South 04°30'56" West 1.71 feet to a point, thence South 28°38'46" West 6.53 feet to a point, thence South 26°16'08" East 9.09 feet to a point, thence South 65°13'05" East 13.27 feet to a point, thence South 14°08'04" East 8.89 feet to a point, thence South 18°40'48" West 16.78 feet to a point, thence South 10°41'09" East 15.70 feet to a point, thence South 34°15'35" West 10.32 feet to a point, thence South 03°55'21" East 7.89 feet to a point, thence South 41°45'42" East 9.95 feet to a point, thence South 23°51'26" East 8.02 feet to a point, thence South 16°12'37" West 10.57 feet to a point, thence South 49°58'33" West 8.82 feet to a point, thence North 86°38'37" West 12.88 feet to a point, thence South 60°11'38" West 24.51 feet to a point, thence South 31°05'54" West 41.51 feet to a point, thence South 43°09'26" East 9.06 feet to a point, thence South 75°45'47" East 13.08 feet to a point, thence South 00°06'38" West 19.75 feet to a point, thence South 25°10'31" East 16.98 feet to a point, thence South 59°36'47" East 25.37 feet to a point, thence South 21°55'00" East 21.34 feet to a point, thence South 10°42'09" West 10.94 feet to a point, thence South 16°29'47" East 6.15 feet to a point, thence South 65°32'43" East 10.64 feet to a point, thence North 72°03'41" East 10.80 feet to a point, thence North 51°29'17" East 5.64 feet to a point, thence North 28°19'04" East 27.17 feet to a point, thence North 65°19'26" East 3.68 feet to a point, thence South 80°11'52" East 5.79 feet to a point, thence South 50°54'22" East 9.76 feet to a point, thence South 28°29'33" East 7.14 feet to a point, thence South 30°59'48" West 10.68 feet to a point, thence South 11°44'49" West 13.20 feet to a point, thence leaving said centerline of creek North 89°01'35" West 1,444.72 feet to a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), thence with said centerline of road North 15°37'11" East 15.50 feet to a point, thence along a curve to the right having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of North 19°00'25" East 182.86 feet to a point, thence North 22°33'59" East 106.51 feet to a point, thence North 23°49'47" East 90.16 feet to a point, thence North 24°26'31" East 102.75 feet to a point, thence North 24°35'57" East 106.01 feet to a point, thence North 24°35'47" East 103.44 feet to a point, thence North 24°06'54" East 110.88 feet to a point, thence along a curve to the left having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of North 17°59'27" East 217.12 feet to a point, thence North 08°28'32" East 130.97 feet to a point, thence North 07°37'37" East 107.82 feet to a point, thence along a curve to the right having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of North 19°19'56" East 278.25 feet to a point, thence North 28°01'32" East 106.09 feet to a point, thence North 27°57'15" East 99.30 feet to a point, thence North 26°16'53" East 52.09 feet to a point, thence North 25°06'17" East 59.76 feet to a point, thence North 24°26'36" East 92.47 feet to a point, thence North 23°57'24" East 97.36 feet to a point, thence North 23°25'02" East 63.24 feet to the point and place of beginning, containing an area of 35.258 acres (1,535,852 Sq Ft) more or less.

**Save and Except the following Public Right of Way:**

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point leaving said centerline South 88°06'47" East 32.25 feet to a new iron pipe on the eastern right of way of Tingen Road (SR 1153) (60' Public R/W), thence with said right of way South 23°25'02" West 75.22 feet to a new iron pipe, thence South 23°57'24" West 97.63 feet to a new iron pipe, thence South 24°26'36" West 92.77 feet to a new iron pipe, thence South 25°06'17" West 60.24 feet to a new iron pipe, thence South 26°16'53" West 52.84 feet to a new iron pipe, thence South 27°57'15" West 99.76 feet to a new iron pipe, thence South 28°01'32" West 106.77 feet to a new iron pipe, thence along a curve to the left having a radius of 685.88 feet, an arc length of 268.82 feet, and a chord bearing and distance of South

19°21'53" West 267.10 feet to a new iron pipe, thence South 07°37'37" West 107.91 feet to a new iron pipe, thence South 08°28'32" West 131.67 feet to a new iron pipe, thence along a curve to the right having a radius of 844.07 feet, an arc length of 225.87 feet, and a chord bearing and distance of South 17°57'37" West 225.20 feet to a new iron pipe, thence South 24°06'54" West 110.60 feet to a new iron pipe, thence South 24°35'47" West 103.57 feet to a new iron pipe, thence South 24°35'57" West 105.97 feet to a new iron pipe, thence South 24°26'31" West 102.55 feet to a new iron pipe, thence South 23°49'47" West 89.67 feet to a new iron pipe, thence South 22°33'59" West 106.21 feet to a new iron pipe, thence along a curve to the left having a radius of 1,393.87 feet, an arc length of 179.24 feet, and a chord bearing and distance of South 19°00'21" West 179.12 feet to a new iron pipe, thence South 15°37'11" West 7.74 feet to a new iron pipe, thence leaving said right of way North 89°01'35" West 31.01 feet to a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), thence with said centerline North 15°37'11" East 15.50 feet to a point, thence along a curve to the right having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of North 19°00'25" East 182.86 feet to a point, thence North 22°33'59" East 106.51 feet to a point, thence North 23°49'47" East 90.16 feet to a point, thence North 24°26'31" East 102.75 feet to a point, thence North 24°35'57" East 106.01 feet to a point, thence North 24°35'47" East 103.44 feet to a point, thence North 24°06'54" East 110.88 feet to a point, thence along a curve to the left having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of North 17°59'27" East 217.12 feet to a point, thence North 08°28'32" East 130.97 feet to a point, thence North 07°37'37" East 107.82 feet to a point, thence along a curve to the right having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of North 19°19'56" East 278.25 feet to a point, thence North 28°01'32" East 106.09 feet to a point, thence North 27°57'15" East 99.30 feet to a point, thence North 26°16'53" East 52.09 feet to a point, thence North 25°06'17" East 59.76 feet to a point, thence North 24°26'36" East 92.47 feet to a point, thence North 23°57'24" East 97.36 feet to a point, thence North 23°25'02" East 63.24 feet to a point, which is the point and place of beginning, containing an area of 1.464 acres (63,753 Sq Ft) more or less.

**PIN 0741155913; 2.426**

Beginning at an existing rebar, said rebar having NC grid coordinates (NAD 83 – 2011) of N=715,860.13, E=2,041,971.52, thence from said beginning point North 88°24'37" West 847.05 feet to a point, thence North 02°57'16" East 102.53 feet to an existing iron pipe, thence North 88°35'52" East 850.23 feet to an existing iron pipe, thence South 03°19'54" West 146.95 feet to the point and place of beginning, containing an area of 2.426 acres (105,669 Sq Ft) more or less.

**PIN 0741152543; 21.597**

Beginning at an existing rebar, said rebar having NC grid coordinates (NAD 83 – 2011) of N=715,860.13, E=2,041,971.52, thence from said beginning point South 06°39'18" West 348.46 feet to a new iron pipe on the western right of way of Tingen Road (SR 1153) (Variable Width Public R/W), thence with said right of way South 35°13'07" West 9.66 feet to a new iron pipe, thence South 30°40'58" West 57.42 feet to a new iron pipe, thence South 25°24'31" West 15.82 feet to a new iron pipe, thence South 23°19'17" West 26.54 feet to a new iron pipe, thence South 23°01'21" West 54.24 feet to a new iron pipe, thence South 23°02'29" West 103.42 feet to a new iron pipe, thence South 23°14'49" West 8.44 feet to a new iron pipe, thence North 66°11'00" West 10.66 feet to a new iron pipe, thence South 23°49'00" West 125.59 feet to a new iron pipe, thence leaving said right of way along a curve to the right having a radius of 50.00 feet, an arc length of 67.55 feet, and a chord bearing and distance of South 62°31'20"



West 62.53 feet to an existing iron pipe on the northern right of way of Apex Peakway (Variable Width Public R/W), thence with said right of way along a curve to the left having a radius of 450.00 feet, an arc length of 69.82 feet, and a chord bearing and distance of North 83°13'01" West 69.75 feet to an existing iron pipe, thence North 87°39'41" West 584.19 feet to an existing iron pipe, thence along a curve to the right having a radius of 876.00 feet, an arc length of 522.41 feet, and a chord bearing and distance of North 70°34'37" West 514.71 feet to a new iron pipe, thence leaving said right of way North 02°33'05" East 570.82 feet to an existing iron pipe, thence South 88°20'16" East 539.99 feet to a point, thence South 88°24'37" East 847.05 feet to the point and place of beginning, containing an area of 21.597 acres (940,753 Sq Ft) more or less.



## SEYMOUR MIXED-USE

Planned Unit Development

Apex, North Carolina

### **Submittal Dates**

First Submittal: July 3, 2023  
Second Submittal: September 8, 2023  
Third Submittal: October 6, 2023  
Fourth Submittal: November 3, 2023  
Fifth Submittal: December 1, 2023  
Sixth Submittal: December 20, 2023  
Seventh Submittal: January 3, 2024  
Eighth Submittal: January 11, 2024  
Ninth Submittal: January 22, 2024  
Approved January 23, 2024

### **Developer**

Barnett Properties, LLC  
7610 Falls of Neuse Road  
Suite 150  
Raleigh, NC 27615

### **Civil Engineer**

Jeff Roach  
Peak Engineering & Design  
1125 Apex Peakway  
Apex, NC 27502

### **Land Use Attorney**

Matthew J. Carpenter  
Parker Poe Adams & Bernstein LLP  
301 Fayetteville Street, Suite 1400  
Raleigh, NC 27601



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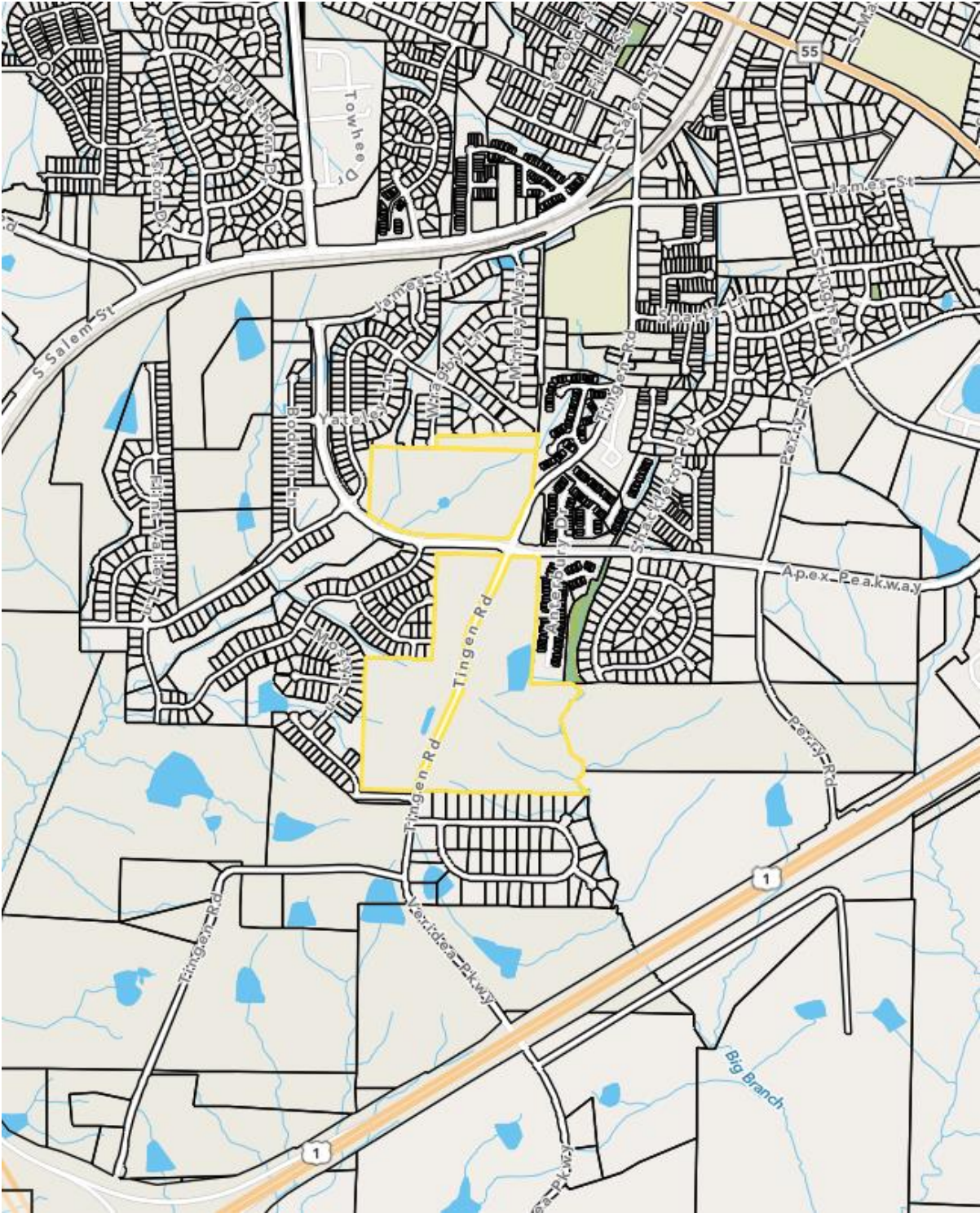
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VICINITY MAP



## PROJECT DATA

**Name of Project:** Seymour Mixed-Use PUD

**Property Owner:** See attached **Exhibit B**

**Developer:** Barnett Properties, LLC  
7610 Falls of Neuse Road  
Suite 150  
Raleigh, NC 27615

**Prepared by:** Parker Poe Adams & Bernstein LLP  
301 Fayetteville Street, Suite 1400  
Raleigh, NC 27601

Peak Engineering & Design  
1125 Apex Peakway  
Apex, NC 27502

**Current Zoning:** Residential Agricultural (PINs 0741142574 & 0741152543); High Density Single Family (PIN 0741155913)

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

**Current 2045 LUM Designations:** PIN 0741155913: Medium Density Residential  
PIN 0741152543: Medium Density Residential & Medium-High Density Residential/High Density Residential  
PIN 0741142574 (west of Tingen Road): Medium-High Density Residential  
PIN 0741142574 (east of Tingen Road): Medium-High Density Residential & Office Employment

**Proposed 2045 LUM Designations:** PIN 0741155913: Medium Density Residential  
PIN 0741152543: Medium Density Residential & Medium-High Density Residential  
PIN 0741142574 (west of Tingen Road): Medium-High Density Residential  
PIN 0741142574 (east of Tingen Road): Medium-High Density Residential, High Density Residential, and Office Employment/Commercial Services

For more information regarding LUM designations, see Table on pg. 26.

**Site Address:** 0 Tingen Road

**Property Identification Number:** 0741142574; 0741152543; 0741155913 (the "Property")

**Total Acreage:** 81.9 acres

**Area Designated as Mixed Use on LUM:** None

**Area Proposed as Non-Residential:** Approximately 3.37 acres



## PURPOSE STATEMENT

This document and the accompanying exhibits submitted herewith (collectively, the “PUD”) are provided pursuant to the Town of Apex Unified Development Ordinance (“UDO”) Planned Unit Development provisions. This PUD addresses the development of an approximately 81.9-acre infill site along Tingen Road and Apex Peakway. The Property is undeveloped and within the Town’s Extraterritorial Jurisdiction. Seymour Mixed-Use PUD will be a mixed-use community with four districts - the Single-Family District, the Mixed Residential District, the Multi-Family District, and the Non-Residential District as shown on the attached Concept Plan (the “Concept Plan”).

Seymour Mixed-Use PUD will feature a mix of single-family homes, rear loaded townhouses, front loaded townhouses, multi-family, and neighborhood office and commercial uses with walking paths and open space. The mix of housing types will serve residents with varying budgets, backgrounds, and family needs. The community will be conveniently located to existing goods and services and have access to highways and existing infrastructure. The PUD is intended to create flexibility in design and land uses to deliver a high-quality mixed-use development that fits the context of existing development in the area.

As discussed in greater detail on pg. 25 of this PUD, The Town of Apex 2045 Land Use Map (the “LUM”) provides a variety of LUM designations which generally recommend medium to high density residential uses (including single-family, townhouses, and apartments) across the property, and office/non-residential uses on a portion of the property. The four districts set forth in this PUD - and the related development standards, housing types, and densities applicable to each district - are designed to achieve the mix of uses and housing types envisioned by the LUM.

### CONSISTENCY WITH PLANNED UNIT DEVELOPMENT STANDARDS

**(i) *The uses proposed to be developed in the PD plan for PUD-CZ are those uses permitted in Sec. 4.2.2 Use Table***

**RESPONSE:** The uses permitted within this PUD are permitted within this designation in the UDO Section 4.2.2 Use Table.

**(ii) *The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed-use areas as specified on the 2045 Land Use Map. The location of the uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.***

**RESPONSE:** The Seymour Mixed-Use PUD is a mixed-use community with a mix of housing types and non-residential uses outlined in this PUD. None of the parcels in the PUD have three stripes on the LUM. Accordingly, this PUD is not required to designate 30% of the property as non-residential.

- (iii) *The dimensional standards in Sec. 5.1.3 Table of Intensity and Dimensional Standards, Planned Development Districts may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.***

**RESPONSE:** This PUD specifies intensity and dimensional standards for the project. The proposed PUD is consistent with the UDO Planned Unit Development standards – to provide site specific, high-quality neighborhoods that preserve natural features and exhibit compatibility with, and connectivity to, surrounding land uses. Except as specifically stated in this PUD, the development will comply with all requirements of the UDO and will comply with all applicable requirements of the North Carolina Building Code and the North Carolina Fire Code.

- (iv) *The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Advance Apex: The 2045 Transportation Plan and the Town of Apex Standard Specifications and Standard Details, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Advance Apex: The 2045 Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.***

**RESPONSE:** The development has been designed to prioritize pedestrians and will include the construction of over 2,000 feet of new sidewalk on the east side Tingen Road and a 10-foot side path on the west side of Tingen Road. As discussed on pg. 24, the project proposes an amendment to the 2045 Transportation Plan to construct Tingen Road as a median divided road with a 10-foot side path and roundabout; a reduced street section that prioritizes pedestrian safety and helps reduce vehicle speeds in residential areas.

- (v) *The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.***

**RESPONSE:** The proposed street layout has been designed to enhance pedestrian and vehicular connectivity while protecting sensitive environmental features and being mindful of existing residential development. The development will facilitate the vision of the Transportation Plan by improving Tingen Road into a multi-modal street. The development will also complete several cross-access connections by connecting to existing stub streets within adjacent subdivisions.

- (vi) *The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.***

**RESPONSE:** The proposed development is compatible with the character of the existing and planned uses in the surrounding area. This area of the Town is at the intersection between growing sections of downtown Apex and increasing development activity in southern Wake County.

Adjacent properties are largely residential subdivisions. Nearby residential developments include James Street Station, Salem Village, Iron Gate, and Bradley Terrace. James Street Station, Salem Village, and Iron Gate are all single-family subdivisions and Bradley Terrace is a townhome community. To the south of the property, south of US-1, is the Veridea project which will include 8,000 residential units, 12 million square feet of office/industrial, 3.5 million square feet of retail, and unrestricted hospitality, healthcare, and community uses. Seymour Mixed-Use PUD will provide a mix of housing types and neighborhood serving commercial uses that offer a logical transition between existing neighborhoods and future development to the east and south.

***(vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.***

**RESPONSE:** The development will feature high quality and thoughtful design. Architectural standards, design controls, and conceptual elevations are included in this PUD.

#### **CONSISTENCY WITH CONDITIONAL ZONING STANDARDS**

Seymour Mixed-Use PUD is consistent with the conditional zoning standards set forth in UDO Section 2.3.3.F.1-10. Please see the accompanying PUD-CZ Application for the statements of consistency addressing each standard.

## PERMITTED USES

The Property may be used for the uses listed below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.

The following uses shall be permitted:

	<i>Single-Family District:</i>	<i>Mixed Residential District***:</i>	<i>Multi-Family District:</i>	<i>Non-Residential District*****:</i>
<b>Residential</b>				
Single-family	P	P		
Townhouse		P	P	
Duplex		P	P	
Small-scale multi-family*			p**	
Multi-family or apartment			p**	
Condominium			P	
Accessory apartment	P	P	P	
<b>Recreational Uses</b>				
Park, active	P	P	P	
Greenway	P	P	P	
Park, passive	P	P	P	
Recreation facility, private	P	P	P	
Utility, minor	P	P	P	
<b>Non-Residential Uses</b>				
Restaurant, general				P
Restaurant, drive-through				p****
Medical or dental office or clinic				P
Medical or dental laboratory				P
Office, business or professional				P
Publishing office				P
Artisan Studio				P
Barber and beauty shop				P
Book store				P
Convenience store				P
Dry cleaners and laundry service				P
Financial institution				P

	<i>Single-Family District:</i>	<i>Mixed Residential District***:</i>	<i>Multi-Family District:</i>	<i>Non-Residential District*****:</i>
Floral shop				P
Grocery, general				P
Grocery, specialty				P
Health/fitness center or spa				P
Newsstand or gift shop				P
Personal service				P
Pharmacy				P
Printing and copying service				P
Real estate sales				P
Retail sales, general				P
Studio for art				P
Tailor shop				P
Upholstery shop				P
Pet services				P
Day care facility				P
Drop-in or short-term day care				P
Veterinary clinic or hospital				P
Utility, minor				P

\*Small scale multi-family shall be defined as: a building constructed to accommodate between two and ten dwelling units that are vertically or horizontally integrated. Multiple small-scale multi-family buildings may be located on one Lot.

\*\*Multi-family or apartment is only permitted south of the East-West Major Collector as shown on the Concept Plan. Small scale multi-family is permitted throughout the Multi-Family District.

\*\*\*The portion of the Mixed Residential District south of Apex Peakway and west of Tingen Road shall have a minimum of two residential uses.

\*\*\*\*Standalone restaurant drive-throughs shall not be permitted. However, restaurant drive-throughs as part of a multi-tenant building are permitted.

\*\*\*\*\* The Non-Residential District shall have a minimum of two uses.

## AFFORDABLE HOUSING

The following affordable housing commitment shall apply to apartments in the Multi-Family District (but shall not apply to Small-Scale Multifamily units):

A minimum of five percent (5%) of the total residential apartment units (as shown on the first site plan submittal for apartments) shall be designated as restricted low-income affordable housing rental units (the “Affordable Units”) for a minimum affordability period of ten (10) years starting from the date of issuance of the first residential Certificate of Occupancy (the “Affordable Restriction Period”).

- The Affordable Units shall be occupied by low-income households earning no more than eighty percent (80%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income, adjusted for family size, as most recently published by the U.S. Department of Housing and Urban Development (HUD)(the “AMI”).
- The Affordable Units shall be rented to low-income households during the Affordable Restriction Period at maximum rent limits per bedroom size, no greater than eighty percent (80%) AMI and stipulated by the most recently published North Carolina Housing Finance Agency Low-Income Housing Tax Credit Multifamily Tax Subsidy Program income and rent limits for the Wake County Metropolitan Area.
- If the Affordable Units calculation results in a fraction between 0.50 and 0.99, the number of Affordable Units shall be rounded up to the nearest whole number.
- Prior to issuance of the first residential Certificate of Occupancy for the Apartment District, a restrictive covenant between the Town and property owner shall be executed and recorded in the Wake County Registry to memorialize the affordable housing terms and conditions.
- During the Affordable Restriction Period, the property owner shall be responsible for performing all property management and administration duties to ensure compliance with this affordable housing condition and shall submit annual compliance reports to the Town verifying compliance.
- Following expiration of the Affordable Restriction Period, this affordable housing condition shall expire, and the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the Affordable Units may be freely marketed and leased at market-rate rents.



## DESIGN CONTROLS

Acres for each district are approximate and may increase or decrease by up to 20% based on updated surveys at Master Subdivision Plan.

Development shall comply with the following minimum design controls:

- All dwelling units shall be pre-configured with conduit for a solar energy system.
- For multi-family (but not Small-Scale Multi-Family), the project shall install at least one (1) pet waste station per multi-family building. For single-family, the project shall install at least one (1) pet waste station per 25 homes.

<b>ALL DISTRICTS</b>	
Maximum Residential Units	800

<b>SINGLE-FAMILY DISTRICT</b>	
Approximate Acreage	14.88 acres
Maximum Density	6 units/acre
Maximum Built-Up Area	60%
<b>Single-Family</b>	
Minimum Lot Size	5,000 square feet
Minimum Lot Width	50 ft.
Minimum Setbacks	
Front	20 ft.
Side	5 ft.
Rear	10 ft.
Corner Side	10 ft.
Maximum Building Height	3 stories; 45 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.

<b>MIXED RESIDENTIAL DISTRICT</b>		
Approximate Acreage	33.28 acres	
Maximum Residential Density	8 units/acre	
Maximum Built-Up Area	65%	
	<b>Townhouses*</b>	<b>Single-Family</b>
Minimum Lot Size	None	5,000 square feet
Minimum Lot Width	20 ft.	50 ft.
Minimum Setbacks		

Front	10 ft.: Rear loaded and parking lot style 20 ft.: Front loaded	20 ft.
Side	0 ft. (3 ft. for end units)	5 ft.
Rear	10 ft.	10 ft.
Corner Side	10 ft.	10 ft.
Minimum Building Separation	10 ft.	
Maximum Building Height	3 stories; 45 ft.	3 stories; 45 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.

\*Townhouses shall not be located within 65 feet of existing single-family lots in Salem Village that share a property line with the property and front the existing stub streets of Drumlin Drive, Tice Hurst Lane, and Hawkes Drive.

<b>MULTI-FAMILY DISTRICT</b>			
Approximate Acreage	30.39 acres		
Maximum Built-Upon Area	70%		
	<b>Multi-family or apartment</b>	<b>Small Scale Multi-family</b>	<b>Townhouses</b>
Maximum Density	20 units/acre	12 units/acre	12 units/acre
Minimum Lot Size	N/A	N/A	None
Minimum Lot Width	N/A	20 FT.	20 ft.
Minimum Setbacks			
Front	10 ft.	10 ft.	10 ft.: Rear loaded and parking lot style 20 ft.: Front loaded
Side	20 ft.	0 ft. (3 ft. for end units)	0 ft. (3 ft. for end units)
Rear	20 ft.	10 ft.	10 ft.
Corner Side	20 ft.	10 ft.	10 ft.
Minimum from Buffer/RCA	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.	Buildings: 10 ft. Parking: 5 ft.
Maximum Building Height	4 stories; 60 ft.*	3 stories; 45 ft.	3 stories; 45 ft.
Minimum Building Separation	N/A	10 ft.	10 ft.

\*Multi-family or apartment building facades that face Tingen Road, the Iron Gate neighborhood, or the Bradley Terrace neighborhood, shall not exceed a maximum height of three stories and 50 feet.

In the portion of the Multi-family District south of the Major Collector, parking lots shall not be permitted between apartment buildings and Tingen Road. All other development shall comply with minimum parking standards set forth in UDO Section 8.3.

<b>NON-RESIDENTIAL DISTRICT DESIGN CONTROLS</b>	
Approximate Acreage	3.37 acres
Maximum Square Footage	50,000 sf
Maximum Built-Up Area	70%
Minimum Setbacks	
Front	20 ft.
Side	20 ft.
Rear	20 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.
Maximum Building Height	48 ft.

One of the required Community Amenities for the Non-Residential District shall be public art. The public art shall be reviewed and approved by the Planning Director as set forth in UDO Section 8.4.5 and the location shall be determined by developer during Site Plan review for the Non-Residential District.

<b>RESIDENTIAL PRIVATE AMENITY DESIGN CONTROLS</b>	
Maximum Square Footage	50,000 sf
Maximum Built-Up Area	70%
Minimum Setbacks	
Front	20 ft.
Side	20 ft.
Rear	20 ft.
Minimum Buffer/RCA Setbacks	Buildings: 10 ft. Parking: 5 ft.
Maximum Building Height	48 ft.

### **LANDSCAPING, BUFFERING, AND SCREENING**

Perimeter buffers shall be built and planted to the following lot width and planting standards:

<b>Location:</b>	<b>Buffer Size &amp; Type:</b>
Adjacent to existing single-family homes, Townhouses, or HOA Common Area (unless set forth more specifically below)	15 ft. Type B
Adjacent to Salem Village common area (PIN 0741034400) parallel with Widger Lane	15 ft. Type A
Adjacent to Salem Village common area (PIN 0741153031)	10 ft. Type B

Location:	Buffer Size & Type:
Along the shared property line with Iron Gate subdivision	30 ft. Type A
Along the north side of Apex Peakway and the south side of Apex Peakway east of Tingen Road	30 ft. Type B
Along the east side of Tingen Road north of the Non-Residential District	30 ft. Type B
Along the west side of Tingen Road and the east side of Tingen Road from the south side of the Major Collector Street to the southernmost boundary of the Multi-Family District	30 ft. Type B but may be reduced to 15 ft. Type E as shown below*

\*Where rear loaded townhouse units front Tingen Road, developer may elect, at the time of Master Subdivision/Site Plan review, to reduce the Tingen Road Thoroughfare buffer to a 15 ft. Type E buffer. Buffer reduction shall be in accordance with UDO Section 8.1.2.C.7.

Along Tingen Road on the western side from Driveway #3 to the roundabout, utility easements shall be counted towards required RCA and buffer standards.

At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.

Landscaping shall include at least four (4) native hardwood tree species throughout the Development.

The project shall plant drought resistant warm season grasses or clover lawns throughout the development to minimize irrigation and chemical use.

HOA rules may not prohibit the installation of clover lawns within the single-family and townhome portions of the development.

## ARCHITECTURAL STANDARDS

Seymour Mixed-Use PUD offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Elevations included are conceptual examples. Final elevations must comply with these architectural standards but may vary from the conceptual elevations. Further details may be provided at the time of Residential Master Subdivision Plan submittal.

## RESIDENTIAL DESIGN GUIDELINES

### *Single-Family:*

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Garage doors shall have windows, decorative details or carriage-style adornments on them.
3. The garage shall not protrude more than 1 foot out from the front façade and front porch. However, the garage may protrude beyond 1 foot out from the front façade and front porch if the garage is accessed from the side via a J-driveway.
4. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative air vents on gable
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
5. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
6. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
7. 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.
8. All single-family garages will be wired with a 220/240-volt electric outlet.

***Townhouses (front and rear loaded) and Small-Scale Multi-Family:***

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roofline for townhouses and small-scale multi-family cannot be a single mass; it must be broken up horizontally and vertically between every other unit.
3. Front facing garage doors must have windows, decorative details or carriage-style adornments on them.
4. The project shall include a minimum of two (2) or more garage door styles for the front-loaded townhouses.
5. Entrances shall have a covered porch/stoop area leading to the front door.
6. The garage cannot protrude more than 1 foot out from the front façade or front porch.
7. The visible side of a townhome or small-scale multi-family building on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window



- Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative air vents on gable
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
8. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
  9. The rear and side elevations of the units facing public right-of-way shall have trim around the windows.
  10. Side and rear elevations shall include architectural features to break up the flat walls both vertically and horizontally.
  11. Townhouse buildings shall have no more than one unadorned side-gabled roof in a row within a single building.

***Multi-Family/Apartments/Condominiums:***

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements, and trim are permitted.
2. Rear and side elevations of units that have right-of-way frontage shall have trim around the windows.
3. A minimum of four of the following decorative features shall be used on each building:
  - a. Decorative shake
  - b. Board and batten
  - c. Decorative porch railing/posts
  - d. Shutters
  - e. Decorative/functional air vents on roof or foundation
  - f. Recessed windows
  - g. Decorative windows
  - h. Decorative brick/stone
  - i. Decorative gables
  - j. Decorative cornices
  - k. Tin/metal roof
4. Garage doors must have windows, decorative details, or carriage-style adornments on them.
5. Siding materials shall be varied in type and/or color on at least 30% of each façade on each building.
6. Windows must vary in size and/or type.
7. Windows that are not recessed must be trimmed.
8. To reduce the Urban Heat Island Effect and conserve energy, for multi-family and non-residential buildings, all flat roofs shall be light or white colored or utilize a cool roof material.

**NON-RESIDENTIAL DESIGN GUIDELINES**

1. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials and ornamental details shall be incorporated to add visual interest.
2. Large expanses of blank walls greater than 25 feet in length or height shall be broken up with windows or other architectural features to reduce visual impacts.
3. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material.
4. Non-residential exteriors shall incorporate variation in materials. The front façade and other facades located along a public right-of-way may include:
  - a. Brick and/or stone masonry
  - b. Decorative concrete block (integral color or textured)
  - c. Stone accents
  - d. Aluminum storefronts with anodized or pre-finished colors
  - e. EIFS cornices, and parapet trim
  - f. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
  - g. Precast concrete
  - h. Soffit and fascia materials to be considered include EIFS with crown trim elements
  - i. Cementitious siding
5. Rear elevations of non-residential buildings facing opaque landscape buffers or not visible from vehicular use areas or public rights-of-way may incorporate decorative concrete masonry, metal coping, or EIFS trim.
6. To reduce the Urban Heat Island Effect and conserve energy, for multi-family and non-residential buildings, all flat roofs shall be light or white colored or utilize a cool roof material.

**PARKING AND LOADING**

Multi-Family and Small-Scale Multi-family buildings shall provide the following minimum parking spaces per dwelling unit based on the number of bedrooms:

<b>Bedrooms per unit</b>	<b>Minimum ratio</b>
1 or 2	1.3 spaces per dwelling unit
3	1.8 spaces per dwelling unit

In the portion of the Multi-family District south of the Major Collector, parking lots shall not be permitted between apartment buildings and Tingen Road. All other development shall comply with minimum parking standards set forth in UDO Section 8.3.

## **SIGNAGE**

Signage shall comply with UDO Section 8.7.

## **CONSTRUCTION TRAFFIC**

To the greatest extent practicable, all heavy-duty construction traffic shall enter and exit the site via Tingen Road and Apex Peakway. “No Construction Traffic” signage shall be posted at the intersection of Drumlin Drive and the Property line and Tice Hurst Lane and the Property line.

## **NATURAL RESOURCES AND ENVIRONMENTAL DATA**

### **RIVER BASINS AND WATERSHED PROTECTION OVERLAY DISTRICTS**

The property is in the Secondary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Overlay Map 2019. This PUD will comply with all built upon area, vegetated conveyances, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.8.

### **Resource Conservation Areas (RCA)**

The Property is divided by Apex Peakway with approximately 24.03 acres north of Apex Peakway and 57.92 acres south of Apex Peakway. UDO Section 8.1.2 requires minimum Resource Conservation Area (“RCA”) of 10% for property north of Apex Peakway and 20% for property south of Apex Peakway. To provide a uniform standard and greater RCA than required by the UDO, the development shall designate a minimum of 20% of the Property as RCA.

If the development is mass graded, it shall not be required to provide the additional 5% RCA required for mass grading under UDO Section 7.2.5.B.8. The RCA requirement shall apply to the entire property. For example, a Site Plan for a portion of the property may provide less than 20% on-site RCA provided a minimum of 20% of the total property acreage is RCA. Otherwise, designated RCAs will be consistent with UDO Section 8.1.2(B). Preserved streams, wetlands, and associated riparian buffers provide the primary RCAs throughout the Property. Additional RCAs may include portions of the stormwater control measures permitted by the UDO, side paths, and perimeter buffers.

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.

### **Floodplain**

The project site does not sit within a designated current or future 100-year floodplain as shown on the Town of Apex Watershed & FEMA Map dated April 2015. FIRM Panel 3720072200J dated May 2, 2006 does not include a floodplain within the property boundary.

### **Historic Structures**

There are no known historic structures present on the Property.

### **Environmental Commitments Summary**

As shown elsewhere in the PUD, the following environmental conditions shall apply to the Development:

- All dwelling units shall be pre-configured with conduit for a solar energy system.
- The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- For multi-family, the project shall install at least one (1) pet waste station per multi-family building. For single-family, the project shall install at least one (1) pet waste station per 25 homes.
- The project shall plant drought resistant warm season grasses or clover lawns throughout the development to minimize irrigation and chemical use.
- HOA rules may not prohibit the installation of clover lawns within the single-family and townhome portions of the development.
- 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.
- Landscaping shall include at least four (4) native hardwood tree species throughout the Development.
- 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.
- At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.
- To reduce the Urban Heat Island Effect and conserve energy, for multi-family and non-residential buildings, all flat roofs shall be light or white colored or utilize a cool roof material.
- All single-family garages will be wired with a 220/240-volt electric outlet.
- Apartments (excluding Small Scale Multi-family) south of the Major Collector street shall be designed to meet the requirements for one of the following green building certifications: LEED, Energy Star, BREEAM, Green Globes, NGBS Green, NAHB, or GreenGuard. A third-

party consultant shall be hired to evaluate the project and certify to the Town of Apex that the project meets the standards for the certification. Prior to issuance of a certificate of occupancy for a building, the developer shall demonstrate to the Town that the building has been certified as a green building by providing a copy of the green building certification.

**STORMWATER MANAGEMENT**

Stormwater control devices shall be designed and constructed to exceed UDO standards so that post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1-year, 10-year, and 25-year storm events. Otherwise, the Development shall meet all stormwater management requirements for quality and quantity treatment in accordance with Section 6.1 of the UDO.

Acceptable stormwater structures shall include detention ponds, constructed wetlands, bio-retention areas, or other approved devices consistent with the NC DEQ Stormwater Design Manual and the Town of Apex UDO.

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.

The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.

**PARKS AND RECREATION**

On September 27, 2023, the Parks, Recreation, and Cultural Resources Advisory Commission recommended a fee-in-lieu of dedication with credit for construction of greenway for a maximum combination of 740 single-family detached, single-family attached and multi-family residential units. The current 2023 rate of \$4,016.66 per single-family unit, \$2,705.23 per single-family attached unit, and \$2,381.87 per multi-family or apartment unit which shall be deposited with the Town at final plat. Rates are adjusted each year and the rate shall be updated at final plat when the fee is due. The greenway shall be completed and accepted prior to 50% of the units West of Tingen Road receiving a building permit.

Single-family Units:	\$4,016.66/Unit x _____ Units = \$ _____
Single-family attached Units:	\$2,705.23/Unit x _____ Units = \$ _____
Multi-family and Apartment Units	\$2,381.87/Unit x _____ Units = \$ _____
<b>Total residential fee in lieu:</b>	<b>\$ _____</b>

Acres of Land Dedication \_\_\_\_\_ acres

Public Greenway Trail Construction                      YES

The final unit count and total fee-in-lieu will be calculated at Master Subdivision Plan and Construction Document review.

In addition, the project shall convey to the town a greenway easement (the “Greenway Easement”) over the property to facilitate a future pedestrian connection to the planned Big Branch Greenway corridor over PIN 0741243405. The exact location of the Greenway Easement shall be determined by the Developer and Town during Master Subdivision Plan review but shall generally be located along the southern property line of PIN 0741240185 west of the existing stream.

## **PUBLIC FACILITIES**

The proposed PUD shall meet all Public Facilities requirements as set forth in UDO Section 2.3.4(F)(1)(f) and be designed to comply with the Town’s Sewer and Water Master Plan and Standards and Specifications. Road and utility infrastructure shall be as follows:

### **TRANSPORTATION IMPROVEMENTS**

The following conditions regarding transportation improvements apply and shall be phased consistent with the Traffic Impact Analysis that has been performed for this rezoning, which is on file with the Town of Apex. All proposed driveway access and improvements on state-maintained roadways are subject to both Apex and NCDOT review and approval. Except as set forth herein, all proposed roadway infrastructure and right-of-way dedications will be consistent with the Town of Apex Comprehensive Transportation Plan, as amended with this rezoning.

1.     **Tingen Road**. Developer shall improve Tingen Road for the length of the Property’s Tingen Road frontage to a 3-Lane Thoroughfare street section as shown in the attached **Exhibit C** (the “Tingen Road Section”), including a 10-foot side path on the west side of Tingen Road. The Director of Transportation and Infrastructure Development may administratively approve modifications to dimensions and design elements of the Tingen Road Section.
2.     **East/West Major Collector**. Developer shall construct a Major Collector Street with marked and signed bike lanes from Tingen Road eastward to the boundary of the riparian buffer. Developer shall pay a fee in lieu based on estimated construction costs to extend the street from the riparian buffer to the property line.
3.     **Roundabout**. Developer shall construct a single-lane roundabout at the intersection of the Major Collector Street and Tingen Road.
4.     **Apex Peakway**. Developer shall widen Apex Peakway through the intersection with Tingen Road westward to provide the ultimate 4-lane median divided section along the



project frontage, with lane transitions eastbound and westbound as shown in the attached **Exhibit D** (the “Peakway Section”), subject to permitting requirements and right of way/easement acquisition set forth below. The Director of Transportation and Infrastructure Development may administratively approve modifications to dimensions and design elements of the Peakway Section. In addition, Developer shall construct the following improvements along Apex Peakway.

- a. **Traffic Signal.** Install a metal strain pole traffic signal at the intersection of Apex Peakway and Tingen Road when permitted by NCDOT. A warrant study shall be performed prior to platting 300 single-family or townhouse residential units or site plan final plat for up to 300 apartment dwelling units, at the direction of Apex staff. If NCDOT does not permit the traffic signal at that time, Developer shall pay a fee-in-lieu for the estimated cost of design and installation of the metal strain pole traffic signal and dedicate all necessary easements and rights of way based on a conceptual engineering layout to be provided by Developer. Minimum turn lane lengths shall be constructed/striped as follows:
    - i. Northbound left turn lane with 150 feet of storage, plus deceleration and taper
    - ii. Northbound right turn lane with 100 feet of storage, plus deceleration and taper
    - iii. Southbound left turn lane with 175 feet of storage, plus deceleration and taper
    - iv. Eastbound left turn lane with 175 feet of storage, plus deceleration and taper
    - v. Westbound left turn lane with 150 feet of storage, plus deceleration and taper
- 5.
- a. **Westbound Approach.** Widen the westbound approach to Tingen Road to provide a left turn lane and taper/transition to set the curb line, as shown in the attached Peakway Section (the “Taper”), within the existing Apex Peakway right of way adjacent to PINs 0741159109 and 0741250245 (the “Cemetery Property”). Provided, however, that if plans for the Taper (a) require grading that disturbs existing graves on the Cemetery Property or in the right-of-way, or (b) require relocation of one or more existing graves on the Cemetery Property or in the right-of-way, Developer may narrow the road width for the Taper (the “Revised Taper”) to avoid any impact on existing graves. In no event shall Developer be required to relocate existing graves. If the Revised Taper is required, Developer may reduce the width of the Peakway Section west of the intersection of Apex Peakway and Tingen Road to provide an appropriate transition from the Revised Taper.
  - b. **Permitting.** There are two existing streams on PIN 0741152543 (the “Peakway Property”) that cross Apex Peakway through two existing culverts located in the Apex Peakway right of way (the “Culverts”). Construction of the Peakway Section will require extending the Culverts which will disturb the streams (the “Stream

Disturbance”) and require one or more permits from the United States Army Corps of Engineers (the “USACE”), or other relevant governmental agency (together, the “Permitting Body”). During plan review for the Peakway Property, but no later than Construction Drawing review, Developer shall file an application with the Permitting Body to permit the Stream Disturbance and construction of the Peakway Section the “Permit Application”) and the Town shall serve as applicant. Developer shall prepare, and pay the costs of preparing, the Permit Application, including all required design work (the “Design Costs”) and permitting/mitigation costs. The Permit Application shall be a separate application from other environmental permit applications that may be required for other portions of the project (the “Additional Permit Applications”). If the Permitting Body denies the Permit Application, or requires the Permit Application and the Additional Permit Applications to be submitted and reviewed as one application (“Individual Permit”) and the sole justification for the requirement of an individual Permit is the construction of the Peakway Section, then Developer shall construct a reduced Apex Peakway section that terminates at the western boundary of Site Driveway 1 and pay a fee in lieu for all costs to construct the portion of the Peakway Section from Site Driveway 1 to the eastern boundary of Padstone Drive. The fee in lieu estimate shall include all costs, including design, environmental permitting/mitigation and construction. Developer shall dedicate all right of way, permanent and temporary easements necessary to accommodate the future 4-lane divided roadway section.

- c. ***Right of Way/Easement Acquisition.*** Construction of the Peakway Section may require acquisition of rights of way and easements over PIN 0741055626 owned by the Salem Village Homeowners’ Association (the “HOA Property”). Developer shall make good faith efforts to acquire the rights of way and easements necessary to construct the Peakway Section as shown in the attached Exhibit D. If the Developer is unable to acquire such rights of way and easements through private negotiation and the Town is unwilling or unable to assist in the acquisition of said easements and rights of way, Developer shall redesign the Peakway Section to not require acquisition of rights of way or easements over the HOA Property.
- d. ***Side Path.*** Construct a 10-foot side path along the property’s Apex Peakway frontage along the north side of Apex Peakway (the “Peakway Side Path”) that terminates at Padstone Drive. The Peakway Side Path shall be included in the Permit Application. The Peakway Side Path may require acquisition of one or more easements (the “HOA Easements”) over the HOA Property. If the Permitting Body does not approve the Peakway Side Path, the Peakway Side Path shall terminate at the eastern boundary of Site Driveway 1 and Developer shall pay a fee in lieu for the costs of constructing the portion of the Peakway Side Path from the eastern boundary of Site Driveway 1 to Padstone Drive. If Developer is unable to acquire the HOA Easements for market value through reasonable means, the Peakway Side Path shall be relocated closer to the back of curb of Apex Peakway

in a location that does not require the HOA Easements. If Developer is unable to acquire the HOA Easements and is unable to design the Peakway Side Path in a manner that does not require acquisition of the HOA Easements, the Peakway Side Path shall terminate at the western boundary of the property's Apex Peakway frontage.

6. Construct Site Driveway 1 at Apex Peakway/Salem Village Drive including:
  - a. an eastbound left turn lane with 50 feet of storage, plus deceleration and taper
  - b. a continuous westbound right turn lane
7. Construct Site Driveway 2 at Tingen Road (north of Apex Peakway) as right-in/right-out only.
8. Construct Site Driveway 3 at Tingen Road (south of Apex Peakway) as right-in/right-out only on both driveway approaches.
9. Construct Site Driveway 4/Major Collector Street at Tingen Road (south of Site Driveway 3) as a single-lane roundabout.
10. Construct Site Driveway 5 at Tingen Road (south of Site Driveway 4/Major Collector Street) as right-in/right-out only on both driveway approaches.
11. Developer shall extend the Side Path along the western boundary of Tingen Road south of PIN 0741142574 to stub to the northern boundary of the Grace Christian School Property (PIN 0741019204)(the "Grace Connection"). The Grace Connection may require acquisition of off-site rights of way and/or easements over off-site property including, but not limited to, PIN 0741034400, PIN 0741026971, PIN 0741023701, and PIN 0741022140 (collectively, the "Off-Site Rights-of-way"). Developer shall work to acquire the Off-Site Rights-of-way prior to Master Subdivision Plan approval. If Developer is unable to acquire the Off-Site Rights-of-way for market value, in Developer's discretion, Developer shall pay a fee-in-lieu in the amount of the estimated cost of the Grace Connection.
12. Developer shall pay a fee in lieu to the Town for Developer's share of the estimated costs to design and install a metal strain pole traffic signal at the intersection of Apex Peakway and Perry Road (the "Perry Road Signal"). Developer's share shall be 18% of the total estimated costs to design and install the Perry Road Signal.
13. The developer shall install an indirect street connection from Drumlin Drive to Tingen Road requiring drivers to make one or more turns between the Drumlin Drive stub street and Tingen Road. Developer shall install an indirect street connection from Tice Hurst Lane to Tingen Road requiring drivers to make one or more turns between the Tice Hurst Lane stub street and Tingen Road.

The project shall construct two public bus stops along Tingen Road with exact locations to be determined at the time of Site Plan or Master Subdivision Plan and according to the specifications outlined below. The bus stops shall meet the approved Town of Apex bus stop standard construction specifications ("Town Standards") and be located in the public right of way, subject to approval of Town and NCDOT staff.

- If no bus service is in operation along the Property's Tingen Road frontage at the time of Master Subdivision Construction Drawing approval, developer shall only be required to

construct the concrete pad to Town standards. No other amenities (bench, trash receptacle, bike racks) shall be required.

- If bus service is in operation along the Property's Tingen Road frontage at the time of Master Subdivision Construction Drawing approval, developer shall construct the complete bus stop to Town Standards including a bench, trash receptacle, and two bike racks.
- The bus stops shall comply with all ADA and PROWAG accessibility guidelines.

### **CROSS ACCESS/STREAM BUFFERS**

There are two existing street stubs, Wragby Lane and Padstone Drive (collectively, the "Street Stubs" and each, a "Street Stub"), along the northern property line of the portion of the Property north of Apex Peakway (the "Northern Section"). There is an existing stream running diagonally across the Northern Section as shown on the Concept Plan (the "Stream"). The project intends to construct internal streets that will connect to the Street Stubs, cross the Stream, and connect to Apex Peakway and/or Tingen Road. These connections will require approval of one or more stream crossings from the Army Corps of Engineers and/or other applicable government agencies. If the Army Corps or other government agency does not permit the stream crossing necessary to extend a Street Stub, the Street Stub may be extended south onto the Property to serve the project and terminate as a cul-de-sac north of the Stream (the "New Cul-de-sac"), in which case the New Cul-de-sac shall not be required to meet UDO maximum cul-de-sac length regulations and shall not be in violation of any other UDO provision that requires cross-access. If a street connection is not permitted across the stream, a pedestrian connection shall be constructed to link the two sides of the subdivision, subject to approval of the Town and any other applicable governing body.

Developer shall construct an internal street and 5-foot sidewalk that terminates at or before the existing private stub street in Bradley Terrace extending west from Anterbury Drive over PIN 0741241622 in a manner that allows the Bradley Terrace Homeowners' Association to complete the cross-access connection if connectivity is desired in the future.

### **PEDESTRIAN AND BICYCLE IMPROVEMENTS**

Per the Town of Apex Bicycle and Pedestrian System Plan Map and UDO requirements, the developer shall construct sidewalks, side paths, bike lanes, and marked bike buffers as follows:

- Sidewalks shall be provided along both sides of all streets other than Tingen Road which shall have a 10-foot Side Path on the west side in lieu of a sidewalk. In addition to on street sidewalks, The Mixed Residential District west of Tingen Road and south of Apex Peakway shall provide a minimum of two pedestrian connections to the Tingen Road Side Path.
- Tingen Road shall include bike lanes and bike buffers consistent with the Tingen Road streetscape recommended by the Transportation Plan, as amended.

- The project shall include marked and signed bike lanes on the Major Collector Street and signalized pedestrian crosswalks at the intersection of Apex Peakway and Tingen Road.
- Developer shall install a high-visibility mid-block crosswalk on Tingen Road between Baberton Drive and the project driveway on Tingen Road north of Apex Peakway. The final location of the crosswalk shall be determined during Master Subdivision Plan review and is subject to review and approval of NCDOT and Town of Apex staff.

## **WATER AND SANITARY SEWER**

All lots within the Development will be served by Town of Apex water and sanitary sewer. The utility design will be finalized at the time of Master Subdivision Plan or Site Plan approval and be based on available facilities adjacent to the site at that time. The design will meet the current Town of Apex Sewer and Water Master Plan and Standards and Specifications. A conceptual utility plan is included in the PUD Concept Plan for reference.

## **OTHER UTILITIES**

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

## **PHASING**

The Development will be completed in phases. Final locations of phases will be determined at the time of Master Subdivision Review and Approval.

## **CONSISTENCY WITH LAND USE PLAN**

The proposed Development is consistent with Advance Apex, the 2045 Plan and the 2045 Land Use Map ("LUM"). The LUM recommends a mix of housing types and densities across the Property. As shown in the chart below, the housing types and densities proposed by this PUD are generally consistent with the requisite LUM designations, with one change. The LUM designates the eastern portion of the Property north of Apex Peakway as Medium-High Density Residential/High Density Residential which recommends single-family homes, Townhouses, and apartments at an overall density between 14 and 20 units/acre. This PUD proposes to move the apartment designation south. The primary justifications for the change are:

- PIN 0741152543 has a stream and possible wetlands running diagonally across the property from south to north. Development of apartments - and the required parking - on this parcel would require disturbance of the stream. Townhouses and single-family homes can be more easily laid out to avoid unnecessary disruptions to the stream.
- The proposed new location of the Apartments will allow residents to travel south along Tingen Road to access US-1 rather than coming out onto Apex Peakway.

- The goal was to place the apartments near the office/commercial uses. Because PIN 0741142574 is narrow between Tingen Road and Bradley Terrace, it is difficult to locate a driveway on Apex Peakway. Accordingly, the Office/Services District has been placed in the center of the Multi-Family District along the future Tingen Road to Perry Road Collector Street.



Parcel	Approx Acreage	LUM Designation	LUM Recommended Housing Types	LUM Recommended Density (DU/Acre)	LUM Max Units	Proposed LUM Designation	Proposed PUD Housing Types	Proposed PUD Density (DU/Acre)	PUD Max Units
<b>Tract 1</b>	14.88	Medium Density Residential	Single-Family; Townhouses	3-7	104	Medium Density Residential	Single-Family	6	89
<b>Tract 2</b>	9.14	Medium-High Density Residential/ High Density Residential	Single-Family; Townhouses; Multi-Family	8 - 14; Min. 14	146	Medium-High Density Residential	Single-Family; Townhouses	8	73
<b>Tract 3</b>	24.084	Medium-High Density Residential	single-family homes, duplexes, triplexes, quadplexes, townhomes,	8 - 14	337	Medium-High Density Residential	Single-Family; Townhouses	8	193
<b>Tracts 4 &amp; 5</b>	13.724	Medium-High Density Residential Office Employment	Single-Family; Townhouses; Office	8 - 14	192	Medium-High Density Residential; Office Employment/Commercial Services	Small Scale Multi-Family; Townhouses; Office Employment/Commercial Services	12	165
<b>Tract 6</b>	20.08	Medium-High Density Residential /Office Employment	Townhomes, triplexes, quadplexes, and apartments Office Uses	8 - 14	281	High Density Residential	Multi-Family; Small Scale Multi-Family	20	402
<b>Total Res. Units:</b>					1,061				800 per zoning condition

## COMPLIANCE WITH UDO

The development standards proposed for this PUD comply with those set forth in the Town's Unified Development Ordinance (UDO). This PUD shall be the primary governing document for the development of Seymour Mixed-Use PUD. All standards and regulations in this PUD shall control over general standards of the UDO. Provided, however, that if a specific regulation is not addressed in this PUD, UDO regulations shall control.

**EXHIBIT A**  
**Legal Description**  
**The Property**

**PIN 0741142574; 57.878 acres**

***Tract 1A (portion of PIN west of Tingen Road)***

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point with said centerline South 23°25'02" West 63.24 feet to a point, thence South 23°57'24" West 97.36 feet to a point, thence South 24°26'36" West 92.47 feet to a point, thence South 25°06'17" West 59.76 feet to a point, thence South 26°16'53" West 52.09 feet to a point, thence South 27°57'15" West 99.30 feet to a point, thence South 28°01'32" West 106.09 feet to a point, thence along a curve to the left having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of South 19°19'56" West 278.25 feet to a point, thence South 07°37'37" West 107.82 feet to a point, thence South 08°28'32" West 130.97 feet to a point, thence along a curve to the right having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of South 17°59'27" West 217.12 feet to a point, thence South 24°06'54" West 110.88 feet to a point, thence South 24°35'47" West 103.44 feet to a point, thence South 24°35'57" West 106.01 feet to a point, thence South 24°26'31" West 102.75 feet to a point, thence South 23°49'47" West 90.16 feet to a point, thence South 22°33'59" West 106.51 feet to a point, thence along a curve to the left having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of South 19°00'25" West 182.86 feet to a point, thence South 15°37'11" West 15.50 feet to a point, thence leaving said centerline North 89°01'35" West 471.57 feet to a point, thence North 01°40'54" East 1,109.12 feet to an existing iron pipe, thence South 89°00'54" East 563.31 feet to an existing iron pipe, thence North 02°35'35" East 886.13 feet to a new iron pipe, thence South 88°06'47" East 592.52 feet to the point and place of beginning, containing an area of 25.548 acres (1,112,857 Sq Ft) more or less.

**Save and Except the following Public Right of Way:**

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point with said centerline South 23°25'02" West 63.24 feet to a point, thence South 23°57'24" West 97.36 feet to a point, thence South 24°26'36" West 92.47 feet to a point, thence South 25°06'17" West 59.76 feet to a point, thence South 26°16'53" West 52.09 feet to a point, thence South 27°57'15" West 99.30 feet to a point, thence South 28°01'32" West 106.09 feet to a point, thence along a curve to the left having a radius of 715.88', an arc length of 280.03', and a chord bearing and distance of South 19°19'56" West 278.25 feet to a point, thence South 07°37'37" West 107.82 feet to a point, thence South 08°28'32" West 130.97 feet to a point, thence along a curve to the right having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of South 17°59'27" West 217.12 feet to a point, thence South 24°06'54" West 110.88 feet to a point, thence South 24°35'47" West 103.44 feet to a point, thence South 24°35'57" West 106.01 feet to a point, thence South 24°26'31" West 102.75 feet to a point, thence South 23°49'47" West 90.16 feet to a point, thence South 22°33'59" West 106.51 feet to a point, thence along a curve to the left having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of South 19°00'25" West 182.86 feet to a point, thence South 15°37'11" West 15.50 feet to a point, thence leaving said centerline North 89°01'35" West 31.01 feet to a new iron pipe on the western right of way of

Tingen Road (SR 1153) (60' Public R/W), thence with said right of way North 15°37'11" East 23.27 feet to a new iron pipe, thence along a curve to the right having a radius of 1,453.87 feet, an arc length of 186.74 feet, and a chord bearing and distance of North 19°00'28" East 186.61 feet to a new iron pipe, thence North 22°33'59" East 106.81 feet to a new iron pipe, thence North 23°49'47" East 90.66 feet to a new iron pipe, thence North 24°26'31" East 102.95 feet to a new iron pipe, thence North 24°35'57" East 106.05 feet to a new iron pipe, thence North 24°35'47" East 103.31 feet to a new iron pipe, thence North 24°06'54" East 111.16 feet to a new iron pipe, thence along a curve to the left having a radius of 784.07 feet, an arc length of 209.66 feet, and a chord bearing and distance of North 18°01'22" East 209.04 feet to a point, thence North 08°28'32" East 130.26 feet to a new iron pipe, thence North 07°37'37" East 107.73 feet to a new iron pipe, thence along a curve to the right having a radius of 745.88 feet, an arc length of 291.24 feet, and a chord bearing and distance of North 19°18'06" East 289.39 feet to a new iron pipe, thence North 28°01'32" East 105.42 feet to a new iron pipe, thence North 27°57'15" East 98.85 feet to a new iron pipe, thence North 26°16'53" East 51.35 feet to a new iron pipe, thence North 25°06'17" East 59.28 feet to a new iron pipe, thence North 24°26'36" East 92.17 feet to a new iron pipe, thence North 23°57'24" East 97.09 feet to a new iron pipe, thence North 23°25'02" East 51.27 feet to a new iron pipe, thence leaving said right of way South 88°06'47" East 32.25 feet to the point and place of beginning, containing an area of 1.464 acres (63,756 Sq Ft) more or less.

***Tract 1B (portion of PIN east of Tingen Road)***

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point leaving said centerline South 88°06'47" East 155.35 feet to a new iron pipe on the southern right of way of Apex Peakway (Variable Width Public R/W), thence with said right of way along a curve to the left having a radius of 617.60 feet, an arc length of 121.30 feet, and a chord bearing and distance of South 86°52'28" East 121.10 feet to a new iron pipe, thence South 03°58'40" West 624.02 feet to a new iron pipe, thence leaving said right South 04°00'20" West 436.18 feet to a new iron pipe, thence South 89°53'29" East 342.63 feet to the centerline of Reedy Branch creek, thence with said centerline South 45°59'57" East 23.54 feet to a point, thence North 72°48'38" East 3.15 feet to a point, thence North 75°15'06" East 7.35 feet to a point, thence North 33°10'05" East 10.52 feet to a point, thence South 87°46'19" East 4.17 feet to a point, thence South 54°39'36" East 5.14 feet to a point, thence South 26°52'35" East 6.27 feet to a point, thence South 20°43'30" East 5.83 feet to a point, thence South 17°30'23" East 26.61 feet to a point, thence South 00°46'07" West 17.43 feet to a point, thence South 41°53'01" East 17.39 feet to a point, thence South 80°40'52" East 3.58 feet to a point, thence North 64°11'19" East 10.70 feet to a point, thence North 77°37'26" East 8.01 feet to a point, thence North 57°26'38" East 10.89 feet to a point, thence South 39°31'24" East 5.85 feet to a point, thence South 16°35'15" East 18.37 feet to a point, thence South 52°00'14" West 6.84 feet to a point, thence South 86°55'46" West 2.50 feet to a point, thence North 72°28'55" West 7.42 feet to a point, thence South 49°09'46" West 4.26 feet to a point, thence South 30°48'02" West 9.18 feet to a point, thence South 05°29'05" West 12.58 feet to a point, thence South 45°26'24" West 14.06 feet to a point, thence South 31°17'05" West 17.08 feet to a point, thence North 73°30'37" West 8.10 feet to a point, thence North 23°04'10" West 5.83 feet to a point, thence North 58°50'48" West 5.96 feet to a point, thence South 67°39'22" West 14.33 feet to a point, thence North 75°24'16" West 12.70 feet to a point, thence South 75°30'50" West 6.52 feet to a point, thence South 50°39'50" West 9.78 feet to a point, thence South 70°43'21" West 6.02 feet to a point, thence North 84°04'50" West 7.27 feet to a point, thence South 88°14'07" West 6.43 feet to a point, thence South 32°57'14" West 12.23 feet to a point, thence South 09°13'26" East 11.02 feet to a point, thence South

63°40'59" West 7.26 feet to a point, thence South 35°43'18" West 2.50 feet to a point, thence South 22°56'31" East 6.85 feet to a point, thence South 43°58'43" East 22.14 feet to a point, thence South 33°07'42" East 6.85 feet to a point, thence South 44°25'37" West 4.93 feet to a point, thence South 51°32'26" West 7.42 feet to a point, thence South 02°43'51" West 11.17 feet to a point, thence South 61°27'14" West 19.32 feet to a point, thence North 82°36'48" West 5.54 feet to a point, thence North 53°31'02" West 9.54 feet to a point, thence South 88°36'59" West 9.49 feet to a point, thence South 22°02'30" West 5.70 feet to a point, thence South 18°20'34" East 15.39 feet to a point, thence South 25°37'43" West 3.15 feet to a point, thence South 54°07'06" West 13.28 feet to a point, thence South 34°52'02" West 10.35 feet to a point, thence South 09°23'18" West 10.61 feet to a point, thence South 44°07'39" West 4.22 feet to a point, thence South 89°47'26" West 8.89 feet to a point, thence North 80°07'48" West 5.77 feet to a point, thence South 65°53'06" West 5.32 feet to a point, thence South 15°32'10" West 4.41 feet to a point, thence South 23°55'15" East 10.55 feet to a point, thence South 15°11'19" East 21.46 feet to a point, thence South 35°01'48" West 6.12 feet to a point, thence South 26°01'17" West 9.60 feet to a point, thence South 06°36'28" East 12.87 feet to a point, thence South 11°03'20" West 10.19 feet to a point, thence South 25°40'29" East 14.41 feet to a point, thence South 34°17'23" West 5.28 feet to a point, thence South 79°48'16" West 9.03 feet to a point, thence South 65°51'20" West 8.26 feet to a point, thence South 52°11'41" West 1.76 feet to a point, thence South 08°11'55" West 9.70 feet to a point, thence South 26°03'32" East 24.42 feet to a point, thence South 35°44'54" East 8.26 feet to a point, thence South 24°23'03" West 5.72 feet to a point, thence North 89°45'08" West 3.90 feet to a point, thence South 73°20'10" West 4.45 feet to a point, thence South 61°29'12" West 2.31 feet to a point, thence South 21°12'21" West 6.40 feet to a point, thence South 33°05'35" East 10.05 feet to a point, thence South 59°21'18" East 21.66 feet to a point, thence North 54°11'23" East 2.39 feet to a point, thence North 42°50'40" East 3.89 feet to a point, thence North 10°37'44" East 16.46 feet to a point, thence North 40°30'56" East 6.51 feet to a point, thence North 77°03'47" East 11.15 feet to a point, thence South 71°44'26" East 2.27 feet to a point, thence South 31°13'39" East 9.65 feet to a point, thence South 07°04'43" East 19.93 feet to a point, thence South 41°22'14" West 12.19 feet to a point, thence South 12°53'55" East 5.36 feet to a point, thence South 68°10'25" East 14.80 feet to a point, thence South 43°34'27" East 6.47 feet to a point, thence South 22°10'19" East 2.68 feet to a point, thence South 32°04'22" West 9.18 feet to a point, thence South 10°02'38" West 3.84 feet to a point, thence South 51°23'30" East 17.86 feet to a point, thence South 14°34'28" East 4.76 feet to a point, thence South 26°55'19" West 2.80 feet to a point, thence South 48°09'33" West 11.86 feet to a point, thence South 15°13'15" West 4.85 feet to a point, thence South 40°38'00" East 4.46 feet to a point, thence South 78°40'18" East 3.42 feet to a point, thence South 56°50'32" East 11.21 feet to a point, thence South 16°28'14" East 9.82 feet to a point, thence South 02°23'20" West 2.19 feet to a point, thence South 32°26'48" West 9.27 feet to a point, thence South 80°13'52" West 7.07 feet to a point, thence South 44°01'57" West 2.27 feet to a point, thence South 02°34'15" East 6.80 feet to a point, thence South 31°15'37" East 13.55 feet to a point, thence South 75°12'40" East 11.31 feet to a point, thence South 21°53'48" East 3.77 feet to a point, thence South 08°57'43" East 4.34 feet to a point, thence South 09°09'45" West 7.09 feet to a point, thence South 21°58'35" West 8.02 feet to a point, thence South 32°59'50" West 3.04 feet to a point, thence South 23°58'52" East 5.48 feet to a point, thence South 52°07'55" East 13.11 feet to a point, thence South 25°26'04" East 13.81 feet to a point, thence South 51°03'25" East 11.15 feet to a point, thence South 35°51'01" East 8.96 feet to a point, thence South 71°58'21" East 3.42 feet to a point, thence North 51°21'46" East 12.63 feet to a point, thence South 85°48'11" East 21.94 feet to a point, thence South 61°09'23" East 5.40 feet to a point, thence South 37°21'25" East 12.74 feet to a point, thence South

05°25'52" East 10.46 feet to a point, thence South 57°01'18" East 17.03 feet to a point, thence South 18°45'31" West 10.60 feet to a point, thence South 25°18'11" East 4.17 feet to a point, thence South 44°04'01" East 3.46 feet to a point, thence South 59°21'42" East 12.66 feet to a point, thence South 04°30'56" West 1.71 feet to a point, thence South 28°38'46" West 6.53 feet to a point, thence South 26°16'08" East 9.09 feet to a point, thence South 65°13'05" East 13.27 feet to a point, thence South 14°08'04" East 8.89 feet to a point, thence South 18°40'48" West 16.78 feet to a point, thence South 10°41'09" East 15.70 feet to a point, thence South 34°15'35" West 10.32 feet to a point, thence South 03°55'21" East 7.89 feet to a point, thence South 41°45'42" East 9.95 feet to a point, thence South 23°51'26" East 8.02 feet to a point, thence South 16°12'37" West 10.57 feet to a point, thence South 49°58'33" West 8.82 feet to a point, thence North 86°38'37" West 12.88 feet to a point, thence South 60°11'38" West 24.51 feet to a point, thence South 31°05'54" West 41.51 feet to a point, thence South 43°09'26" East 9.06 feet to a point, thence South 75°45'47" East 13.08 feet to a point, thence South 00°06'38" West 19.75 feet to a point, thence South 25°10'31" East 16.98 feet to a point, thence South 59°36'47" East 25.37 feet to a point, thence South 21°55'00" East 21.34 feet to a point, thence South 10°42'09" West 10.94 feet to a point, thence South 16°29'47" East 6.15 feet to a point, thence South 65°32'43" East 10.64 feet to a point, thence North 72°03'41" East 10.80 feet to a point, thence North 51°29'17" East 5.64 feet to a point, thence North 28°19'04" East 27.17 feet to a point, thence North 65°19'26" East 3.68 feet to a point, thence South 80°11'52" East 5.79 feet to a point, thence South 50°54'22" East 9.76 feet to a point, thence South 28°29'33" East 7.14 feet to a point, thence South 30°59'48" West 10.68 feet to a point, thence South 11°44'49" West 13.20 feet to a point, thence leaving said centerline of creek North 89°01'35" West 1,444.72 feet to a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), thence with said centerline of road North 15°37'11" East 15.50 feet to a point, thence along a curve to the right having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of North 19°00'25" East 182.86 feet to a point, thence North 22°33'59" East 106.51 feet to a point, thence North 23°49'47" East 90.16 feet to a point, thence North 24°26'31" East 102.75 feet to a point, thence North 24°35'57" East 106.01 feet to a point, thence North 24°35'47" East 103.44 feet to a point, thence North 24°06'54" East 110.88 feet to a point, thence along a curve to the left having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of North 17°59'27" East 217.12 feet to a point, thence North 08°28'32" East 130.97 feet to a point, thence North 07°37'37" East 107.82 feet to a point, thence along a curve to the right having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of North 19°19'56" East 278.25 feet to a point, thence North 28°01'32" East 106.09 feet to a point, thence North 27°57'15" East 99.30 feet to a point, thence North 26°16'53" East 52.09 feet to a point, thence North 25°06'17" East 59.76 feet to a point, thence North 24°26'36" East 92.47 feet to a point, thence North 23°57'24" East 97.36 feet to a point, thence North 23°25'02" East 63.24 feet to the point and place of beginning, containing an area of 35.258 acres (1,535,852 Sq Ft) more or less.

**Save and Except the following Public Right of Way:**

Beginning at a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), said point having NC grid coordinates (NAD 83 – 2011) of N=714,981.31, E=2,041,723.24, thence from said beginning point leaving said centerline South 88°06'47" East 32.25 feet to a new iron pipe on the eastern right of way of Tingen Road (SR 1153) (60' Public R/W), thence with said right of way South 23°25'02" West 75.22 feet to a new iron pipe, thence South 23°57'24" West 97.63 feet to a new iron pipe, thence South 24°26'36" West 92.77 feet to a new iron pipe, thence South 25°06'17" West 60.24 feet to a new iron pipe, thence South 26°16'53" West 52.84 feet to a new iron pipe, thence South 27°57'15" West 99.76 feet to a new iron pipe, thence



South 28°01'32" West 106.77 feet to a new iron pipe, thence along a curve to the left having a radius of 685.88 feet, an arc length of 268.82 feet, and a chord bearing and distance of South 19°21'53" West 267.10 feet to a new iron pipe, thence South 07°37'37" West 107.91 feet to a new iron pipe, thence South 08°28'32" West 131.67 feet to a new iron pipe, thence along a curve to the right having a radius of 844.07 feet, an arc length of 225.87 feet, and a chord bearing and distance of South 17°57'37" West 225.20 feet to a new iron pipe, thence South 24°06'54" West 110.60 feet to a new iron pipe, thence South 24°35'47" West 103.57 feet to a new iron pipe, thence South 24°35'57" West 105.97 feet to a new iron pipe, thence South 24°26'31" West 102.55 feet to a new iron pipe, thence South 23°49'47" West 89.67 feet to a new iron pipe, thence South 22°33'59" West 106.21 feet to a new iron pipe, thence along a curve to the left having a radius of 1,393.87 feet, an arc length of 179.24 feet, and a chord bearing and distance of South 19°00'21" West 179.12 feet to a new iron pipe, thence South 15°37'11" West 7.74 feet to a new iron pipe, thence leaving said right of way North 89°01'35" West 31.01 feet to a point on the centerline of Tingen Road (SR 1153) (60' Public R/W), thence with said centerline North 15°37'11" East 15.50 feet to a point, thence along a curve to the right having a radius of 1,423.87 feet, an arc length of 182.99 feet, and a chord bearing and distance of North 19°00'25" East 182.86 feet to a point, thence North 22°33'59" East 106.51 feet to a point, thence North 23°49'47" East 90.16 feet to a point, thence North 24°26'31" East 102.75 feet to a point, thence North 24°35'57" East 106.01 feet to a point, thence North 24°35'47" East 103.44 feet to a point, thence North 24°06'54" East 110.88 feet to a point, thence along a curve to the left having a radius of 814.07 feet, an arc length of 217.77 feet, and a chord bearing and distance of North 17°59'27" East 217.12 feet to a point, thence North 08°28'32" East 130.97 feet to a point, thence North 07°37'37" East 107.82 feet to a point, thence along a curve to the right having a radius of 715.88 feet, an arc length of 280.03 feet, and a chord bearing and distance of North 19°19'56" East 278.25 feet to a point, thence North 28°01'32" East 106.09 feet to a point, thence North 27°57'15" East 99.30 feet to a point, thence North 26°16'53" East 52.09 feet to a point, thence North 25°06'17" East 59.76 feet to a point, thence North 24°26'36" East 92.47 feet to a point, thence North 23°57'24" East 97.36 feet to a point, thence North 23°25'02" East 63.24 feet to a point, which is the point and place of beginning, containing an area of 1.464 acres (63,753 Sq Ft) more or less.

**PIN 0741155913; 2.426**

Beginning at an existing rebar, said rebar having NC grid coordinates (NAD 83 – 2011) of N=715,860.13, E=2,041,971.52, thence from said beginning point North 88°24'37" West 847.05 feet to a point, thence North 02°57'16" East 102.53 feet to an existing iron pipe, thence North 88°35'52" East 850.23 feet to an existing iron pipe, thence South 03°19'54" West 146.95 feet to the point and place of beginning, containing an area of 2.426 acres (105,669 Sq Ft) more or less.

**PIN 0741152543; 21.597**

Beginning at an existing rebar, said rebar having NC grid coordinates (NAD 83 – 2011) of N=715,860.13, E=2,041,971.52, thence from said beginning point South 06°39'18" West 348.46 feet to a new iron pipe on the western right of way of Tingen Road (SR 1153) (Variable Width Public R/W), thence with said right of way South 35°13'07" West 9.66 feet to a new iron pipe, thence South 30°40'58" West 57.42 feet to a new iron pipe, thence South 25°24'31" West 15.82 feet to a new iron pipe, thence South 23°19'17" West 26.54 feet to a new iron pipe, thence South 23°01'21" West 54.24 feet to a new iron pipe, thence South 23°02'29" West 103.42 feet to a new iron pipe, thence South 23°14'49" West 8.44 feet to a new iron pipe, thence North 66°11'00" West 10.66 feet to a new iron pipe, thence South 23°49'00" West 125.59 feet to a new iron pipe,

thence leaving said right of way along a curve to the right having a radius of 50.00 feet, an arc length of 67.55 feet, and a chord bearing and distance of South 62°31'20" West 62.53 feet to an existing iron pipe on the northern right of way of Apex Peakway (Variable Width Public R/W), thence with said right of way along a curve to the left having a radius of 450.00 feet, an arc length of 69.82 feet, and a chord bearing and distance of North 83°13'01" West 69.75 feet to an existing iron pipe, thence North 87°39'41" West 584.19 feet to an existing iron pipe, thence along a curve to the right having a radius of 876.00 feet, an arc length of 522.41 feet, and a chord bearing and distance of North 70°34'37" West 514.71 feet to a new iron pipe, thence leaving said right of way North 02°33'05" East 570.82 feet to an existing iron pipe, thence South 88°20'16" East 539.99 feet to a point, thence South 88°24'37" East 847.05 feet to the point and place of beginning, containing an area of 21.597 acres (940,753 Sq Ft) more or less.

**EXHIBIT B**  
**Property Information**

**PIN: 0741142574**

Site Address: 0 Tingen Road

Deed Reference (book/page): 12054/774

Acreage: 57.878

Owner: Seymour Farm Properties LLC, a North Carolina limited liability company

Owner Address: PO Box 177, Apex, NC 27502

**PIN: 0741155913**

Site Address: 0 Tingen Road

Deed Reference (book/page): 18392/326; Estate File 09-E-2614

Acreage: 2.426

Owner: Tracey Seymour Hedrick; Susan Seymour Mills

Owner Address: 107 S. Salem Street, Apex, NC 27502

**PIN: 0741152543**

Site Address: 0 Tingen Road

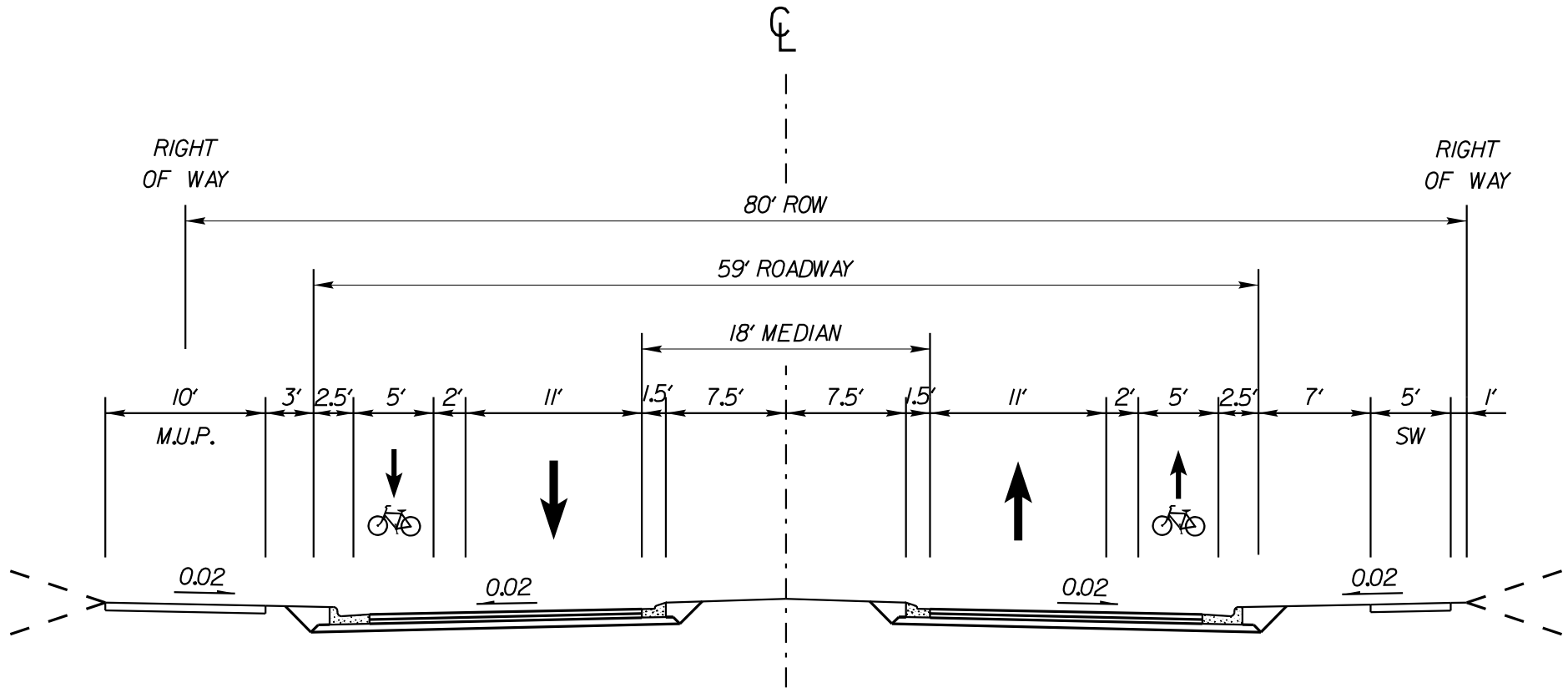
Deed Reference (book/page): 18392/326; Estate File 09-E-2614

Acreage: 21.597

Owner: Thomas E. Seymour; Susan Seymour Mills; Tracey Seymour Hedrick; Jason Mills

Owner Address: 117 Ribbon Walk Lane, Holly Springs, NC 27540

**EXHIBIT C**  
**The Tingen Road Section**

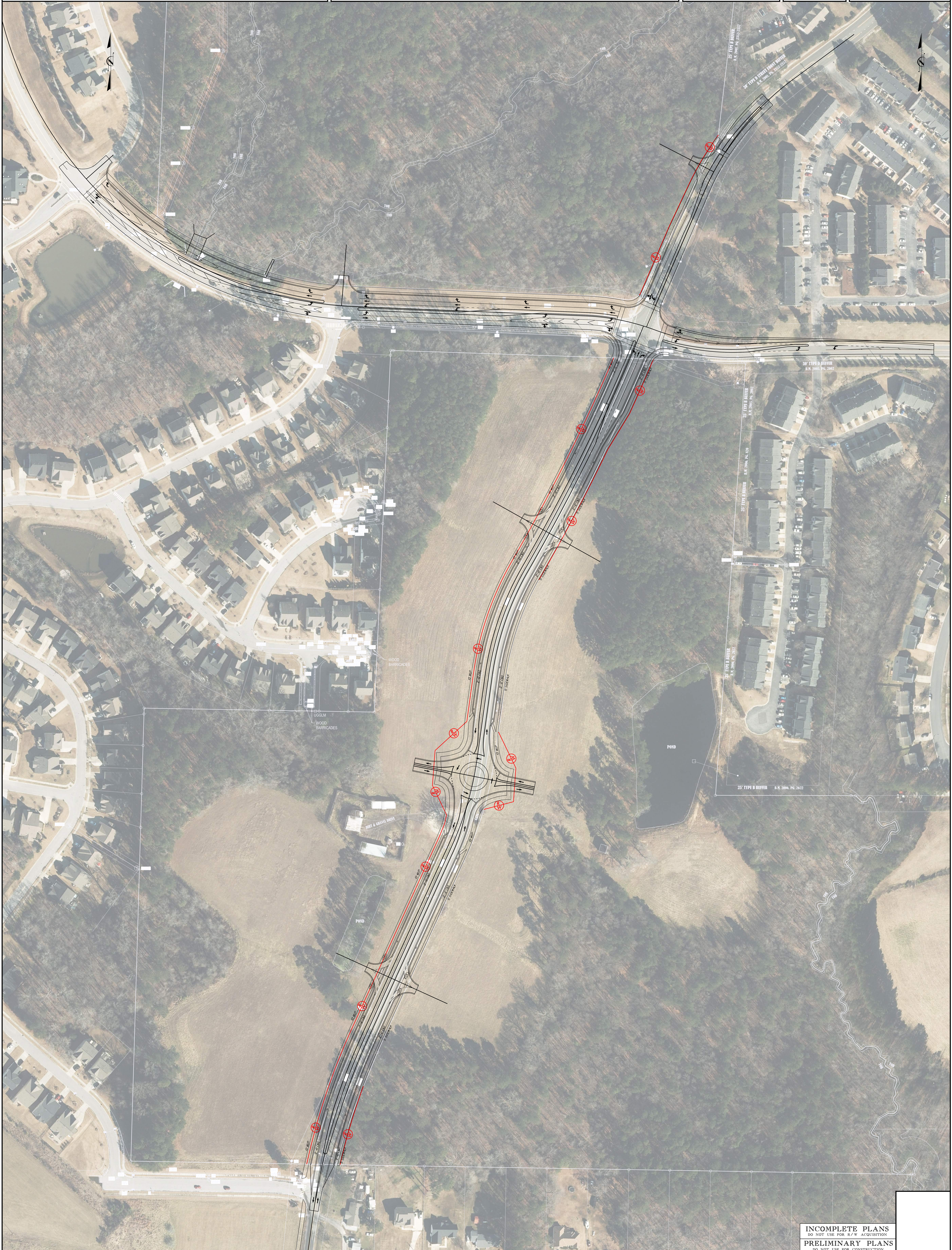


**PAVEMENT DESIGN:**

- 3" ASPHALT CONCRETE SURFACE COURSE
- 4" ASPHALT CONCRETE INTERMEDIATE COURSE
- 10" AGGREGATE BASE COURSE

**EXHIBIT D**  
**The Peakway Section**





INCOMPLETE PLANS  
DO NOT USE FOR R/W ACQUISITION  
PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION



# <PUD REZONING> SEYMOUR MIXED-USE

**RIPARIAN BUFFERS AND WETLANDS:**  
RIPARIAN BUFFERS AND WETLANDS LOCATED ON SITE BY INVER ENVIRONMENTAL CONSULTING, LLC TO BE CONFIRMED BY THE US ARMY CORPS OF ENGINEERS AND TOWN OF APEX. TOWN OF APEX PROJECT 23-002.



NC License #P-0673

## TINGEN ROAD @ APEX PEAKWAY APEX, NORTH CAROLINA 27502 PROJECT NUMBER: 221101

**APPLICANT**  
**BARNETT PROPERTIES, LLC**  
ALAN MANESS, P.E.  
7610 FALL OF NEUSE ROAD SUITE 150  
RALEIGH, NC 27615  
(919) 846-8708  
www.BarnettProp.com

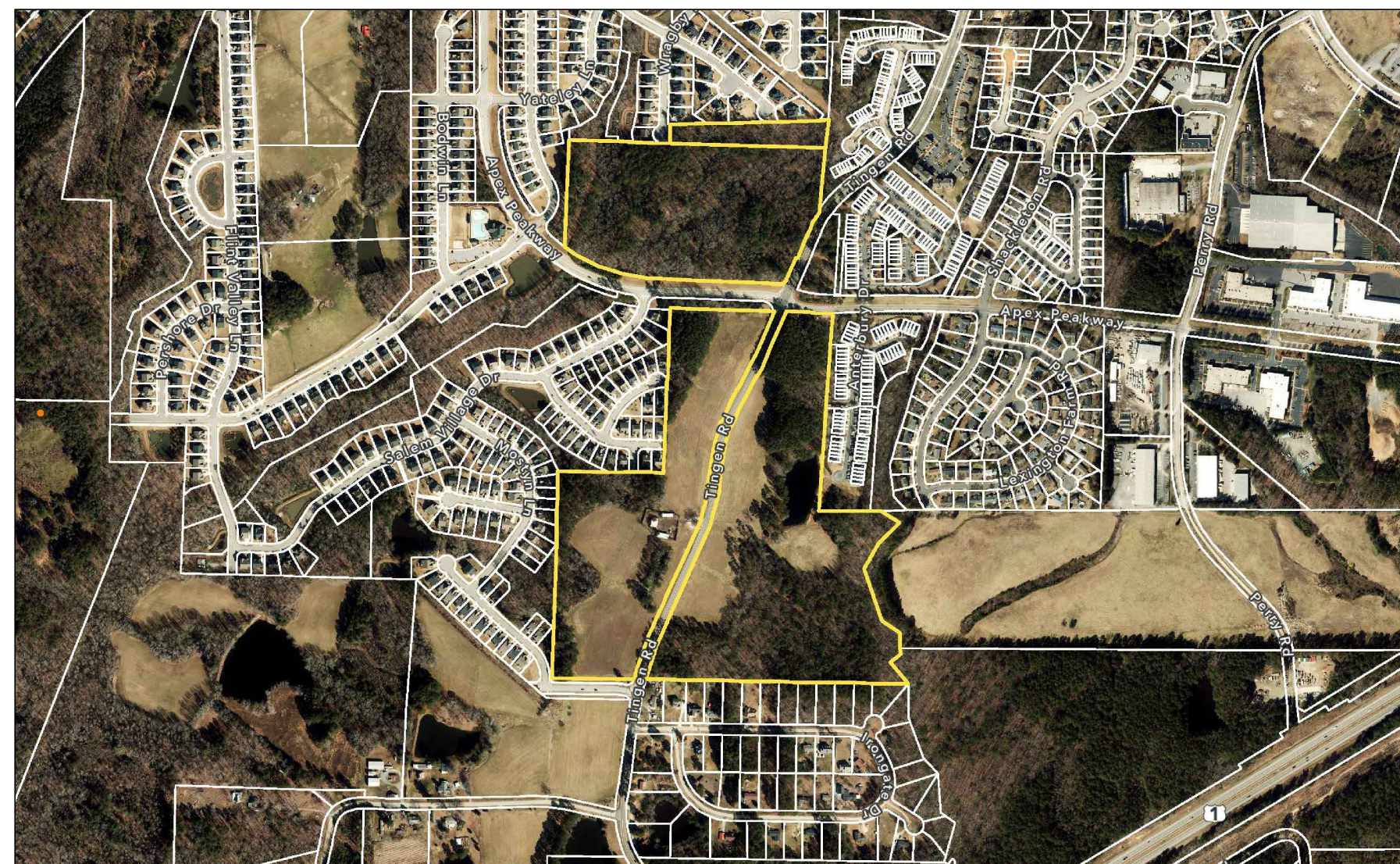
**LAND USE ATTORNEY**  
**PARK, POE, ADAMS, & BERNSTEIN LLP**  
MATTHEW CARPENTER  
301 FAYETTEVILLE STREET SUITE 1400  
RALEIGH, NC 27601  
(919) 835-4032  
www.ParkerPoe.com

**ENGINEER/LAND PLANNER**  
**PEAK ENGINEERING & DESIGN, PLLC**  
JEFF ROACH, P.E.  
1125 APEX PEAKWAY  
APEX, NC 27502  
(919) 439-0100  
www.PeakEngineering.com

**SURVEYOR**  
**WITHERSRAVENEL, INC.**  
TIM BOWES, PLS  
115 MacKENAN DRIVE  
CARY, NC 27511  
(919) 469-3340  
www.WithersRavenel.com

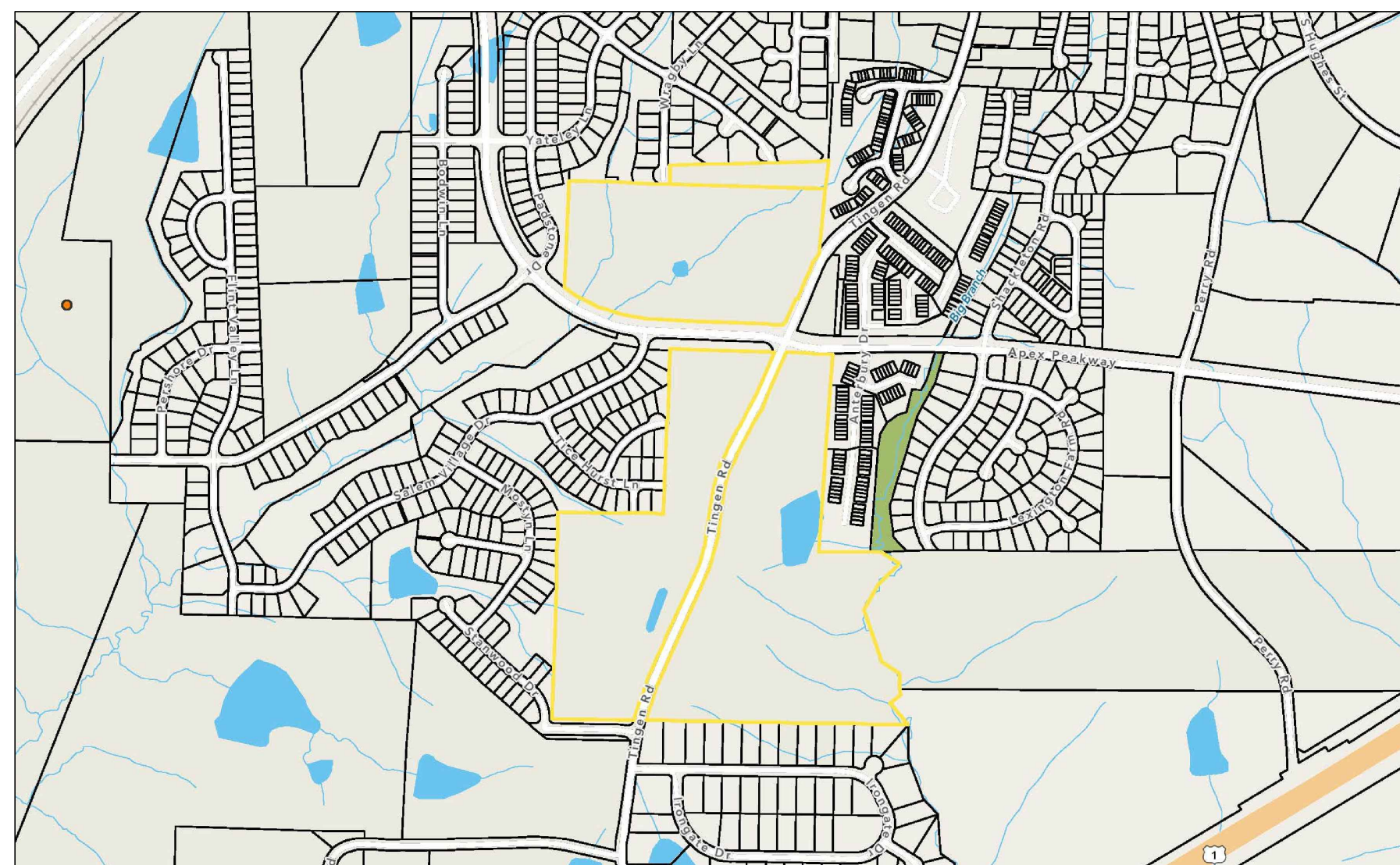
**ENVIRONMENTAL CONSULTANT**  
**INVER ENVIRONMENTAL CONSULTANTS, LLC**  
PHIL MAY  
105 WEST 4TH STREET SUITE 700  
WINSTON-SALEM, NC 27101  
(336) 746-1269  
www.InverEnv.com

**TRAFFIC ENGINEER**  
**KIMLEY-HORN AND ASSOCIATES**  
LYLE OVERCASH, P.E.  
421 FAYETTEVILLE STREET SUITE 600  
RALEIGH, NC 27601  
(919) 677-2000  
www.Kimley-Horn.com



**PROJECT AERIAL**

SCALE: 1" = 800'



**VICINITY MAP**

SCALE: 1" = 800'

PROPERTY DATA					
Parcel	Property Owner	Site Address	PIN	Deeded Acreage	Deed Book/Plat Book
Parcel 1	Mills, Susan S. Hedrick, Tracey Seymour 107 S. Salem Street Apex, NC 27502-1822	0 Tingen Road	0741-15-5913	2.426 acres	Estate File 09-E-2614 DB18392 Pg326
Parcel 2	Seymour, Thomas E. Tracey Seymour Hedrick Mills, Susan S. / Jason Mills PO Box 177 Apex, NC 27502-0177	0 Tingen Road	0741-15-2543	21.597 acres	DB18392 Pg326 BM2009 Pg1350
Parcel 3	Seymour Farm Properties, LLC P.O. Box 177 Apex, NC 27502-177	0 Tingen Road	0741-14-2574	57.878 acres	DB12054 Pg774 DB352 PG178 BM2006 Pg706
<b>Total Surveyed Acreage:</b>				<b>81.901 acres</b>	<b>3,567,607 sf</b>
<i>(Deeded information and final Survey data may vary slightly)</i>					

### INDEX OF DRAWINGS:

C000	COVER SHEET
C001	EXISTING CONDITIONS
C002	EXISTING CONDITIONS TREE SURVEY
C100	CONCEPTUAL SITE PLAN/ CONCEPTUAL UTILITY PLAN
C120	BUILDING ELEVATIONS - RESIDENTIAL
C121	BUILDING ELEVATIONS - TOWNHOUSE & SMALL SCALE MULTI-FAMILY
C122	BUILDING ELEVATIONS - NON-RESIDENTIAL/ MULTI-FAMILY CLUBHOUSE
C123	BUILDING ELEVATIONS - MULTI-FAMILY

**REZONING CASE #23CZ13  
SUBMITTED JULY 3, 2023**

### PARKS AND RECREATION DATA TABLE

**DATE REVIEWED BY PRCR ADVISORY COMMISSION: SEPTEMBER 27, 2023**

**FEE-IN-LIEU: 2022-2023 RATES**

SINGLE-FAMILY DETACHED UNITS	\$4,016.66 / DWELLING UNIT x 740 UNITS = \$
SINGLE-FAMILY ATTACHED UNITS	\$2,705.23 / DWELLING UNIT x 740 UNITS = \$
MULTI-FAMILY UNITS	\$2,381.87 / DWELLING UNIT x 740 UNITS = \$

**ACRES OF LAND DEDICATION:** \_\_\_\_\_ ACRES

**PUBLIC GREENWAY TRAIL CONSTRUCTION:** YES  NO

The Parks, Recreation, and Cultural Resources Advisory Commission on September 27, 2023 recommended a fee-in-lieu of dedication with credit for construction of greenway for a maximum combination of 740 single-family detached, single-family attached and multi-family residential units. The current 2023 rate of \$4,016.66 per single-family detached, \$2,705.23 per single-family attached, and \$2,381.87 per multi-family units which would be deposited with the Town at the time of the final plat. If the project is not approved by Town Council this year, the rates would be adjusted in January to the 2024 rate. Staff supports the request to have the construction timing of the greenway to be completed and accepted prior to 50% of the units West of Tingen Road receiving a building permit.

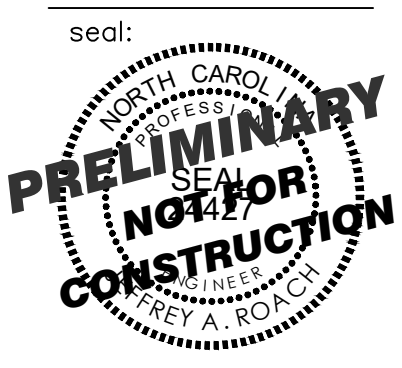
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### SITE DATA TABLE

*\*Refer to the PUD Text for the full list of permitted uses, restrictions, zoning standards, and design controls*

Township:	White Oak Township					
Flood Zone Information:	Firm Panel 3720074100J effective May 2, 2006 does not show the presence of flood zones on the properties (flood zones are not located within 100' of the property)					
Watershed Information:	Secondary Watershed Protection Overlay District, Big Branch Creek, Harris Lake Watershed, Cape Fear River					
Historical:	NC SHPO does not show any existing historical structures					
Annexation:	Annexation required prior to Construction Document approval (located within the Apex ETJ)					
Existing Zoning:	Residential Agricultural (RA) - Town of Apex [PIN 0741-14-2574 & 0741-15-2543] High-Density Single-Family (HDSF) - Town of Apex [PIN 0741-15-5913]					
Proposed Zoning:	PUD - C2 (Planned Unit Development - Conditional Zoning)					
Existing 2045 Land Use Map:	Medium Density Residential Medium/High Density and High Density Residential High Density Residential High Density Residential and Office Employment (No areas within the LUM are shown with 3-stripes for mixed use requirements)					
Proposed 2045 Land Use Map:	Medium/High Density Residential; High Density Residential; Office Employment, Commercial					
Existing Use:	Vacant Residential Property					
Proposed Uses:	<b>Single-Family District</b>					
Accessory apartment *	Single-family					
Park, active	Park, passive	Greenway	Recreation facility, private	Utility, minor		
* Homeowners Association covenants shall not restrict the construction of Accessory apartments						
<b>Mixed Residential Districts</b>						
Accessory apartment *	Single-family	Townhouse				
Park, active	Park, passive	Greenway	Recreation facility, private	Utility, minor		
* Homeowners Association covenants shall not restrict the construction of Accessory apartments						
<b>Multi-Family District</b>						
Accessory apartment *	Multi-family or apartment	Townhouse	Small Scale Multi-Family			
Park, active	Park, passive	Greenway	Recreation facility, private	Utility, minor		
* Homeowners Association covenants shall not restrict the construction of Accessory apartments						
<b>Non-Residential District</b>						
Restaurant, general	**Restaurant, drive-through	Medical or dental office or clinic	Medical or dental laboratory	Office, business or professional		
Publishing office	Artisan Studio	Barber and beauty shop	Book store	Convenience store		
Dry cleaners and laundry service	Financial institution	Floral shop	Pharmacy, general	Grocery, specialty		
Health/fitness center or spa	Newsstand or gift shop	Personal service	Pharmacy	Printing and copying service		
Real estate sales	Retail sales, general	Studio for art	Tailor shop	Upholstery shop	Pet services	
Day care facility	Drop-in or short term day care	Veterinary clinic or hospital	Utility, minor	Recreation facility, private		
* Refer to PD Text for a list of uses and other zoning standards						
** Restaurant, drive-thru only permitted if within a multi-tenant commercial building						
District Standards	Single-Family	Mixed Residential	Townhouse	Multi-Family	Small Scale Multi-Family	Non-Residential (includes private amenity)
		(front loaded)	(rear loaded/parking lot style)			
Max Density / Max SF	6 DU/acre	8 DU/acre	8 DU/acre	20 DU/acre	12 DU/acre	50,000 SF
Minimum Lot Size	5,000 SF	N/A	N/A	N/A	N/A	N/A
Minimum Lot Width	50 feet	20 feet	20 feet	N/A	20 feet	N/A
Front Setback	20 feet	20 feet	10 feet	20 feet	10 feet	20 feet
Side Setback	5 feet	0 feet (int)/3 feet (end)	0 feet (int)/3 feet (end)	20 feet	0 feet (int)/3 feet (end)	20 feet
Side (corner) Setback	10 feet	10 feet	10 feet	20 feet	10 feet	20 feet
Rear Setback	10 feet	10 feet	10 feet	20 feet	10 feet	20 feet
Minimum building separation	N/A	10 feet	10 feet	N/A	10 feet	N/A
Buffer/RCA setback - building	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Buffer/RCA setback - parking	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet
Max Building Height	45 feet (3 story)	45 feet (3story)	45 feet (3 story)	*60 feet (4 story)	45 feet (3 story)	48 feet
Max BUA	60%	65%	65%	70%	70%	70%
* Multi-Family building facades facing Iron Gate, Bradley Terrace, and Tingen Road shall be limited to a maximum building height of three (3) stories (50 feet).						
Parking Requirements:	Parking shall be provided as noted below or per UDO 8.3					
Single-family	2 spaces/dwelling unit					
Townhouse	2 spaces/dwelling unit + 0.25 guest spaces/unit (attached or detached)					
Multi-family, apartment, Carriage House	1.3 spaces/dwelling unit for 1 and 2 bedroom units; 1.8 space/dwelling unit for 3 bedroom units					
Private Recreation Facility	Parking is based upon UDO 8.3.2					
Office Employment/Commercial	Parking is based upon UDO 8.3.2					
RCA Required:	Project shall designate a minimum of 20% of the property as RCA. If the Residential (single-family) District is mass graded, it shall designate a minimum of 20% of the Property as RCA and shall not be required to provide an additional 5% RCA required for mass grading under UDO Section 7.2.5.8.8. Site to be "Mass Graded"					
Grading:	Site to be "Mass Graded"					
% of lots graded prior to first plat:	100% (grading limitations shall not apply due to existing site conditions)					
% of pre-development drainage areas preserved within their natural basins:	90%					

project:  
**SEYMOUR MIXED-USE PUD**  
**TINGEN ROAD @ APEX PEAKWAY**  
**WHITE OAK TOWNSHIP**  
**APEX, NORTH CAROLINA 27502**



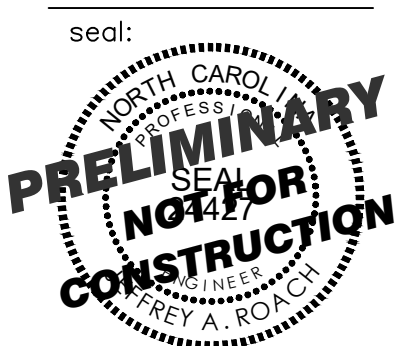
NO.	DATE	BY	REVISION
1	October 16, 2023	JR	TOWN OF APEX - ZONING COMMENTS
2	November 3, 2023	JR	TOWN OF APEX - ZONING COMMENTS
3	December 1, 2023	JR	TOWN OF APEX - ZONING COMMENTS
4	December 20, 2023	JR	TOWN OF APEX - ZONING COMMENTS
5			

title:  
**PUD  
COVER SHEET**

proj #:  
**221101**  
date:  
**JULY 3, 2023**  
dwg by: **FS** chkd by: **JR**  
scale:  
**As Noted**

sheet:  
**C000**  
(PUD PLAN)





NO.	DATE	BY	REVISION
1	October 16, 2023		TOWN OF APEX - ZONING COMMENTS
2	November 3, 2023		TOWN OF APEX - ZONING COMMENTS
3	December 1, 2023		TOWN OF APEX - ZONING COMMENTS
4	December 20, 2023		TOWN OF APEX - ZONING COMMENTS
5			

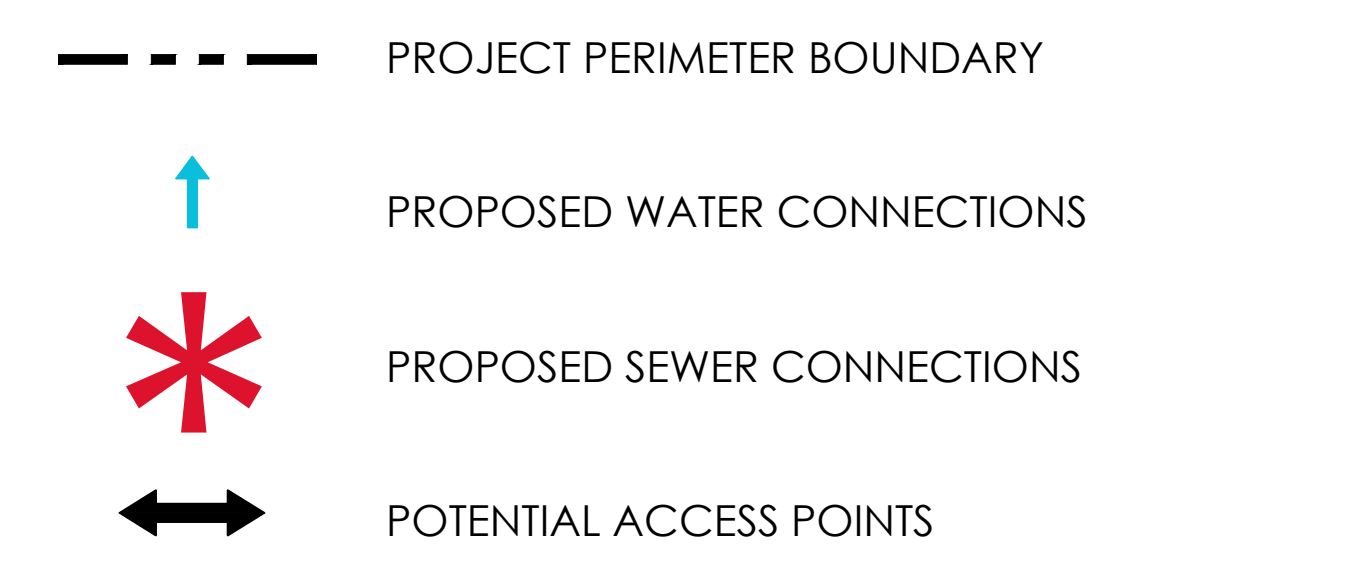
title:  
**EXISTING CONDITIONS PLAN**

proj #:  
**221101**  
date:  
**JULY 3, 2023**  
dwg by: **chkd by: FS JR**  
scale:  
**As Noted**  
sheet:

**C001**  
(PUD PLAN)

**RIPARIAN BUFFERS AND WETLANDS:**  
RIPARIAN BUFFERS AND WETLANDS LOCATED ON SITE BY INVER ENVIRONMENTAL CONSULTING, LLC TO BE CONFIRMED BY THE US ARMY CORPS OF ENGINEERS AND TOWN OF APEX. TOWN OF APEX PROJECT 23-002.

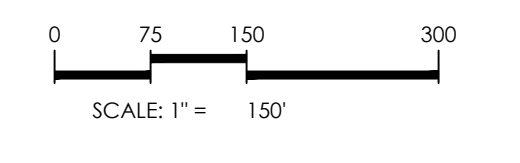
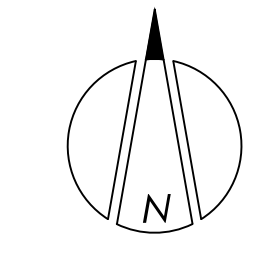
- EXISTING CONDITIONS NOTES:**
- BOUNDARY SURVEY PROVIDED BY WITHERSRAVENEL.
  - TOPOGRAPHIC INFORMATION FROM WAKE COUNTY GIS AND SURVEYOR DATA.
  - NO SLOPES EQUAL TO OR GREATER THAN 3:1 FOUND ON THE SITE.
  - NO HISTORIC INVENTORY SITES OR NATURAL INVENTORY AREAS LOCATED ON OR WITHIN 100' OF THIS PROPERTY AS NOTED WITHIN THE SITE DATA TABLE.
  - PROPOSED GREENWAY OR TRAILS ARE SHOWN WITHIN THE ADOPTED PARK AND GREENWAY MASTER PLAN.
  - 100-YR FLOOD PLAIN IS NOT LOCATED ON OR WITHIN 100' OF THE PROPERTIES.
  - PROPERTIES ARE LOCATED WITHIN THE SECONDARY WATERSHED PROTECTION OVERLAY DISTRICT, BIG BRANCH BASIN, HARRIS LAKE WATERSHED, CAPE FEAR RIVER BASIN.



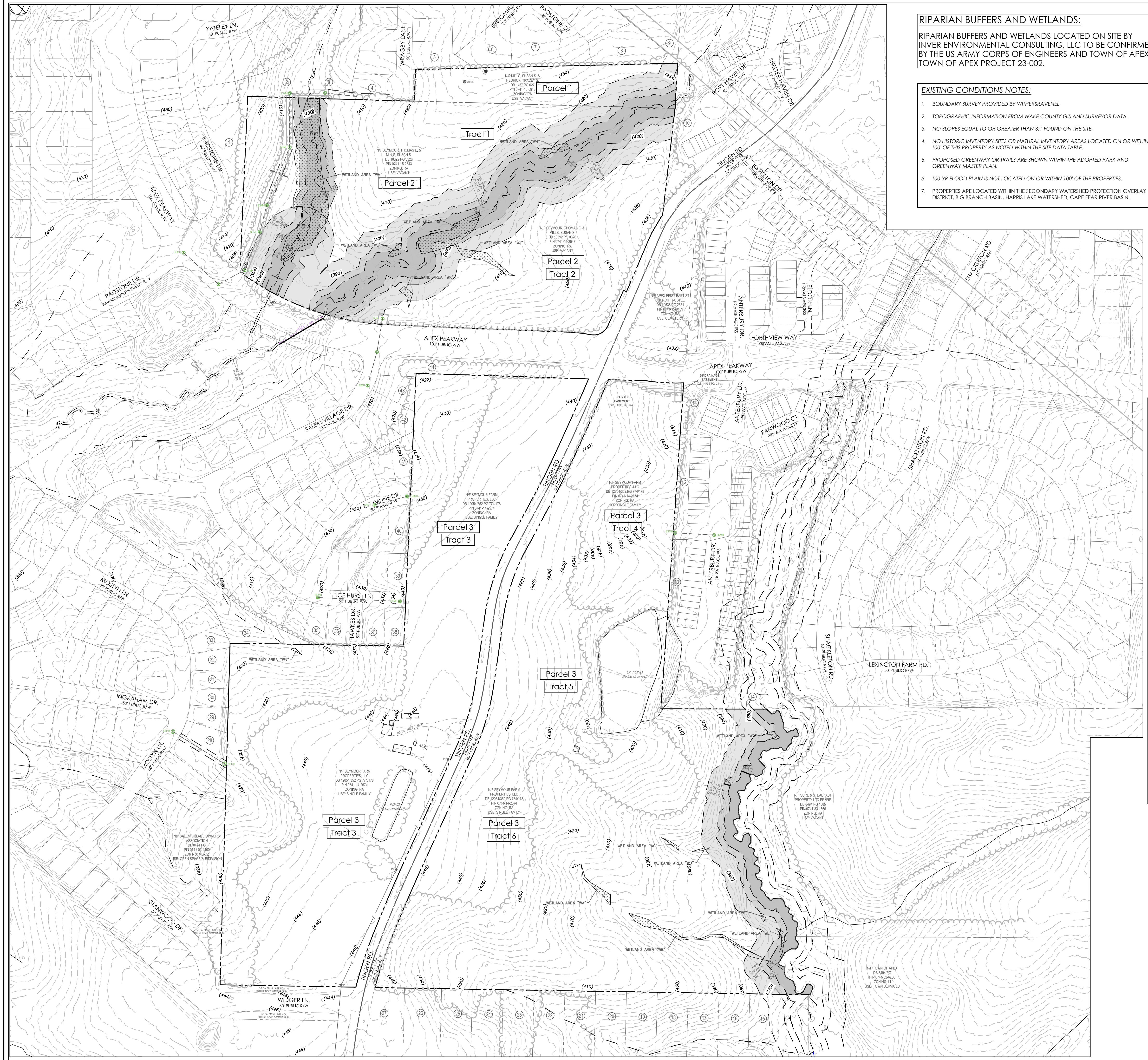
PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE PURPOSES ONLY

**ADJACENT PROPERTY OWNERS**

#	OWNER	PIN	USE	ZONING
1	SALEM VILLAGE OWNERS ASSOC	0741-05-5626	VACANT/FUT DEVELOPMENT	MD-CZ
2	SALEM VILLAGE OWNERS ASSOC	0741-06-7076	OPEN SPACE	MD-CZ
3	SALEM VILLAGE OWNERS ASSOC	0741-06-9223	OPEN SPACE	MD-CZ
4	JOHNSON WHITE, JOHN & CARISSA	0741-05-9982	SINGLE FAMILY	MD-CZ
5	HINDLE, JEFFREY & JENNIFER	0741-16-1092	SINGLE FAMILY	HD-SF
6	KALUKA, JESSE & MIRANDA	0741-16-3075	SINGLE FAMILY	HD-SF
7	PRESNALL, HUNTER & SHERRY	0741-16-5016	SINGLE FAMILY	HD-SF
8	MACDONAGH, MICHAEL & ALISON	0741-16-8015	SINGLE FAMILY	HD-SF
9	SALEM VILLAGE OWNERS ASSOC	0741-16-7239	OPEN SPACE	HD-SF
10	WESTHAVEN TOWNHOMES HOA	0741-26-1195	OPEN SPACE	HD-MF
11	BRADLEY TERRACE HOMEOWNERS ASSN	0741-24-2677	OPEN SPACE	HD-MF
12	BRADLEY TERRACE HOMEOWNERS ASSN	0741-24-1622	OPEN SPACE	HD-MF
13	BRADLEY TERRACE HOMEOWNERS ASSN	0741-24-0185	OPEN SPACE	HD-MF
14	TOWN OF APEX	0741-24-3405	STREAM BUFFER/OPEN SPACE	MH-CU
15	LASSITER, ROBERT M. SR	0741-22-2951	VACANT RESIDENTIAL	RR
16	CLINKSCALE, TRACI L.	0741-22-1859	VACANT RESIDENTIAL	RR
17	CLINKSCALE, TRACI L.	0741-22-0858	VACANT RESIDENTIAL	RR
18	HOLLAND, FLORA ANN	0741-12-9847	VACANT RESIDENTIAL	RR
19	LASSITER, ROBERT MCCOY	0741-12-8837	VACANT RESIDENTIAL	RR
20	SMITH, CHANTIA R.	0741-12-7837	VACANT RESIDENTIAL	RR
21	LASSITER, ROBERT & VANESSA	0741-12-5837	VACANT RESIDENTIAL	RR
22	LASSITER, ROBERT & VANESSA	0741-12-5847	RESIDENTIAL	RR
23	ATKINS, JOHN T.	0741-12-4848	VACANT RESIDENTIAL	RR
24	GREENE, MARGARET	0741-12-3857	RESIDENTIAL	RR
25	RICKENBAKER, THOMAS & HEATHER	0741-12-2838	RESIDENTIAL	RR
26	MEDERO, ANGEL & SIERRA-TORRES, TAMIA	0741-12-1839	RESIDENTIAL	RR
27	BYRD, LEVANDER	0741-12-0818	RESIDENTIAL	RR
28	FRANZEL, NICHOLS & CARMELA	0741-03-4851	RESIDENTIAL	MD-CZ
29	MCLAUGHLIN, SHIRLEY & SCHENCK, SCOTT	0741-03-4868	RESIDENTIAL	MD-CZ
30	DAUM, ERIC & JULIA	0741-03-4964	RESIDENTIAL	MD-CZ
31	CRIBBS, ADAM & MELISSA	0741-04-4060	RESIDENTIAL	MD-CZ
32	BALDRIDGE, CLIFFORD & NICHOLE	0741-04-4066	RESIDENTIAL	MD-CZ
33	INGHAM, CHRISTOPHER & AMANDA	0741-04-4153	RESIDENTIAL	MD-CZ
34	SALEM VILLAGE OWNERS ASSOC	0741-04-3481	OPEN SPACE	MD-CZ
35	GALLINGER, SCOTT	0741-04-8108	RESIDENTIAL	MD-CZ
36	BIANCO, FANK & ANNE	0741-04-8178	RESIDENTIAL	MD-CZ
37	KALYNA, ANDRIY & TETYANA	0741-04-9197	RESIDENTIAL	MD-CZ
38	ROYAL, DAVID & NETA	0741-14-0167	RESIDENTIAL	MD-CZ
39	GARNER, DAMON & MINERVA	0741-14-0375	RESIDENTIAL	MD-CZ
40	MOORE, STEVEN & SARAH	0741-14-0479	RESIDENTIAL	MD-CZ
41	BUNCE, MICHAEL & MICHELLE	0741-14-0781	RESIDENTIAL	MD-CZ
42	WELCH, CHRISTINE	0741-14-0857	RESIDENTIAL	MD-CZ
43	NEELABH, APOORVA & MAMTA	0741-14-0974	RESIDENTIAL	MD-CZ
44	SALEM VILLAGE OWNERS ASSOC	0741-15-3034	OPEN SPACE/BUFFER/SIGN ESMT	MD-CZ/R



**1**  
**C001** EXISTING CONDITIONS PLAN  
SCALE: 1"=150'





project:  
**SEYMOUR MIXED-USE PUD**  
**TINGEN ROAD @ APEX PEAKWAY**  
**WHITE OAK TOWNSHIP**  
**APEX, NORTH CAROLINA 27502**

seal:  
**PRELIMINARY**  
**NOT FOR**  
**CONSTRUCTION**

NO.	DATE	BY	REVISION
1	October 6, 2023	JR	TOWN OF APEX - ZONING COMMENTS
2	November 3, 2023	JR	TOWN OF APEX - ZONING COMMENTS
3	November 1, 2023	JR	TOWN OF APEX - ZONING COMMENTS
4	December 20, 2023	JR	TOWN OF APEX - ZONING COMMENTS

title:  
**EXISTING**  
**CONDITIONS**  
**TREE SURVEY**

proj #:  
**221101**  
 date:  
**JULY 3, 2023**  
 dwg by: chkd by:  
**FS JR**  
 scale:  
**As Noted**

sheet:  
**C002**  
 (PUD PLAN)

**RIPARIAN BUFFERS AND WETLANDS:**

RIPARIAN BUFFERS AND WETLANDS LOCATED ON SITE BY INVER ENVIRONMENTAL TO BE CONFIRMED BY THE US ARMY CORPS OF ENGINEERS AND TOWN OF APEX. TOWN OF APEX PROJECT 23-002.

**EXISTING CONDITIONS NOTES:**

- BOUNDARY SURVEY PROVIDED BY WITHERSRAVENEL.
- TOPOGRAPHIC INFORMATION FROM WAKE COUNTY GIS AND SURVEYOR DATA.
- NO SLOPES EQUAL TO OR GREATER THAN 3:1 FOUND ON THE SITE.
- NO HISTORIC INVENTORY SITES OR NATURAL INVENTORY AREAS LOCATED ON OR WITHIN 100' OF THIS PROPERTY AS NOTED WITHIN THE SITE DATA TABLE.
- PROPOSED GREENWAY OR TRAILS ARE SHOWN WITHIN THE ADOPTED PARK AND GREENWAY MASTER PLAN.
- 100-YR FLOOD PLAIN IS NOT LOCATED ON OR WITHIN 100' OF THE PROPERTIES.
- PROPERTIES ARE LOCATED WITHIN THE SECONDARY WATERSHED PROTECTION OVERLAY DISTRICT, BIG BRANCH BASIN, HARRIS LAKE WATERSHED, CAPE FEAR RIVER BASIN.

**REQUIRED PLAN NOTES:**

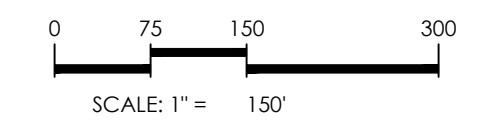
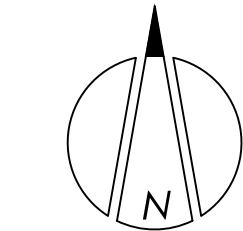
- NO SITE DEVELOPMENT ACTIVITY INCLUDING, BUT NOT LIMITED TO, TESTING, CLEARING, INSTALLATION OF S&E MEASURES, OR GRADING SHALL OCCUR UNTIL REQUIRED TREE PROTECTION FENCING HAS BEEN INSTALLED AND INSPECTED. A TREE PROTECTION FENCING INSTALLATION PERMIT MAY BE OBTAINED AT THE PLANNING DEPARTMENT OR ONLINE AT [HTTP://WWW.APEXNC.ORG/215/APPLICATIONS-SCHEDULES](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.).



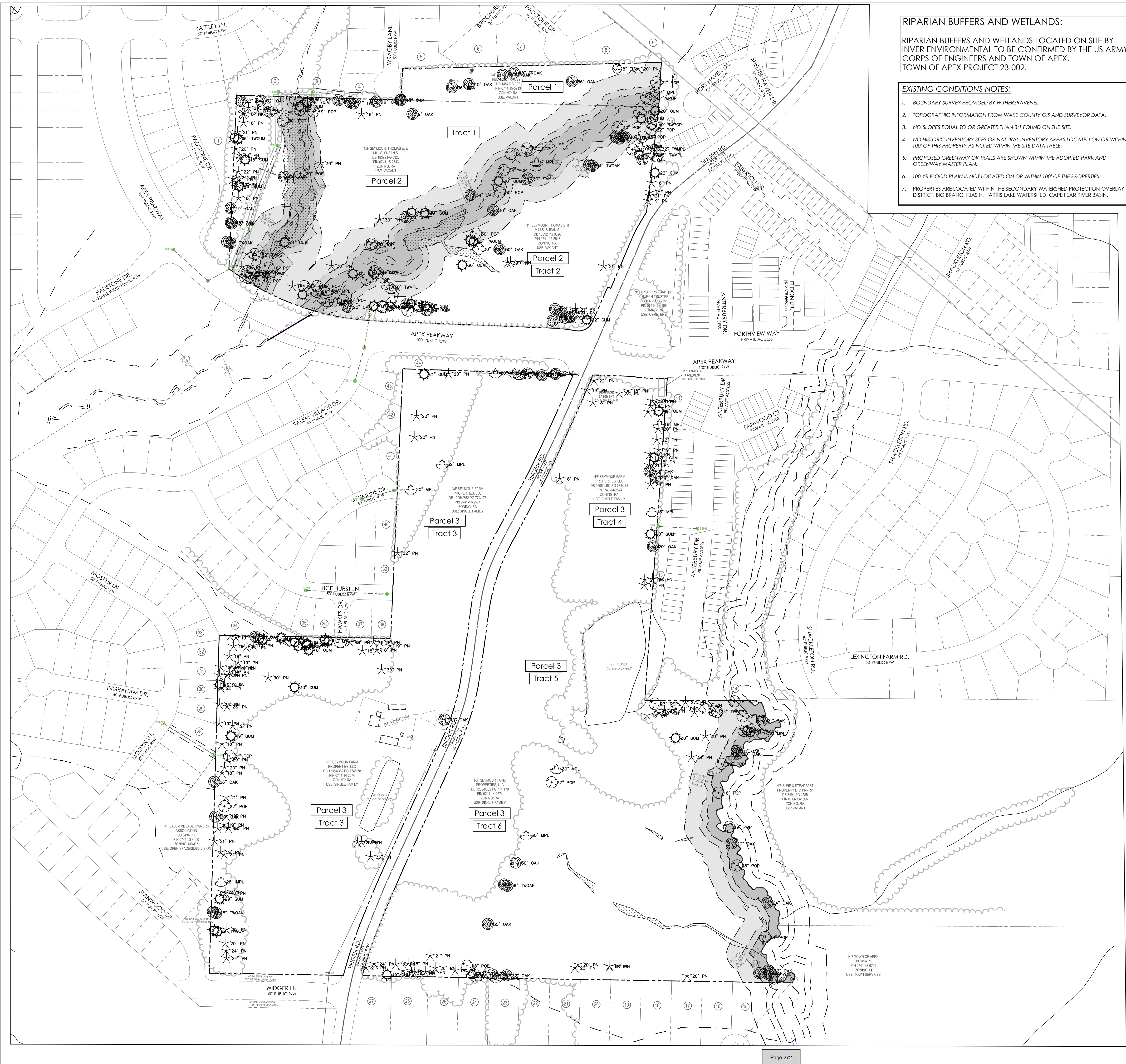
--- PROJECT PERIMETER BOUNDARY

PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE PURPOSES ONLY

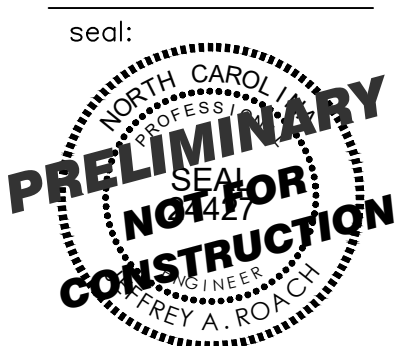
ALL LARGE TREES ON-SITE HAVE BEEN INCLUDED FOR REFERENCE ONLY. FUTURE PRESERVATION AND AVOIDANCE OF EXISTING VEGETATION TO BE COORDINATED WITH STAFF.



**1**  
**C002** EXISTING CONDITIONS TREE SURVEY  
 SCALE: 1"=150'







NO.	DATE	BY	REVISION
1	October 10, 2023	JR	TOWN OF APEX - ZONING COMMENTS
2	November 3, 2023	JR	TOWN OF APEX - ZONING COMMENTS
3	December 1, 2023	JR	TOWN OF APEX - ZONING COMMENTS
4	December 20, 2023	JR	TOWN OF APEX - ZONING COMMENTS
5	December 20, 2023	JR	TOWN OF APEX - ZONING COMMENTS

title:  
**CONCEPTUAL SITE PLAN/  
 CONCEPTUAL UTILITY PLAN**

proj #:  
**221101**  
 date:  
**JULY 3, 2023**  
 dwg by: chkd by:  
**FS JR**  
 scale:  
**As Noted**  
 sheet:  
**C100**  
 (PUD PLAN)

**SINGLE-FAMILY (SINGLE-FAMILY)** (Yellow)

**MIXED RESIDENTIAL (SINGLE-FAMILY AND/OR TOWNHOUSE)** (Orange)

**MULTI-FAMILY (MULTI-FAMILY/APARTMENT AND/OR SMALL SCALE MULTI-FAMILY)** (Dark Orange)

**NON-RESIDENTIAL DISTRICT** (Red)

**BUFFERS/RCA/OPEN SPACE** (Green Hatched)

**RIGHT-OF-WAY DEDICATION** (Blue Hatched)

**STREAM BUFFERS** (Grey Hatched)

**PROJECT PERIMETER BOUNDARY** (Dashed line)

**PRELIMINARY PUBLIC GREENWAY (FINAL ALIGNMENT COORDINATED WITH STAFF)** (Thick dashed line)

**POTENTIAL WATER CONNECTIONS** (Blue arrow)

**POTENTIAL SEWER CONNECTIONS** (Red asterisk)

**POTENTIAL ACCESS POINTS** (Black double arrow)

PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE PURPOSES ONLY

- SITE AND UTILITY NOTES:**
- DEVELOPMENT ACCESS AND STUB STREET LOCATIONS SHALL BE FINALIZED AT MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
  - FINAL RESOURCE CONSERVATION AREA (RCA), OPEN SPACE, AND PLAY LAWN LOCATIONS SHALL BE COORDINATED WITH STAFF AND BUILDER DURING MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
  - ALL ZONING PLAN SHEETS ARE PROVIDED FOR ILLUSTRATIVE PURPOSES ONLY. FINAL DESIGN COMPONENTS ARE DETERMINED AT MASTER SUBDIVISION PLAN.
  - REFER TO PD TEXT DOCUMENTS FOR A LIST OF ALLOWABLE USES, ZONING CONDITIONS, AND OTHER DESIGN STANDARDS FOR THE DEVELOPMENT.
  - ENVIRONMENTAL FEATURES ARE SUBJECT TO FINAL REVIEW CONCURRENCE WITH VARIOUS REGULATING AGENCIES.
  - PUBLIC PEDESTRIAN AND VEHICULAR ACCESS IS SHOWN FOR CONCEPTUAL PURPOSES AND ARE SUBJECT TO REVISIONS DURING THE MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
  - ALL SITE ELEMENTS ARE REQUIRED TO MEET OR EXCEED TOWN OF APEX, NCDOT, OR OTHER REVIEW AUTHORITY STANDARD DESIGN SPECIFICATIONS.
  - PROJECT WILL COMPLY WITH ADOPTED TOWN MASTER PLANS INCLUDING TRANSPORTATION, WATER, SEWER, AND GREENWAYS.
  - THE PROJECT IS REQUESTING FULL TOWN SERVICES, INCLUDING BUT NOT LIMITED TO WATER, SEWER AND ELECTRICITY.
  - THE PROJECT WILL NOT UTILIZE PRIVATE SEWAGE DISPOSAL.
  - NO SITE DEVELOPMENT ACTIVITY INCLUDING, BUT NOT LIMITED TO, TESTING, CLEARING, INSTALLATION OF S&E MEASURES, OR GRADING SHALL OCCUR UNTIL REQUIRED TREE PROTECTION FENCING HAS BEEN INSTALLED AND INSPECTED. A TREE PROTECTION INSTALLATION PERMIT MAY BE OBTAINED AT THE PLANNING DEPARTMENT OR ONLINE AT [HTTP://WWW.APEXNC.ORG/215/APPLICATIONS-SCHEDULES](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.).

**POTENTIAL ACCESS POINTS:**  
 Potential Access Points shown on the Conceptual Site Plan / Conceptual Utility Plan (C100) are not shown in exact locations but show proposed connections. Connections can only be removed from the subdivision connectivity requirements of the PUD if the developer shows to the satisfaction of the Planning Director, in consultation with the Technical Review Committee (TRC), that the construction of the connection would be impractical based on environmental conditions found in the field at the time of Master Subdivision Plan approval.

North arrow pointing up.

Scale: 1" = 150'

**CONCEPTUAL SITE PLAN/  
 CONCEPTUAL UTILITY PLAN**

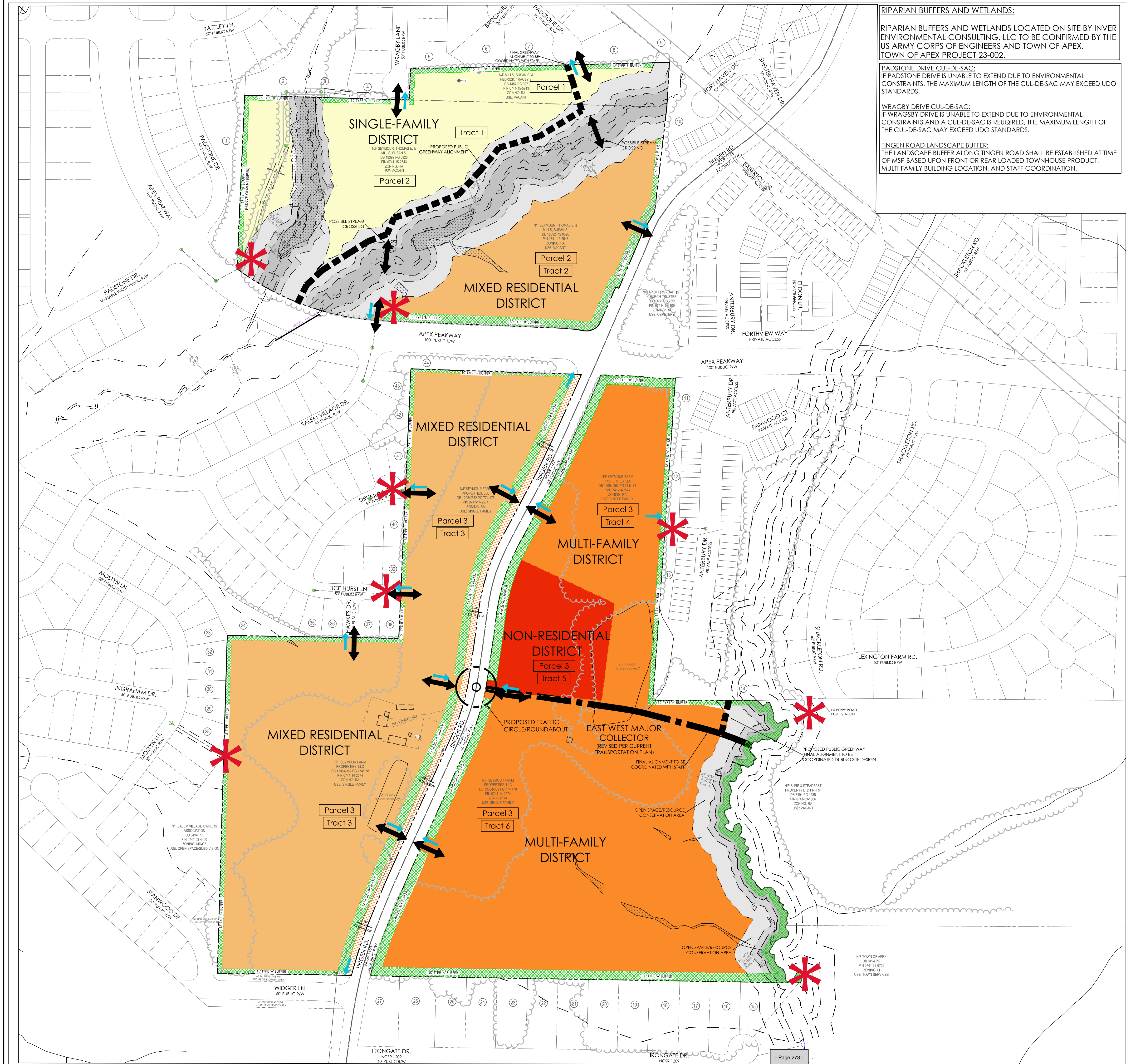
Scale: 1"=150'

**RIPARIAN BUFFERS AND WETLANDS:**  
 RIPARIAN BUFFERS AND WETLANDS LOCATED ON SITE BY INVER ENVIRONMENTAL CONSULTING, LLC TO BE CONFIRMED BY THE US ARMY CORPS OF ENGINEERS AND TOWN OF APEX. TOWN OF APEX PROJECT 23-002.

**PADSTONE DRIVE CUL-DE-SAC:**  
 IF PADSTONE DRIVE IS UNABLE TO EXTEND DUE TO ENVIRONMENTAL CONSTRAINTS, THE MAXIMUM LENGTH OF THE CUL-DE-SAC MAY EXCEED UDO STANDARDS.

**WRAGBY DRIVE CUL-DE-SAC:**  
 IF WRAGBY DRIVE IS UNABLE TO EXTEND DUE TO ENVIRONMENTAL CONSTRAINTS AND A CUL-DE-SAC IS REQUIRED, THE MAXIMUM LENGTH OF THE CUL-DE-SAC MAY EXCEED UDO STANDARDS.

**TINGEN ROAD LANDSCAPE BUFFER:**  
 THE LANDSCAPE BUFFER ALONG TINGEN ROAD SHALL BE ESTABLISHED AT TIME OF MSP BASED UPON FRONT OR REAR LOADED TOWNHOUSE PRODUCT, MULTI-FAMILY BUILDING LOCATION, AND STAFF COORDINATION.







SINGLE-FAMILY RESIDENTIAL 'A'



SINGLE-FAMILY RESIDENTIAL 'B'



SINGLE-FAMILY RESIDENTIAL 'C'



SINGLE-FAMILY RESIDENTIAL 'D'



SINGLE-FAMILY RESIDENTIAL 'E'



SINGLE-FAMILY RESIDENTIAL 'F'



SINGLE-FAMILY RESIDENTIAL 'G'



SINGLE-FAMILY RESIDENTIAL 'H'



SINGLE-FAMILY RESIDENTIAL 'I'



SINGLE-FAMILY RESIDENTIAL 'J'



SINGLE-FAMILY RESIDENTIAL 'K'



SINGLE-FAMILY RESIDENTIAL 'L'



SINGLE-FAMILY RESIDENTIAL 'M'

TYPICAL BUILDING ELEVATIONS. WINDOW CONFIGURATIONS, DOOR STYLES, COLORS, AND OTHER ARCHITECTURAL STANDARDS MAY VARY FROM HOME-TO-HOME AND BUILDING-TO-BUILDING.

ALL FLAT ROOFED NON-RESIDENTIAL BUILDINGS SHALL BE LIGHT OR WHITE COLORED OR UTILIZE A COOL ROOFING MATERIAL.

ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY. CONDITIONS ARE INCLUDED WITHIN THE ZONING PD TEXT DOCUMENT.



NC License #P-0673

project: SEYMOUR MIXED-USE PUD  
TINGEN ROAD @ APEX PEAKWAY  
WHITE OAK TOWNSHIP  
APEX, NORTH CAROLINA 27502



NO.	DATE	REVISION	BY
1	October 16, 2023	TOWN OF APEX - ZONING COMMENTS	JR
2	November 3, 2023	TOWN OF APEX - ZONING COMMENTS	JR
3	December 1, 2023	TOWN OF APEX - ZONING COMMENTS	JR
4	December 20, 2023	TOWN OF APEX - ZONING COMMENTS	JR

title:  
CONCEPTUAL  
BUILDING  
ELEVATIONS  
SINGLE-FAMILY  
RESIDENTIAL

proj #: 221101  
date: JULY 3, 2023  
dwg by: FS  
chkd by: JR  
scale: As Noted

sheet:  
C120  
(PUD PLAN)





TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'A'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'B'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'C'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'D'

BUILDING ELEVATION REMOVED

TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'E'

BUILDING ELEVATION REMOVED

TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'F'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'G'

TYPICAL BUILDING ELEVATIONS, WINDOW CONFIGURATIONS, DOOR STYLES, COLORS, AND OTHER ARCHITECTURAL STANDARDS MAY VARY FROM HOME-TO-HOME AND BUILDING-TO-BUILDING.

ALL FLAT ROOFED NON-RESIDENTIAL BUILDINGS SHALL BE LIGHT OR WHITE COLORED OR UTILIZE A COOL ROOFING MATERIAL.

ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY. CONDITIONS ARE INCLUDED WITHIN THE ZONING PD TEXT DOCUMENT.



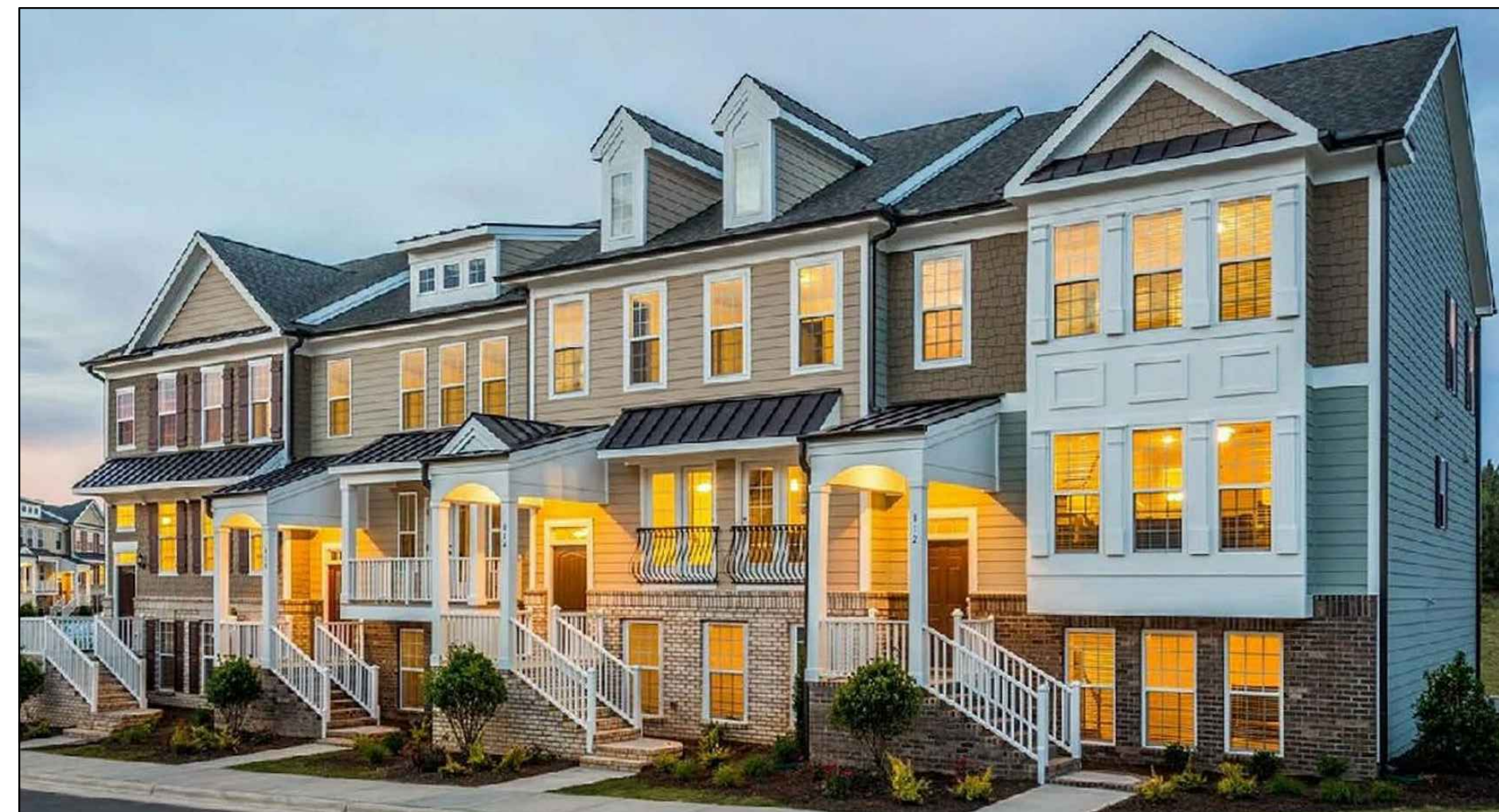
TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'H'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'I'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'J'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'K'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'L'



TOWNHOUSE / SMALL SCALE MULTI-FAMILY 'M'

project:  
**SEYMOUR MIXED-USE PUD**  
TINGEN ROAD @ APEX PEAKWAY  
WHITE OAK TOWNSHIP  
APEX, NORTH CAROLINA 27502



NO.	DATE	REVISION	BY
1	October 16, 2023	TOWN OF APEX - ZONING COMMENTS	JR
2	November 1, 2023	TOWN OF APEX - ZONING COMMENTS	JR
3	November 1, 2023	TOWN OF APEX - ZONING COMMENTS	JR
4	December 20, 2023	TOWN OF APEX - ZONING COMMENTS	JR
5			

title:  
**CONCEPTUAL  
BUILDING  
ELEVATIONS  
TOWNHOUSE &  
SMALL SCALE  
MULTI-FAMILY**

proj #:  
**221101**  
date:  
**JULY 3, 2023**  
dwg by: chkd by:  
**FS JR**  
scale:  
**As Noted**

sheet:  
**C121**  
(PUD PLAN)



BUILDING ELEVATION REMOVED

BUILDING ELEVATION REMOVED

SMALL SCALE MULTI-FAMILY 'A'  
(REAR GARAGE)

SMALL SCALE MULTI-FAMILY 'B'  
(STREET PARKING)



SMALL SCALE MULTI-FAMILY 'C'

SMALL SCALE MULTI-FAMILY 'D'



SMALL SCALE MULTI-FAMILY 'E'



SMALL SCALE MULTI-FAMILY 'G'



SMALL SCALE MULTI-FAMILY 'F'



SMALL SCALE MULTI-FAMILY 'H'



MULTI-FAMILY BUILDING ELEVATION 'B'



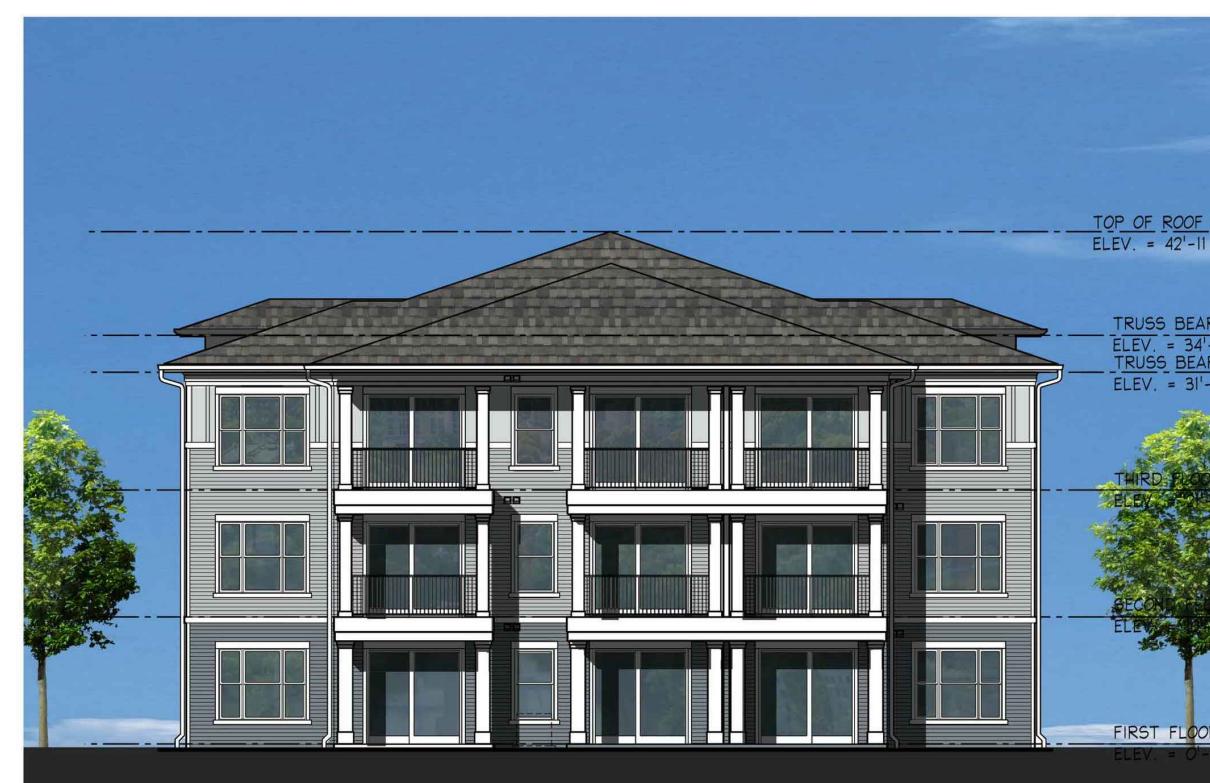
MULTI-FAMILY BUILDING ELEVATION 'A'



MULTI-FAMILY BUILDING ELEVATION 'C'



MULTI-FAMILY BUILDING ELEVATION 'D'



BUILDING A1 SIDE ELEVATION

**BOARD & BATTEN**    **SIDING**    **CEDAR SHAKES**    **PAINT COLORS**

**SHINGLES**    **WEATHERED WOOD**

**BOARD & BATTEN | TRIM**  
SW7070 SITE WHITE

**HORIZONTAL SIDING**  
SW7672 KNITTING NEEDLES

**HORIZONTAL SIDING**  
SW7673 PEWTER CAST



BUILDING A1 FRONT ELEVATION

TYPICAL BUILDING ELEVATIONS. WINDOW CONFIGURATIONS, DOOR STYLES, COLORS, AND OTHER ARCHITECTURAL STANDARDS MAY VARY FROM HOME-TO-HOME AND BUILDING-TO-BUILDING.

ALL FLAT ROOFED NON-RESIDENTIAL BUILDINGS SHALL BE LIGHT OR WHITE COLORED OR UTILIZE A COOL ROOFING MATERIAL.

ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY. CONDITIONS ARE INCLUDED WITHIN THE ZONING PD TEXT DOCUMENT.

NO.	DATE	BY	REVISION
1	October 16, 2023	JR	TOWN OF APEX - ZONING COMMENTS
2	November 3, 2023	JR	TOWN OF APEX - ZONING COMMENTS
3	December 1, 2023	JR	TOWN OF APEX - ZONING COMMENTS
4	December 20, 2023	JR	TOWN OF APEX - ZONING COMMENTS
5			

title:  
**CONCEPTUAL BUILDING ELEVATIONS MULTI-FAMILY/ CARRIAGE HOUSE**

proj #:  
**221101**

date:  
**JULY 3, 2023**

dwg by: chkd by:  
**FS JR**

scale:  
**As Noted**

sheet:  
**C122**  
(PUD PLAN)





MULTI-FAMILY CLUBHOUSE 'A'



MULTI-FAMILY CLUBHOUSE 'B'



MULTI-FAMILY CLUBHOUSE 'C'



MULTI-FAMILY CLUBHOUSE 'D'



NON-RESIDENTIAL 'A'



NON-RESIDENTIAL 'B'



NON-RESIDENTIAL 'C'



NON-RESIDENTIAL 'D'



NON-RESIDENTIAL 'E'



NON-RESIDENTIAL 'F'

TYPICAL BUILDING ELEVATIONS. WINDOW CONFIGURATIONS, DOOR STYLES, COLORS, AND OTHER ARCHITECTURAL STANDARDS MAY VARY FROM HOME-TO-HOME AND BUILDING-TO-BUILDING.

ALL FLAT ROOFED NON-RESIDENTIAL BUILDINGS SHALL BE LIGHT OR WHITE COLORED OR UTILIZE A COOL ROOFING MATERIAL.

ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY. CONDITIONS ARE INCLUDED WITHIN THE ZONING PD TEXT DOCUMENT.

NO.	DATE	REVISION	BY
1	October 6, 2023	TOWN OF APEX - ZONING COMMENTS	JR
2	November 1, 2023	TOWN OF APEX - ZONING COMMENTS	JR
3	November 1, 2023	TOWN OF APEX - ZONING COMMENTS	JR
4	December 20, 2023	TOWN OF APEX - ZONING COMMENTS	JR
5			



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning

### Requested Motion

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ14 Salem Street Townhome PUD, Bateman Civil Survey Company, petitioner, for the property located at 0, 0, 720 South Salem Street (PINs 0741178829, 0741179910, 0741179971).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Case No. 23CZ14 was approved at the January 23, 2024 Town Council meeting.

### Attachments

- CN13-A1: Statement and Ordinance - Rezoning Case No. 23CZ14 Salem Street Townhome PUD - Statement and Ordinance
- CN13-A2: Attachment A - Legal Description - Rezoning Case No. 23CZ14 Salem Street Townhome PUD - Statement and Ordinance
- CN13-A3: Attachment B - Salem Street Townhomes PD Plan Text - Rezoning Case No. 23CZ14 Salem Street Townhome PUD - Statement and Ordinance



SALEM CREEK OUTER BOUNDARY LEGAL DESCRIPTION

BEING THE OUTER BOUNDARY OF THOSE THREE PARCELS OF LAND NOW OR FORMERLY OF SALEM STREET TOWNES, LLC (PINS: 0741178829, 0741179910, & 0741179971) AS DESCRIBED IN DEED BOOK 19262 AT PAGE 540 AND IN BOOK OF MAPS 2023 AT PAGE 226 OF THE WAKE COUNTY REGISTER OF DEEDS. LYING IN THE TOWN OF APEX, WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4" IRON PIPE FOUND ON THE NORTHWESTERN CORNER OF THE PARCEL NOW OR FORMERLY OF SALEM STREET TOWNES, LLC (PIN: 0741178829) AS DESCRIBED IN DEED BOOK 19262 AT PAGE 540 AND IN BOOK OF MAPS 2023 AT PAGE 226 OF THE WAKE COUNTY REGISTER OF DEEDS, SAID IRON HAVING NORTH CAROLINA STATE PLAIN COORDINATES OF N: 718,001.19' AND E: 2,041,782.02'; THENCE, FROM THE POINT OF BEGINNING, S88°25'51"E A DISTANCE OF 59.83 FEET TO A 3/4" IRON PIPE FOUND; THENCE, S88°25'51"E A DISTANCE OF 31.13 FEET TO A 3/4" IRON PIPE SET; THENCE, S88°25'51"E A DISTANCE OF 18.79 FEET TO A 3/4" IRON PIPE FOUND; THENCE, S88°25'51"E A DISTANCE OF 77.21 FEET TO A 3/4" IRON PIPE FOUND; THENCE, S88°25'51"E A DISTANCE OF 9.21 FEET TO A 1" IRON PIPE FOUND; THENCE, S01°05'47"E A DISTANCE OF 140.68 FEET TO A 1/2" IRON PIPE FOUND; THENCE S01°05'57"E A DISTANCE OF 140.68 FEET TO A 1/2" IRON PIPE FOUND; THENCE, S01°05'47"E A DISTANCE OF 21.43 FEET TO A 1" IRON PIPE FOUND; THENCE, S77°55'54"W A DISTANCE OF 12.82 FEET TO A 3/4" IRON PIPE SET; THENCE, S00°04'39"W A DISTANCE OF 105.00 FEET TO A COMPUTED POINT; THENCE, N88°25'51"W A DISTANCE OF 96.00 FEET TO A COMPUTED POINT; THENCE, N00°04'39"E A DISTANCE OF 37.47 FEET TO A COMPUTED POINT ON THE CENTERLINE OF SOUTH SALEM STREET; THENCE, CONTINUING WITH SAID CENTERLINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2,897.00 FEET AND A CHORD OF 96.00 FEET BEARING S71°22'12"W AND AN ARC LENGTH OF 96.00 FEET TO A COMPUTED POINT; THENCE, LEAVING SAID CENTERLINE, N00°04'39"E A DISTANCE OF 30.93 FEET TO A COMPUTED POINT; THENCE, N00°04'39"E A DISTANCE OF 234.77 FEET TO THE POINT OF BEGINNING.

SAID OUTER BOUNDARY CONTAINING 50,369 SQUARE FEET OR 1.16 ACRES, MORE OR LESS.

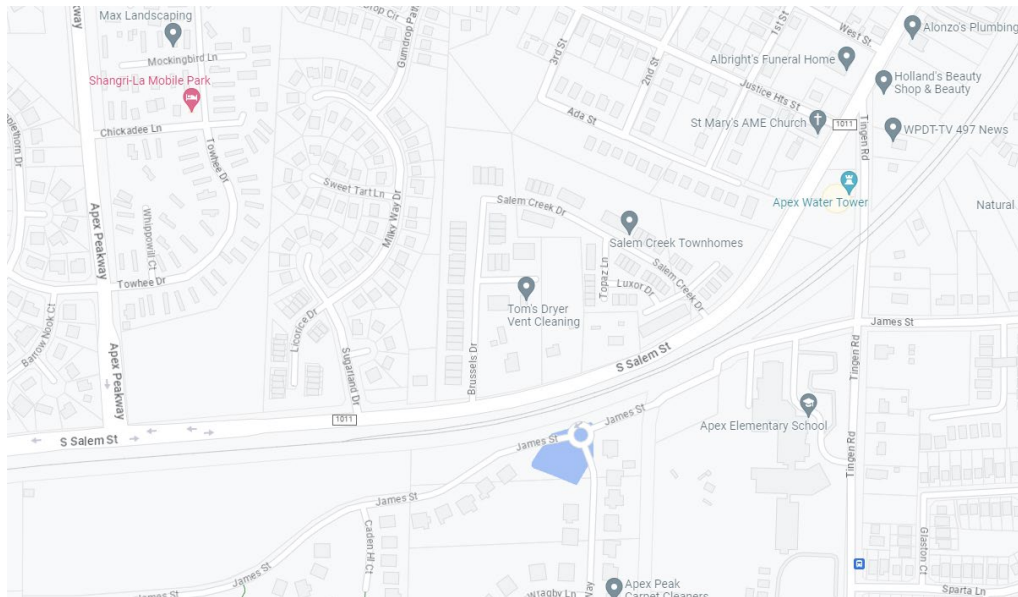
LESS AND EXCEPT THOSE PORTIONS OF THE PROPERTIES LYING WITHIN THE RIGHT OF WAY OF SOUTH SALEM STREET AND THE RIGHT OF WAY OF CSX TRANSPORTATION, INC.

## Salem Street Townhomes PD Plan Text

### Section 1: Table of Contents-

- Vicinity Map
- Base Items
- Purpose Statement- Planned Unit Development Standards
- Purpose Statement- Conditional Zoning Standards
- Proposed Design Controls
- Proposed Architectural Controls
- Parking and Loading
- Sign Statement
- Natural Resource and Environmental Data
- Stormwater Requirements
- Projected must be reviewed by Parks, Recreation and Culture Commissions
- Public Facilities Requirements
- Phasing Plan
- Consistency with Land Use Plan
- Compliance with relevant portions of the UDO
- Building Elevations

### Section 2: Vicinity Map





### Section 3: Project Data

- Name of Project- Salem Street Townhomes
- Preparer's Information:

Bateman Civil Survey Company  
Phone: 919-577-1080 Fax: 919-577-1081  
[engineering@batemancivilsurvey.com](mailto:engineering@batemancivilsurvey.com)

Owner's Information:  
P&R Properties Group, LLC  
Kevin Poythress  
Phone: 919-463-5403  
[kevin@pccbuilder.com](mailto:kevin@pccbuilder.com)

- Current Zoning Designation: MD, Small Town Character Overlay District
- Proposed Zoning Designation: PUD-CZ, Small Town Character Overlay District
- Current 2045 Land Use Map Designation: Medium/High Density Residential, Office employment
- Area of Tract: 1.04 Acres
- Area designated as mixed use on 2045 LUM: 0.00 Acres
- Area of mixed use property proposed as non-residential development: 0.00 Acres
- Percent of mixed use areas proposed as non-residential development: 0.0%
- Permitted Uses:  
The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced, such references do not imply that other sections of the UDO do not apply.

Residential Uses:  
Townhouse  
Accessory Apartment

Recreation Uses:  
Recreation facility, private  
Greenway  
Park, active  
Park, passive  
Utility, minor

#### **Section 4: Purpose Statement- Planned Unit Development Standards**

The PUD-CZ proposes an 8-unit single townhome building which will serve as an extension of the existing Salem Creek Townhome community. The PUD-CZ shows a roadway pattern that interconnects Regents Lane and Topaz Lane and will provide for a future stub street on the western property line. The PUD-CZ dedicates Right-Of-Way along South Salem Street. The PUD-CZ shall contain parking, open space and buffers as shown on the plan. The proposal shall endeavor to meet all of the Legislative Considerations as detailed in Sec. 2.3.3.F 1-10 of the UDO to the extent practicable.

#### **Section 5: Purpose Statement- Conditional Zoning Standards**

The PUD-CZ proposes an 8-unit single townhome building which will serve as an extension of the existing Salem Creek Townhome community. The PUD-CZ shows a roadway pattern that interconnects Regents Lane and Topaz Lane and will provide for a future stub street on the western property line. The PUD-CZ shall contain parking, open space and buffers as shown on the plan. The proposal shall endeavor to meet all of the Legislative Considerations as detailed in Sec. 2.3.3.F 1-10 of the UDO to the extent practicable.

#### **Section 6: Proposed Design Controls**

- Maximum Square Footage per Non-Residential Use: 0 SF
- Max Densities per Residential Use: 10 DU/Acre
- Lot Sizes for Residential Use: 1,618 SF to 3,779 SF
- Maximum Height of Buildings: Max height is 37' from FFE. Number of stories varies from 1.5 to 2.5 stories.
- Front, side, and rear setbacks: 15', 0', 15'
- Amount and Percentage of Built Upon Area Allowed: 0.68 Ac., 65%
- Amount and Percentage of Built Upon Area: 0.44 Ac., 42.3%

#### **Section 7: Proposed Architectural Controls**

1. Proposed Materials-James Hardie or equal lap siding, James Hardie or equal decorative shake siding, James Hardie or equal soffits, Decorative cultured stone or brick veneer, Miratec or equal corner boards, fascia boards, frieze boards, column and window wraps. CertainTeed Landmark or equal architectural shingles, vinyl single-hung windows, vinyl shutters, decorative wood main entry doors
2. Proposed Structural Materials- Covered main entrances via porches or stoops, main roof overhangs 12".
3. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trims are permitted.

4. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
5. Garage doors must have windows, decorative details or carriage-style adornments on them.
6. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
7. The garage cannot protrude more than 1 foot out from the front façade or front porch.
8. The visible side of a townhome on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - a. Windows, bay window, recessed window, decorative window, trim around the window, wrap around porch or side porch, two or more building materials, decorative brick/stone, decorative trim, decorative shake, decorative air vents on gable, decorative gable, decorative cornice, column, portico, balcony, dormer
9. Building facades shall have horizontal relief achieved by the use of recesses and projections.
10. 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.
11. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.

### **Section 8: Parking and Loading**

Parking calculations are based on Apex UDO Sec. 8.3. The required is 2 spaces/unit plus .25 per unit for guest, therefore requiring 18 spaces. Our development provides 26 spaces. Each unit provides 2 parking spaces. The mail kiosk area provides 3 parking spaces. There are an additional 7 parking spaces to accommodate for guest parking.

### **Section 9: Signage**

All signage will comply with UDO section 8.7.

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

- The site is located in a Secondary Watershed Protection Overlay District.
- The site does not contain a FEMA designated 100 year floodplain.
- Gross square footage and percent of RCA required: Exempt by being in a small town character overlay district per UDO 6.3.1.
- Gross square footage and percent of RCA provided: Exempt by being in a small town character overlay district, per UDO 6.3.1.
- The site does not contain a historic structure.

### **Section 11: Stormwater Management**

This site disturbs less than 1.0 acres, therefore no SCM is required for this development.

## **Section 12: Parks and Recreation**

Per Section 14.1.2 Exemptions of the UDO, only a payment of fees-in-lieu shall be required. The fee rate will be \$2,705.23 per single-family detached unit paid at the time of plat.

## **Section 13: Public Facilities**

The PD plan for the PUD-CZ demonstrates a safe and adequate on-site transportation circulation system by connecting two existing stub streets and providing for a future stub to the west. The PD Plan demonstrates a safe and adequate on-site system of potable water and wastewater lines which will provide a loop system with the existing community which is integrated into existing off-site potable water and wastewater facilities. Water and sewer infrastructure will be designed to comply with the Town's Sewer and Water Master Plan and Standards and Specifications at the time of CD. There are adequate off-site facilities to serve the proposal including a potable water supply, sewage disposal, solid waste disposal, electrical supply, and fire protection.

The roads are planned and programmed for the development and the development is conveniently located in relation to schools and police protection services as permitted by the town. The developer will dedicate public right of way along South Salem Street. The developer is not proposing direct access to South Salem Street and is not proposing roadway frontage improvements along South Salem Street. The existing 5-foot sidewalk along South Salem Street shall remain. The developer shall dedicate public right-of-way extending 60 feet northward from the south side edge of asphalt (60 feet north of CSXT right of way) along the entirety of the project limits along South Salem Street. The PD Plan demonstrates compliance with the parks and recreation and open space requirements of Sec. Article 14 & Sec. 7.3.1.

## **Section 14: Phasing Plan**

This project will be constructed in one phase.

## **Section 15: Compliance with the UDO**

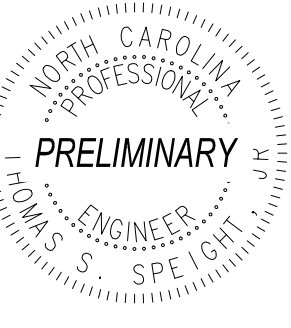
The 2045 Apex Land Use Plan shows a future land classification as Medium/High Density Residential which supports townhome use within the Town Center with a recommended density of 7-14 units per acre. This development plan shows 8 units on 1.04 acres.

## **Section 16: Compliance with the UDO**

Since this property is in the Small-Town Character Overlay District, no buffers are required per UDO Section 6.3.1.D.6. All buffers shown on the plan are being offered but not required. This development has provided a variable type A streetscape to the south along South Salem Street and an 8' planting area to the west.

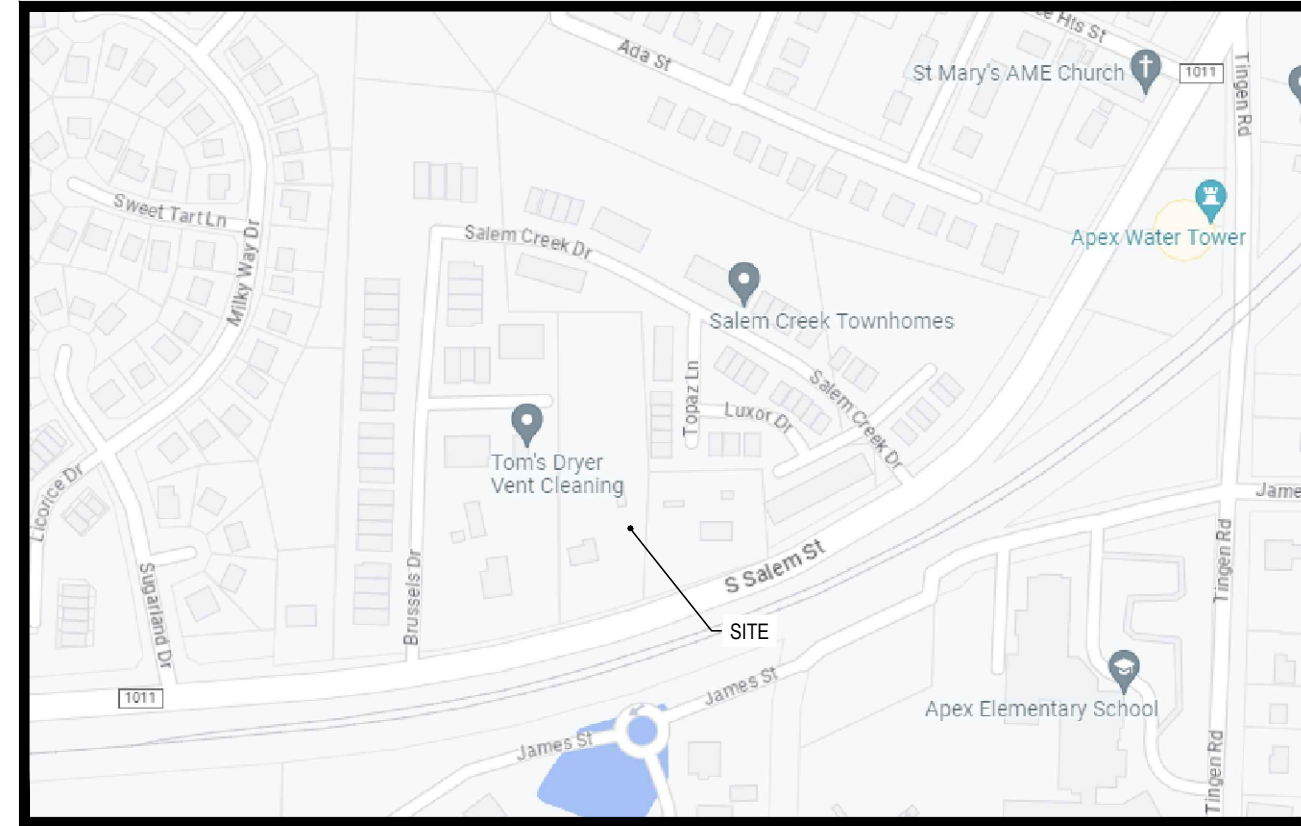
## **Section 17: Elevations**

Building elevations showing all sides of the structure have been provided in this submittal. The max height is 37' from FFE. The number of stories varies from 1.5 to 2.5 stories.



# SALEM STREET TOWNHOMES

APEX PUD REZONING  
 SUBMITTAL 1: 07.03.23  
 SUBMITTAL 2: 09.08.23  
 SUBMITTAL 3: 10.06.23  
 SUBMITTAL 4: 11.08.23  
 720 S SALEM STREET  
 APEX, NC 27502  
 WAKE COUNTY



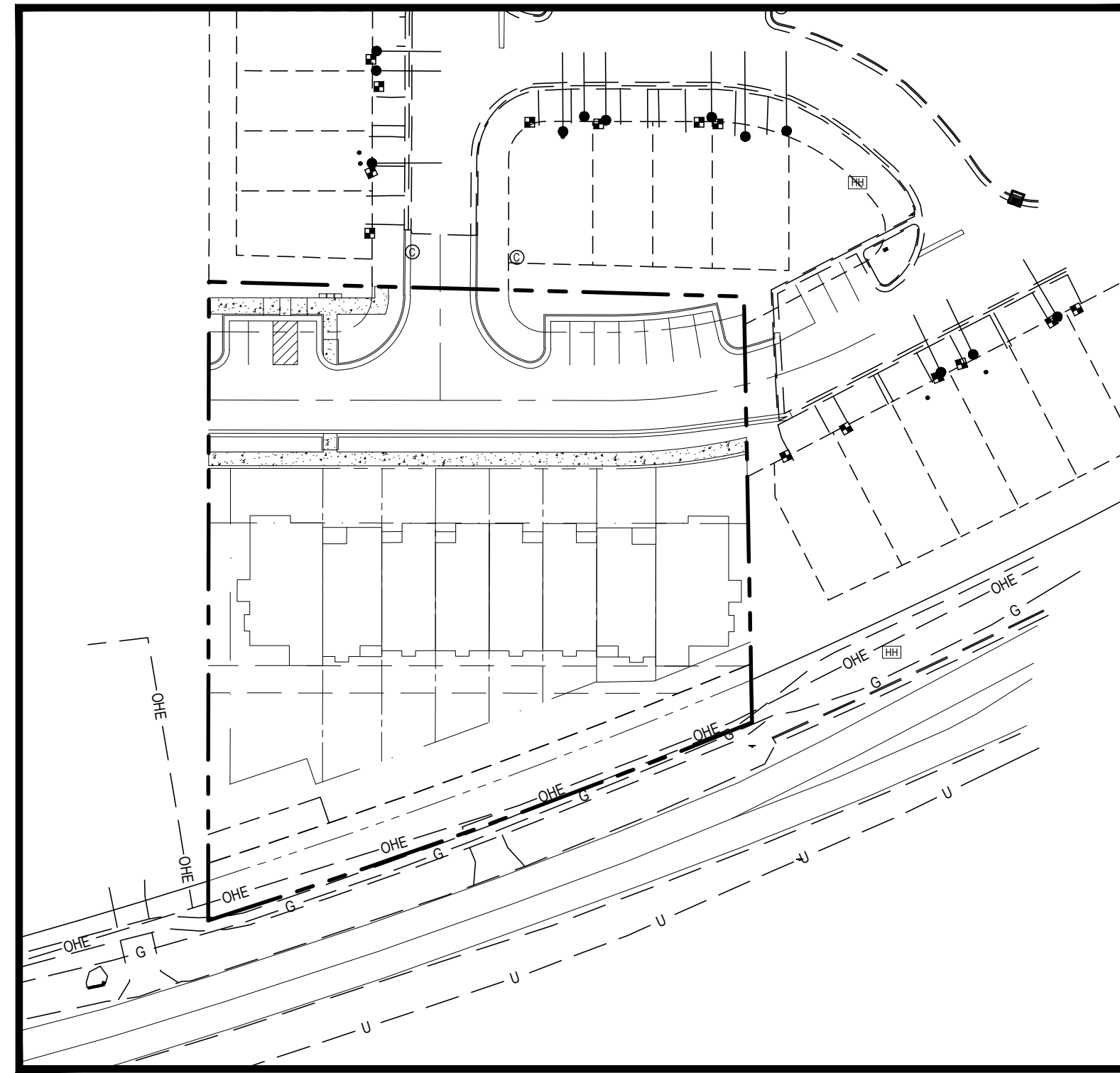
**VICINITY MAP**  
SCALE: NTS

SITE DATA	
OWNER	SALEM STREET TOWNES, LLC
SITE ADDRESS	720 SALEM STREET APEX, NC 27502
PIN	0741-17-8829, 0741-17-9910, 0741-17-9971
OVERLAY	N/A
EXISTING USE	MEDIUM DENSITY
PROPOSED USE	MEDIUM/HIGH DENSITY RESIDENTIAL
ZONING	PUD-CZ
WATERSHED	SECONDARY PROTECTION OVERLAY DISTRICT
WATERSHED WATER SUPPLY	JORDAN LAKE
RIVER BASIN	CAPE FEAR
FEMA MAP	MAP#3720074100J DATE 05.02.06
TRACT AREA	1.04 AC. (45,302 SF)

DEVELOPMENT TYPE - TOWNHOMES	
PROPOSED USE	MEDIUM/HIGH DENSITY RESIDENTIAL
DENSITY	14 UNITS / AC.
UNITS PROVIDED	8 UNITS
MIN. LOT WIDTH	18'
PROPOSED LOT WIDTH	19' 8"
PROPOSED GROSS SF BY FLOOR AREA	905-1571 SF
PROPOSED HEIGHT AND NUMBER OF STORIES	37', 2 Stories

BUILDING SETBACKS - TOWNHOMES	
PRIMARY STREET	15'
SIDE STREET	0'
REAR LOT LINE	15'

PARKING	
PARKING CALCS.	2 SPACE / UNIT PLUS .25 PER UNIT FOR GUEST
PARKING REQUIRED	18 SPACES
PARKING PROVIDED	26 SPACES



**PROJECT PLAN**  
SCALE: 1" = 50'

**OWNER:**  
 P&R PROPERTIES GROUP, LLC  
 KEVIN POYTHRESS  
 1011 CLASSIC ROAD  
 APEX, NC 27536  
 P: 919.463.5403

**DEVELOPER:**  
 THE COLEY GROUP  
 CONTACT: SCOTT MOORE  
 4350 LASSITER AT NORTH HILLS AVE, SUITE 256  
 RALEIGH, NC 27609  
 P: 919.526.0401

**ENGINEER:**  
 BATEMAN CIVIL SURVEY COMPANY  
 THOMAS S. SPEIGHT, JR., P.E.  
 2524 RELIANCE AVE.  
 APEX, NC 27539



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

SHEET INDEX	
SHEET NUMBER	SHEET TITLE
C000	COVER
C100	EXISTING CONDITIONS
C101	TREE SURVEY
C200	OVERALL SITE PLAN
C400	UTILITY AND STORMWATER PLAN

**NOTES:**  
 • THIS PROJECT WILL BE COMPLETED IN ONE PHASE  
 • THIS PROJECT WILL BE REQUESTING FULL TOWN SERVICES (WATER, SEWER, AND ELECTRIC)  
 • THE DISTURBED ACREAGE ON THIS PROJECT IS LESS THAN 1 ACRE. THEREFORE, NO SCM IS REQUIRED.

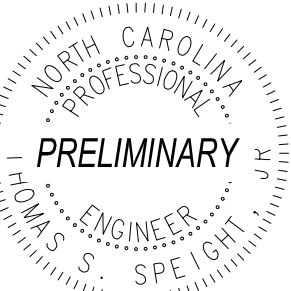
REV#	DATE	DESCRIPTION



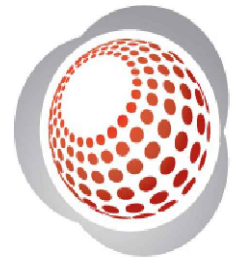
**KNOW WHAT IS BELOW  
CALL BEFORE YOU DIG**

Date:	xx.xx.23
Project #:	P230023
SHEET	C000





**Bateman Civil Survey Company**  
 Engineers • Surveyors • Planners  
 2524 Reliance Avenue, Apex, North Carolina 27539  
 Phone: 919.577.1080 Fax: 919.577.1081  
 NCBELS FIRM No. C-2376

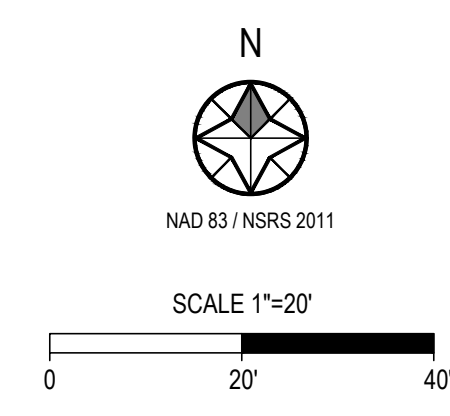
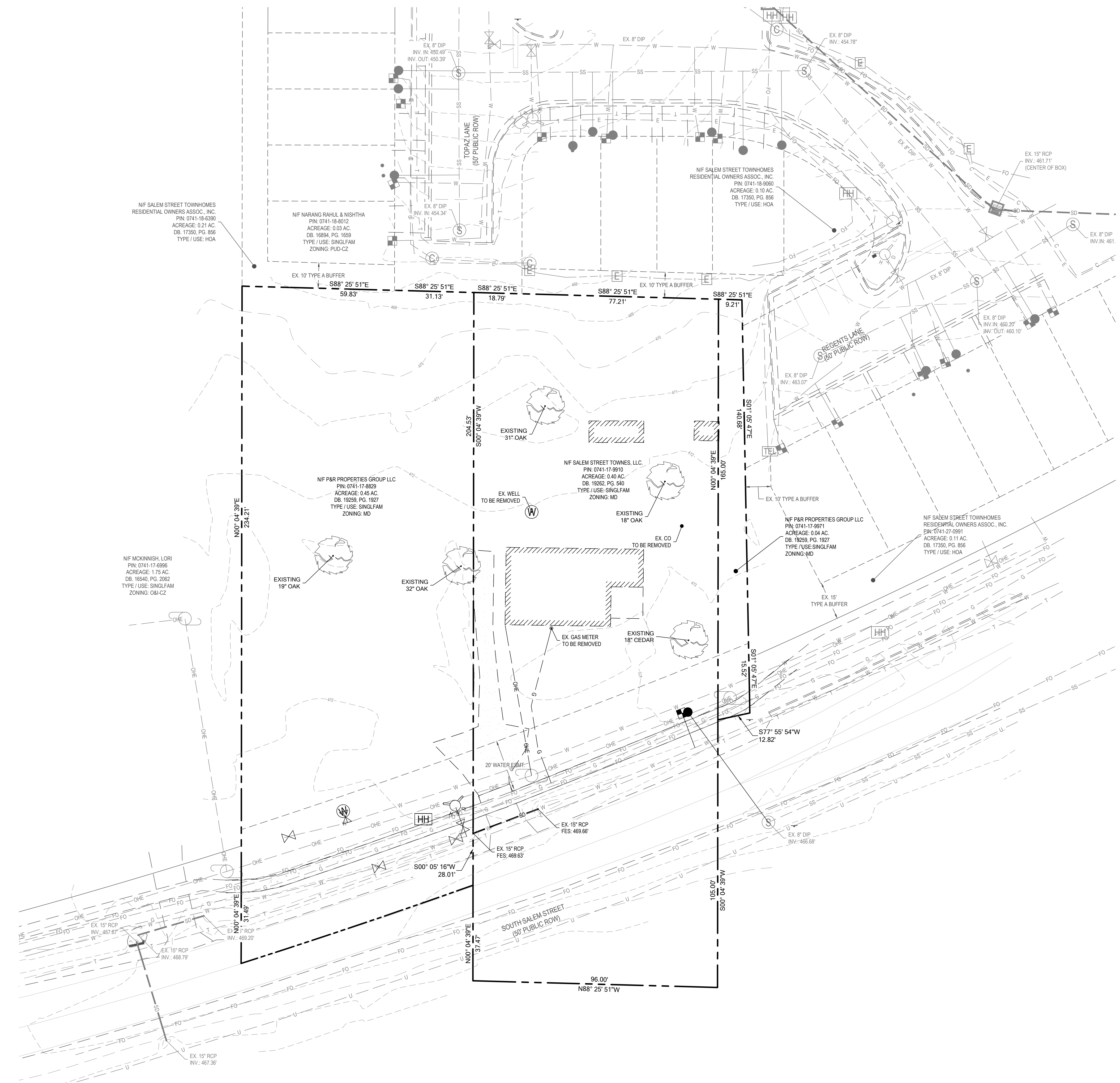


**SOUTH SALEM STREET  
 REZONING**  
 720 SALEM STREET  
 APEX, NC 27502  
 WAKE COUNTY

**EXISTING CONDITIONS**

Design By: MEM  
 Date: 02.XX.22  
 Project #: P230023

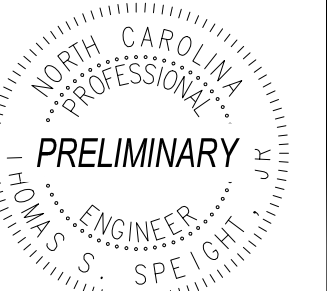
SHEET  
 C100



REV#	DATE	DESCRIPTION

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**Bateman Civil Survey Company**  
 Engineers • Surveyors • Planners  
 2524 Reliance Avenue, Apex, North Carolina 27539  
 Phone: 919.577.1080 Fax: 919.577.1081  
 NCBELS FIRM No. C-2376

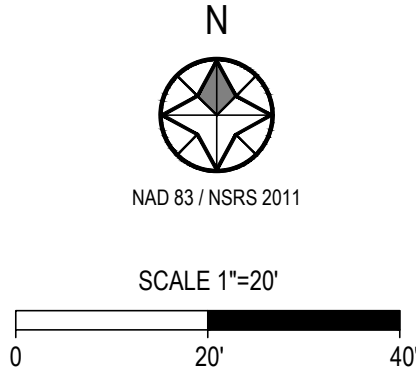
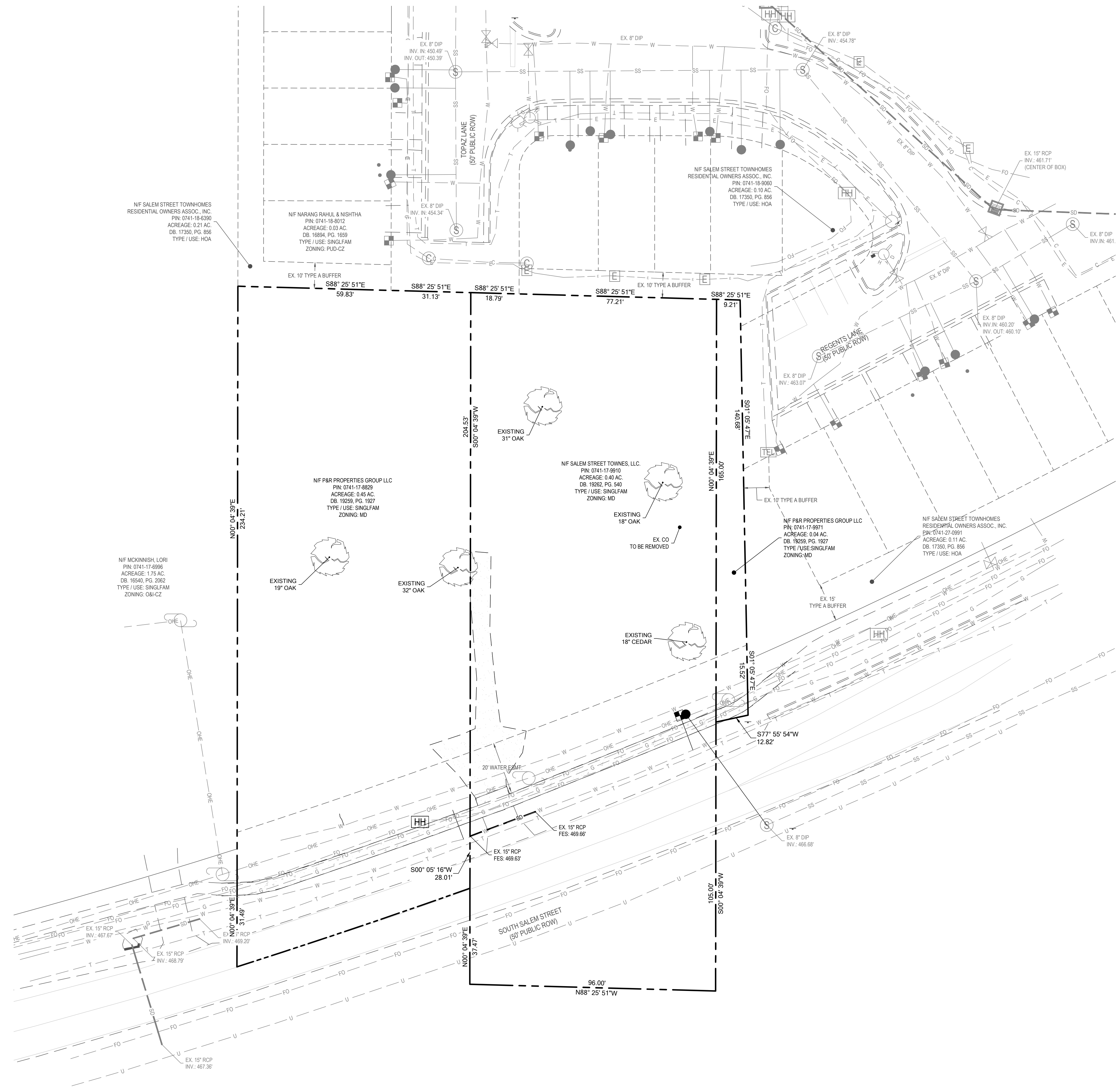


**SOUTH SALEM STREET  
 REZONING**  
 720 SALEM STREET  
 APEX, NC 27502  
 WAKE COUNTY

TREE SURVEY

Design By: MEM  
 Date: 02.XX.22  
 Project #: P230023

SHEET  
 C101

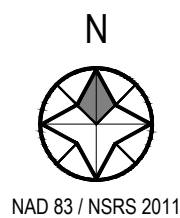
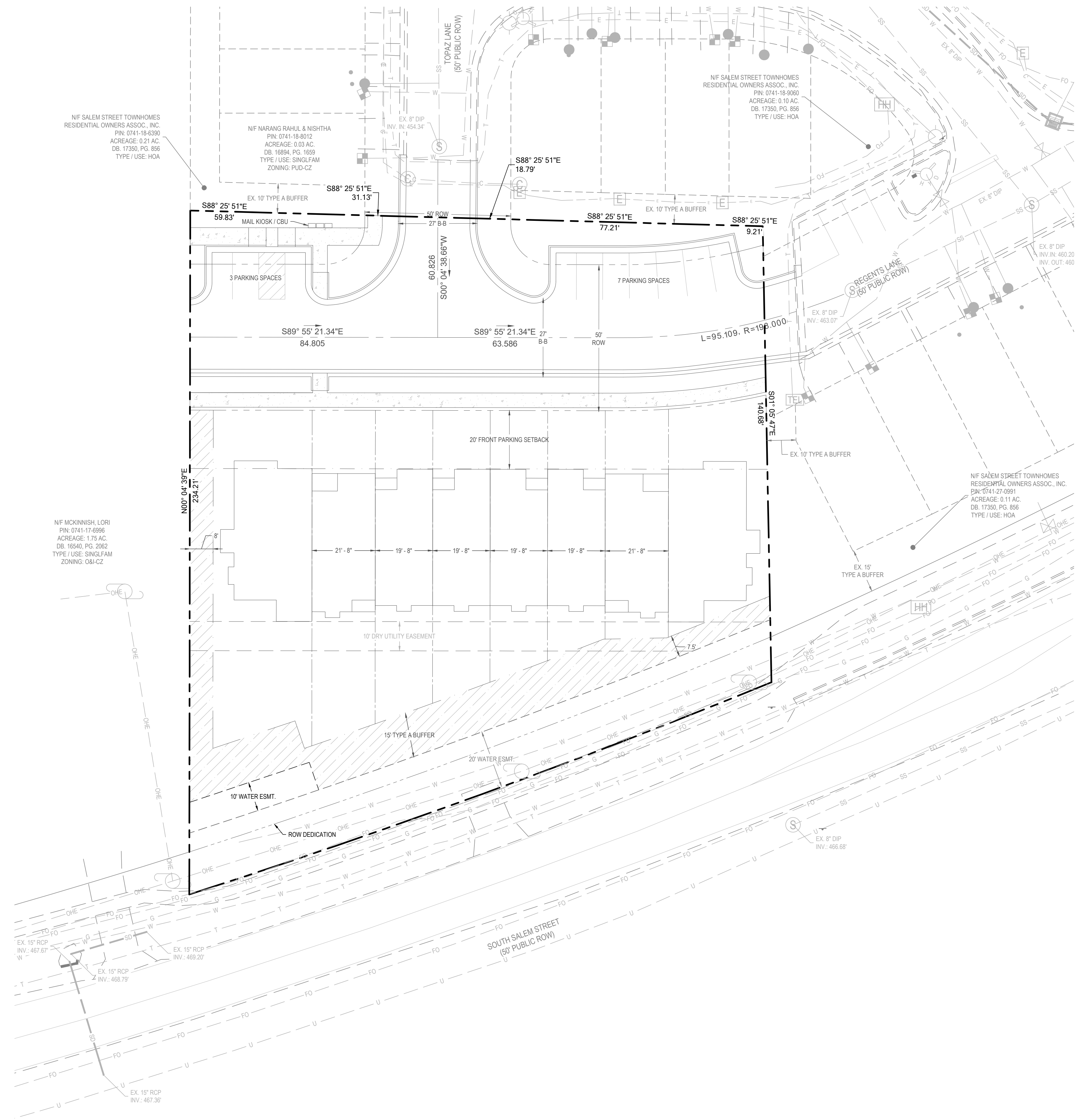


REV#	DATE	DESCRIPTION

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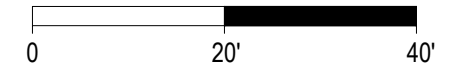


NOTE:  
PLAN SHEETS ARE INTENDED FOR  
ILLUSTRATIVE USE ONLY.

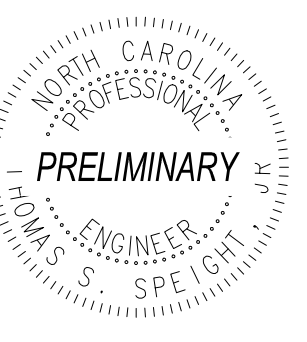


NAD 83 / NSRS 2011

SCALE 1"=20'



REV#	DATE	DESCRIPTION



**Bateman Civil Survey Company**  
Engineers • Surveyors • Planners  
2524 Reliance Avenue, Apex, North Carolina 27539  
Phone: 919.577.1080 Fax: 919.577.1081  
NCBELS FIRM No. C-2376

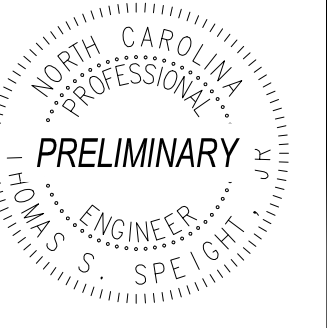


**SOUTH SALEM STREET  
REZONING**  
720 SALEM STREET  
APEX, NC 27502  
WAKE COUNTY

**OVERALL SITE PLAN**

Design By: MEM  
Date: 02.XX.22  
Project #: P230023

SHEET  
C200



**Bateman Civil Survey Company**  
 Engineers • Surveyors • Planners  
 2524 Reliance Avenue, Apex, North Carolina 27539  
 Phone: 919.577.1080 Fax: 919.577.1081  
 NCBELS FIRM No. C-2376



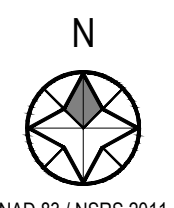
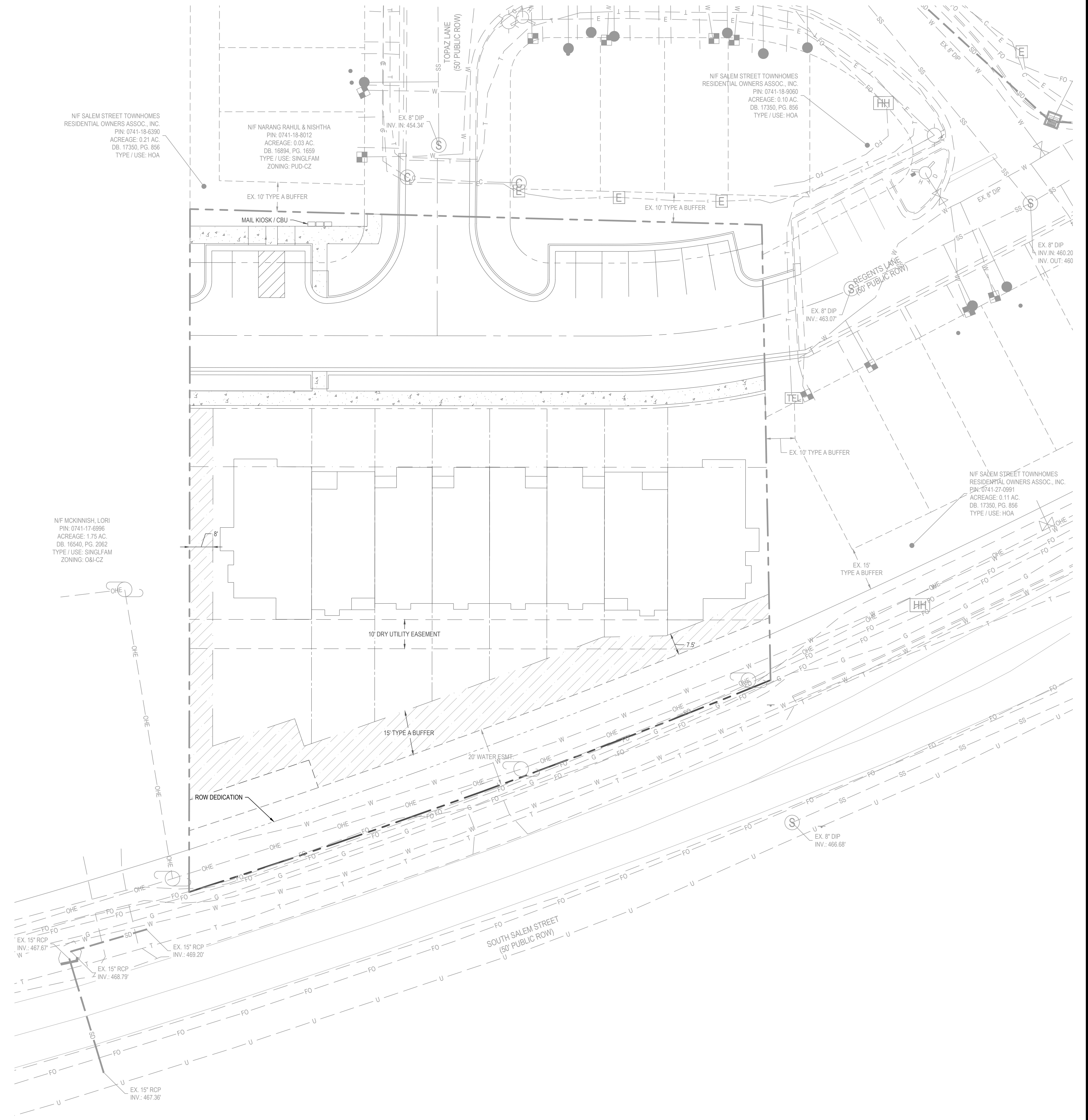
**SOUTH SALEM STREET  
 REZONING**  
 720 SALEM STREET  
 APEX, NC 27502  
 WAKE COUNTY

UTILITY AND STORMWATER PLAN

Design By: MEM  
 Date: 02.XX.22  
 Project #: P230023

SHEET  
 C400

NOTE:  
 PLAN SHEETS ARE INTENDED FOR  
 ILLUSTRATIVE USE ONLY.



NAD 83 / NSRS 2011  
 SCALE 1"=20'  
 0 20' 40'

REV#	DATE	DESCRIPTION

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# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## 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 Case No. 23CZ15 Apex Gateway Phase 2 Amendment. The applicant is Gray Harrell, Beacon Development for the properties located at: 314, 450, 482, 472, 546, 610, 696, 527, 0, & 0 NC Hwy 751; 0, 0, & 0 Hwy 64 East; 0 & 44 New Hill Road (PINs 071200461386, 071200460876, 071200367945, 071200470121, 071200378303, 071200376549, 071200372751, 071200261673, 071200350755, 071200245813, 071200245419, 071200246438, 071200435356, 071200452105, and 071200543241).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Case No. 23CZ15 Apex Gateway Phase 2 Amendment was approved at the January 23, 2024 Town Council meeting.

### Attachments

- CN14-A1: Statement and Ordinance - Rezoning Case No. 23CZ15 Apex Gateway Ph. 2 Amendment Statement and Ordinance
- CN14-A2: Exhibits - Rezoning Case No. 23CZ15 Apex Gateway Ph. 2 Amendment Statement and Ordinance
- CN14-A3: Attachment A - Legal Description - Rezoning Case No. 23CZ15 Apex Gateway Ph. 2 Amendment Statement and Ordinance



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 243.48 ACRES LOCATED AT 314, 450, 482, 472, 546, 610, 696, 527, 0 & 0 NC HWY 751; 0, 0, & 0 US 64 HWY E; 0 & 44 NEW HILL ROAD FROM LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ #22CZ26) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ) & PLANNED COMMERCIAL-CONDITIONAL ZONING (PC-CZ)**

**#23CZ15**

**WHEREAS**, Gray Harrell, Beacon Development, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of August 2023 (the “Application”). The proposed conditional zoning is designated #23CZ15;

**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 #23CZ15 before the Planning Board on the 8<sup>th</sup> day of January 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of January 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ15. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ15;

**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 #23CZ15 before the Apex Town Council on the 23<sup>rd</sup> day of January 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of January 2024. 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 #23CZ15 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 partially consistent with the 2045 Land Use Plan and other adopted plans in the the 2045 Land Use Map designates the area north of Highway 64 as Industrial Employment and the area south of Highway 64 as Commercial Services/Industrial Employment. Approval of this rezoning will automatically amend the area to be zoned Planned Commercial-Conditional Zoning north of Highway 64 to Commercial Services. These designations on the 2045 Land Use Map include the zoning districts Light Industrial-Conditional Zoning (LI-CZ) and Planned Commercial-Conditional Zoning (PC-CZ) and the Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-CZ) and Planned Commercial-Conditional Zoning (PC-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning includes only minor amendments to the existing zoning conditions in the LI-CZ zoned areas and the proposed PC-CZ districts will allow for greater variety in the types of commercial uses allowed. The additional commercial uses will benefit the employees and users of the development in the LI-CZ zoned areas as well as the residential areas in the general vicinity. The proposed rezoning will encourage compatible development of the property and allow for uses that will generate jobs and increase the tax base; and

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ15 rezoning the subject tract located at 314, 450, 482, 472, 546, 610, 696, 527, 0 & 0 NC HWY 751; 0, 0, & 0 US 64 HWY E; 0 & 44 New Hill Road from Light Industrial-Conditional Zoning (LI-CZ #22CZ26) to Light Industrial-Conditional Zoning (LI-CZ) & Planned Commercial-Conditional Zoning (PC-CZ).

**Ordinance Amending the Official Zoning District Map #23CZ15**

**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 Light Industrial-Conditional Zoning (LI-CZ #22CZ26) to Light Industrial-Conditional Zoning (LI-CZ) & Planned Commercial-Conditional Zoning (PC-CZ) District, subject to the conditions stated herein and in attached exhibits.

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

**Section 4:** The “Rezoned Lands” are subject to all of the following conditions which are imposed as part of this rezoning:

**Limitation of Uses:**

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

**Permitted Uses and Limitations: Light Industrial-Conditional Zoning (LI-CZ)**

- |   |   |
|---|---|
| 1. Government service   | 21. Brewery [subject to additional use condition restrictions]                    |
| 2. Communication tower, commercial (SUP)  | 22. Distillery [subject to additional use condition restrictions]                 |
| 3. Utility, minor   | 23. Manufacturing & processing [subject to additional use condition restrictions] |
| 4. Wireless support structure   | 24. Microbrewery or Microdistillery   |
| 5. Wireless communication facility  | 25. Research facility   |
| 6. Broadcasting station (radio & television)  | 26. Glass sales [subject to additional use condition restrictions]                |
| 7. Radio and television recording studio  | 27. Health/Fitness center or spa  |
| 8. Commissary   | 28. Manufacturing & processing, minor   |
| 9. Restaurant, general  | 29. Entertainment indoor  |
| 10. Retail sales, general   | 30. Entertainment outdoor (SUP)   |
| 11. Medical or dental office or clinic  | 31. Greenway  |
| 12. Medical or dental laboratory  | 32. Pet services  |
| 13. Office, business or professional  | 33. Parking lot, public   |
| 14. Building supplies, wholesale [subject to additional use condition restrictions]                                       | 34. Day care facility (%)   |
| 15. Laboratory, industrial research [subject to additional use condition restrictions]                                    | 35. Veterinary clinic or hospital   |
| 16. Machine or welding shop [retained at the request of the neighbors with existing shop or welding businesses on NC-751] | 36. Vocational school [subject to additional use condition restrictions]          |
| 17. Warehousing, general [subject to additional use condition restrictions]   | 37. Drop-in or short-term day care  |
| 18. Woodworking or cabinetmaking  | 38. Botanical garden  |
| 19. Wholesaling distribution center [subject to additional use condition restrictions]                                    | 39. Park, active  |
| 20. Warehousing fulfillment center [subject to additional use condition restrictions]                                     | 40. Park, passive   |



## Ordinance Amending the Official Zoning District Map #23CZ15

### Permitted Uses and Limitations Planned Commercial-Conditional Zoning (PC-CZ)

1. Daycare facility
2. Drop-in or short-term day care
3. Veterinary clinic or hospital
4. Communication tower, commercial (SUP)
5. Communication tower, constructed stealth (SUP)
6. Utility minor
7. Wireless support structure
8. Wireless communication facility
9. Entertainment, indoor
10. Entertainment, outdoor (SUP)
11. Greenway
12. Park, active
13. Park, passive
14. Youth or day camps
15. Bar, nightclub, wine bar, or taproom
16. Restaurant, drive-through (subject to additional use restrictions)
17. Restaurant, general (subject to additional use restrictions)
18. Medical or dental office or clinic
19. Medical or dental laboratory
20. Office, business or professional
21. Bed and breakfast
22. Hotel or motel
23. Barber and beauty shop
24. Book store
25. Convenience store
26. Convenience store with gas sales (subject to additional use restrictions)
27. Financial institution
28. Floral shop
29. Gas and fuel, retail (subject to additional use restrictions)
30. Greenhouse or nursery, retail
31. Grocery, general
32. Grocery, specialty
33. Health/fitness center or spa
34. Laundromat
35. Newsstand or gift shop
36. Personal services
37. Pharmacy
38. Printing and copying services
39. Real estate sales
40. Retail sales, general
41. Studio for art
42. Tailor shop
43. Theater
44. Pet services
45. Microbrewery
46. Parking lots, public

### Zoning Conditions:

#### Use Conditions LI-CZ:

1. Machine or welding shop: This use is allowed with the exception of welding associated with automobiles.
2. Manufacturing and processing: This use shall be prohibited on any parcels south of US 64 and prohibited within 500' of the northern boundary of the area to be rezoned.
3. Laboratory, industrial research: This use shall be prohibited within 500' of the northern boundary of the area to be rezoned and prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.
4. Retail sales, general: This use shall be allowed in both freestanding retail buildings as well as mixed use buildings with no gross floor area percentage restrictions. Such use shall not be required to be associated with an Industrial use.
5. Building supplies, wholesale: This use shall not exceed 200,000 square feet north of US 64 and shall not include more than 15% of the building's square footage as outdoor storage. This use shall not exceed 50,000 square feet south of US 64 and shall not include more than 15% of the building's square footage as outdoor storage. This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road. Outdoor storage to be screened with 10' slotted fence.
6. Manufacturing and processing, minor: This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.

## Ordinance Amending the Official Zoning District Map #23CZ15

7. Glass sales: This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road. This use shall be all indoors except what is stored on trucks. Outdoor truck parking must be fully screened from any public right-of-way.
8. Brewery: This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.
9. Distillery: This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.
10. Vocational school: This use is allowed with the exception of a truck driving school, or related programing that would require the use of trucks.
11. There shall be a minimum of 3 acres in the LI-CZ zoning acreage, reserved north of US 64 that will allow for the following uses: Restaurant, general; Medical or dental office or clinic; Office, business or professional; Retail sales general; Pet services; Health / Fitness center or spa; Veterinary clinic or hospital; Day care facility; Drop-in or short-term day care;
12. Warehousing, general: This use shall not exceed 95,000 total square feet south of US 64. This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.
13. Warehousing fulfillment: This use shall not exceed 95,000 total square feet south of US 64. This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.
14. Wholesaling distribution center: This use shall not exceed 95,000 total square feet south of US 64. This use shall be prohibited within 500' of the centerline of New Hill Road and New Olive Chapel Road.

### Use Conditions PC-CZ:

1. The approximately 12.07-acre tract at the south east corner of the US 64 and NC 751 intersection, framed between Hwy 64, New Hill Road, and New Hill Olive Road, shall exclude the following uses: Gas and fuel, retail and Convenience store with gas sales.
2. The approximately 12.07-acre tract at the southeast corner of the US 64 and NC 751 intersection, between New Hill Road and New Hill Olive Chapel Road, shall contain no more than two (2) Restaurant, drive-through uses and no more than two (2) Restaurant, general uses.
3. In addition to the allowable UDO signage requirements, two larger sign installations that shall be limited to 14-feet in height and have a maximum area of no greater than 180 square feet shall be allowed in the PC-CZ rezoning area. These signs will serve as project branding for the Apex Gateway development.
4. The "Convenience store with gas sales" use shall be limited to a single store location, and be prohibited in any acreage north of the US 64 or to the east of New Hill Road.

### Environmental Conditions:

1. On the north side of US 64, within existing PIN's 071200461386, 071200460876, 071200470121, 071200367945, 071200378303, 071200376549, 071200372751, 071200261673, 071200350755, 071200245813, 071200245419, 071200246438, and a portion of 071200435356, existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by the Town Planning Staff, above and beyond UDO requirements.
2. On the south side of US 64, within existing PIN 071200435356 (Lots 2 and 3), existing trees greater than 24" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by the Town Planning Staff, above and beyond UDO requirements.
3. The northern property boundary of the rezoning limits shall have the following buffers: PIN 0712-00-26-1673 – 100' average buffer; PIN 0712-00-37-2751 – minimum 100' buffer. The approximate location of the buffer is shown in Exhibit 3.
4. Post development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, and 25-year storm events. This shall be in accordance with the Unified Development Ordinance.

## Ordinance Amending the Official Zoning District Map #23CZ15

Additionally, the developer shall commit to a minimum of 2 acres of wetlands to be constructed north of US 64 to facilitate additional nutrient removal above the Unified Development Ordinance requirements.

5. On site stormwater treatment shall also include Green Stormwater Infrastructure measures within the project limits (above Town of Apex Unified Development Ordinance requirements). At least two of the following Green Stormwater Infrastructure measures shall be included prior to the 3<sup>rd</sup> building CO: bio-retention areas totaling a minimum of 6,000 sf; a minimum of 5,000 sf of permeable pavement systems; and rainwater harvesting (cisterns) with a minimum capacity of 2,500 gallons. Educational signage will be displayed where Green Stormwater Infrastructure devices are located, and such locations shall be open to the public and community groups for educational purposes.
6. The project shall install at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
7. The project shall preserve a minimum of 10% of the existing tree canopy.
8. The project shall preserve an additional 30' of buffer along intermittent and perennial streams north of US 64 above the Town of Apex requirements.
9. To improve energy efficiency, the project area to the north of US 64 shall plant evergreen trees on the northern side of all buildings to act as a windbreak. This shall not apply where loading docks are proposed along a building facade.
10. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. This shall not apply to commercial outparcels with highway frontage or where loading docks are proposed along a building facade.
11. The project shall plant only drought tolerant native plants. Landscaping shall be coordinated with and approved by the Planning Department at the time of Site Plan or Master Subdivision Plan review.
12. At least (1) information sign or other marking shall be provided at the boundary of an area dedicated as Resource Conservation Area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.
13. The project shall install light timers or other smart lighting technology on at least 50% of the fixtures in the parking lot so they are automatically turned off or reduced in level of lighting when the business is closed.
14. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
15. Outdoor lighting shall have a color temperature of no more than 3000 Kelvins.
16. Development shall construct an activated open space / outdoor amenity along the proposed multi-use path committed in Transportation Condition #5, and shall also include an adjacent pollinator garden. Approximate location depicted in Exhibit 2. The multi-use path and amenity programming / pollinator garden shall be constructed in conjunction with the development of these parcels (and shall not be required until development commences on the parcels).
17. Removal of trees greater than 10" in diameter onsite for the sole purpose of making room to replant trees shall not be allowed.
18. To further illustrate the project's commitment to preserving and re-establishing tree canopy in our region, prior to Site Plan approval, the developer will provide a donation of \$100,000 to the Triangle Land Conservancy and an additional \$100,000 donation to Trees for the Triangle.
19. There shall be no tree clearing within the riparian buffer zones with the exception of required Town of Apex utilities and public street connections.
20. Any required public road crossing within a riparian buffer shall be narrowed to the greatest extent possible, subject to Town of Apex design requirements and staff approval, in order to limit environmental impacts.



## Ordinance Amending the Official Zoning District Map #23CZ15

### Architectural Conditions - Industrial

1. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
2. The buildings shall have more than one parapet height.
3. Windows and glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
4. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.

### Architectural Conditions - Commercial

1. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades. This would also include reveals in concrete tilt construction with integrated thin brick and contrasting paint colors, which add visual interest. The percentage of brick required on the facades will be 65 percent for a single-story building, 50 percent for a two story building, and only the first floor for a three story building.
2. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.
3. Buildings on corners are to be treated as gateways with quality design.
4. Corner buildings shall match or exceed the height of adjacent commercial buildings.
5. Corner buildings shall have two facades which maintain a relationship to each other although they do not need to be identical.
6. The orientation of drive-thru lanes, pick-up windows, and other utilitarian building functions should not be oriented toward or located adjacent the street. If drive-thru lanes must be located adjacent to a street, they shall be screened through the use of low walls and/or landscaping. Pick-up windows shall be de-emphasized through screening and/or architectural elements.
7. Each façade shall have a rhythm that is repeated through the pattern of wall and openings. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of 50% of the total building height. Buildings shall not have blank side walls creating a false front appearance.
8. The street level of the facades shall provide human scaled entries including, but not limited to, recessed entries, sheltering elements and adjacent storefront windows. Facades shall incorporate a minimum of two (2) continuous details refined to the scale of twelve (12) inches or less within the first ten (10) feet of the building wall, measured vertically at street level. Recessed arcades, entries flush with the building face, and small entries without adjacent windows shall be avoided.
9. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
10. Simple parapet roof edges with varying coping shall be used on most buildings. The roofline height shall vary from building to building as well as within buildings with wide street frontage.
11. The building shall have more than one parapet height.
12. Roof features may include hip roofs or awnings with metal or shingle roofs.
13. Buildings shall be architecturally compatible by way of colors and use of materials. The building exterior shall have more than one material color.

## Ordinance Amending the Official Zoning District Map #23CZ15

14. The exterior materials shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
  - a. Brick masonry
  - b. Decorative concrete block (either integrally colored or textured)
  - c. Stone accents
  - d. Aluminum storefronts with anodized or pre-finished colors.
  - e. EIFS cornices and parapet trim.
  - f. Precast concrete
  - g. Concrete tilt with a base wall paint color in conjunction with varying complimentary accent paint colors and integral thin brick, with associative percentages as outlined in item 1 above.
15. Exterior materials that shall not be allowed are as follows:
  - a. Vinyl siding
  - b. Painted, smooth faced concrete block (decorative blocks are acceptable)
  - c. Metal walls
16. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
17. Soffit and fascia materials shall be EIFS, architectural metal panels (ACM), or tongue and groove wood.

### Transportation Conditions

1. Development shall dedicate public right-of-way for the future interchange at US 64 and NC 751 consistent with the area shown in Exhibit 1. This area is based on the outside limits of the interchange concept known as "ALT 1" evaluated by the North Carolina Department of Transportation at the time of rezoning. This dedication shall be included in development plans and occur at the time of Subdivision Final Plat or Site Plan Final Plat, whichever occurs first, for any parcel(s) adjacent to US 64 and NC 751 as applicable. If NCDOT has approved an interchange design prior to the first Subdivision Final Plat or Site Plan Final Plat that is less than shown on Exhibit 1, the development shall only be required to dedicate the right-of-way shown in the approved interchange design.
2. All collector roads (as reflected in Exhibit 1) shall be constructed to Town of Apex major collector street standards. Development shall construct and dedicate a 60-foot right-of-way from NC 751 to the eastern boundary of the rezoning limits. Exhibit 2 reflects approximate location of connection that shall be further defined at site plan. This shall not be required until these parcels are developed.
3. Development shall construct and dedicate a 60-foot right-of-way from NC 751 to the western boundary of the rezoning limits. Exhibit 2 reflects approximate location of connection that shall be further defined at site plan. This shall not be required until these parcels are developed.
4. Development shall increase the sidewalk width to a 10' multi-use path for a portion of the road committed in Transportation Condition #3 from NC 751 to the eastern stream buffer as depicted on Exhibit 2. This shall not be required until these parcels are developed.
5. Development shall connect the multi-use path committed in Transportation Condition #4 back to NC 751 along the approximate location shown on Exhibit 2. Multi-use path shall be at a minimum 10' wide and of stone material. This shall not be required until these parcels are developed.
6. The development shall construct a minimum of two stub street connections to adjacent parcels that have no frontage along public streets or only have frontage along NC 751. The location of the stub streets shall be subject to Town review and approval.
7. Development shall construct a 5-foot sidewalk on the west side of NC 751 along the frontage of existing PIN's 071200277607 and 071200278263 at the time of development of the northwest quadrant (existing PIN's 071200261673 and 071200350755) subject to readily available right-of-way or easement from the property owner(s).

**Ordinance Amending the Official Zoning District Map #23CZ15**

8. A 10 ft shared use path shall be provided along the northern property boundary of existing PIN 71200435356 Lot 2 (south of NC 64 and west of New Hill Road) at the time this parcel is developed.
9. Development shall, in conjunction with NCDOT, investigate the feasibility of the addition of a 10' multi-use path or it's easement area from the terminus of the Reedy Branch Greenway at the intersection of New Hill Olive Chapel Road and Amberlight Road to the proposed multi-use path stated in Transportation Condition #5 at the time this parcel (PIN 071200435356 Lot 3 – South of NC 64 and east of New Hill Road) is developed.
10. Development shall construct a 5-foot sidewalk on the east side of NC 751 along the frontage of existing PIN 071200452843 at the time of development of the northeast quadrant subject to readily available right-of-way (and NC DOT approval) or easement dedication from the property owner.
11. The development shall construct and designate 10 park and ride spaces for public use within Apex Gateway Phase 2. Park and ride spaces shall be located south of US 64 and no more than 1,000 feet from the center of the US 64 and NC 751 intersection.

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

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

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

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

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

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

This the \_\_\_\_ day of \_\_\_\_\_ 2024.

**TOWN OF APEX**

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

**ATTEST:**

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


**APPROVED AS TO FORM:**

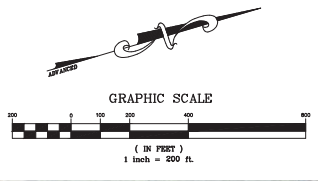
\_\_\_\_\_  
Town Attorney



G:\22-0014-504\IC\Drawings\EXHIBIT\Phase 2\reciling & annexation\wabba\0014-504-NCODT-ALT 1\dedication\Area.mxd PH 2 SITE PLAN REZONING EXHIBIT Nov 29, 2022 - 7:12:32pm 1799d



 NCODT ALTERNATIVE 1  
RIGHT-OF-WAY DEDICATION AREA



PLAN PREPARED BY: PHM # C-2786

51 Himeya Drive, Suite 102  
Cary, North Carolina 27511  
Tel: 919.336.9277

**ADVANCED**  
CIVIL DESIGN

REGISTERED PROFESSIONAL ENGINEER  
STATE OF NORTH CAROLINA

PLAN PREPARED FOR:

**BEACON PARTNERS**

10000 Beeson Rd  
Cary, NC 27513  
Tel: 919.336.9277

Town of Apex, Chatham County, North Carolina

**APEX GATEWAY**

**EXHIBIT**

**BEACON PARTNERS**

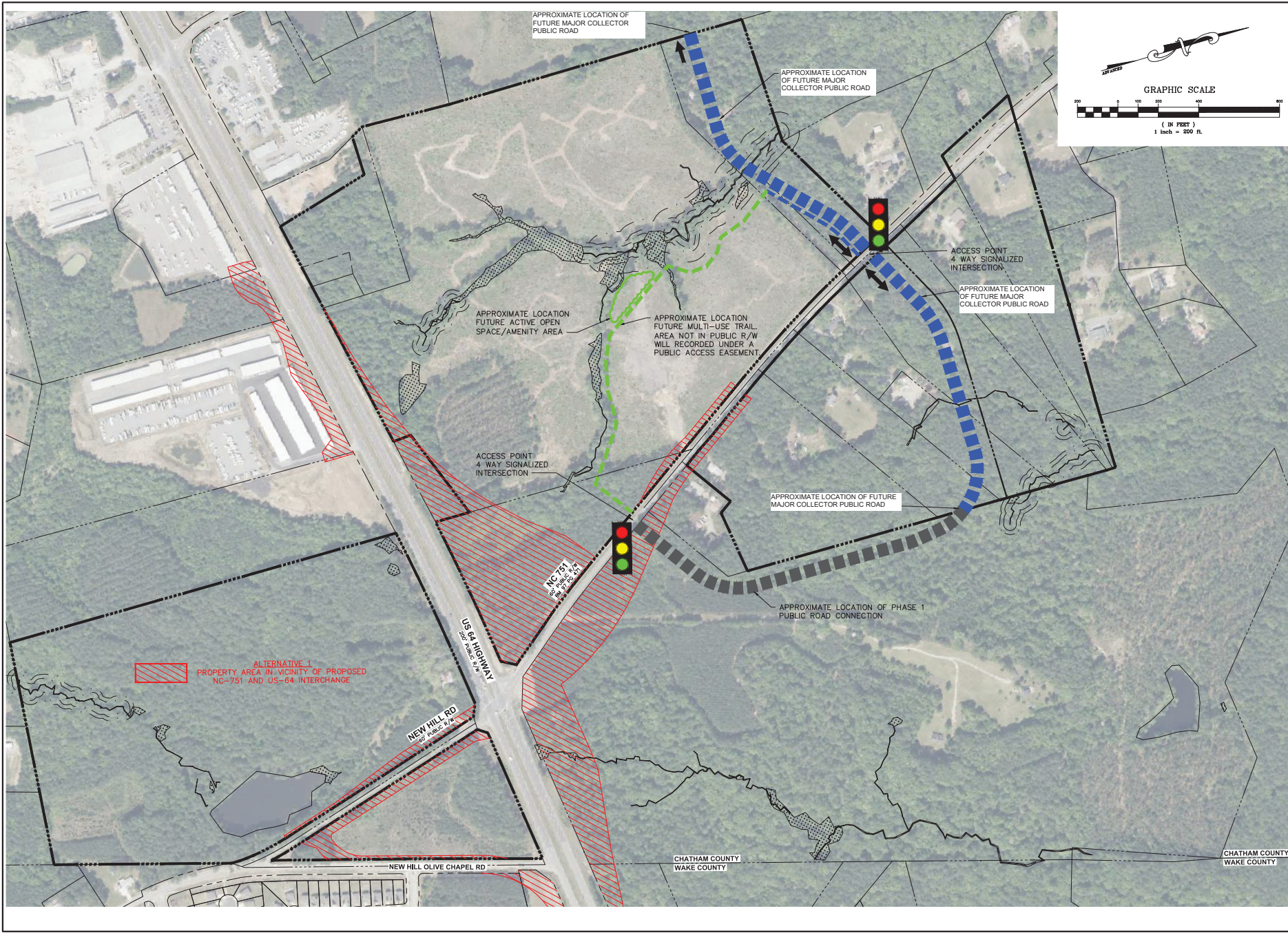
**EXHIBIT 1**

Issue Date:	

Date:	11/11/2022
Scale:	1"=200'
Drawn By:	JRR
Checked By:	JCW
Project Number:	22-0014-504
Drawing Number:	1/1



0:\22-0014-504\1\DWG\Production Drawings\CD\1881\Phase 2\receiving & annexation\sub18\0014-504-Exhibit 2 - Connectivity\Exhibiting Exhibit 2 Jan 20, 2023 - 9:30:40am Joyal



ALTERNATIVE 1  
PROPERTY AREA IN VICINITY OF PROPOSED  
NC-751 AND US-64 INTERCHANGE

APPROXIMATE LOCATION OF  
FUTURE MAJOR COLLECTOR  
PUBLIC ROAD

APPROXIMATE LOCATION  
OF FUTURE MAJOR  
COLLECTOR PUBLIC ROAD

ACCESS POINT  
4 WAY SIGNALIZED  
INTERSECTION

APPROXIMATE LOCATION  
OF FUTURE MAJOR  
COLLECTOR PUBLIC ROAD

APPROXIMATE LOCATION  
FUTURE MULTI-USE TRAIL  
AREA NOT IN PUBLIC R/W  
WILL BE RECORDED UNDER A  
PUBLIC ACCESS EASEMENT

APPROXIMATE LOCATION  
FUTURE ACTIVE OPEN  
SPACE/AMENITY AREA

ACCESS POINT  
4 WAY SIGNALIZED  
INTERSECTION

APPROXIMATE LOCATION OF FUTURE  
MAJOR COLLECTOR PUBLIC ROAD

APPROXIMATE LOCATION OF PHASE 1  
PUBLIC ROAD CONNECTION

NC 751  
60' Public R/W

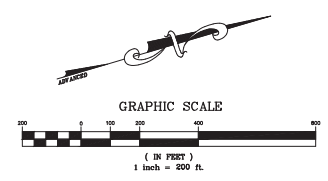
US 64 HIGHWAY  
60' Public R/W

NEW HILL RD  
60' Public R/W

NEW HILL OLIVE CHAPEL RD

CHATHAM COUNTY  
WAKE COUNTY

CHATHAM COUNTY  
WAKE COUNTY



PLAN PREPARED BY: JRM # C-2198

31 Himeya Drive, Suite 102  
Cary, North Carolina 27511  
Tel: 919.336.9377  
Fax: 919.336.9377

**ADVANCED CIVIL DESIGN**  
ENGINEERS, ARCHITECTS & PLANNERS

PLAN PREPARED FOR:

**BEACON PARTNERS**  
13000 Research Dr.  
Cary, North Carolina 27511  
Tel: 919.336.9377  
Fax: 919.336.9377

Town of Apex, Chatham County, North Carolina

**APEX GATEWAY - PHASE 2**

**EXHIBIT**

**BEACON PARTNERS**

**EXHIBIT 2**

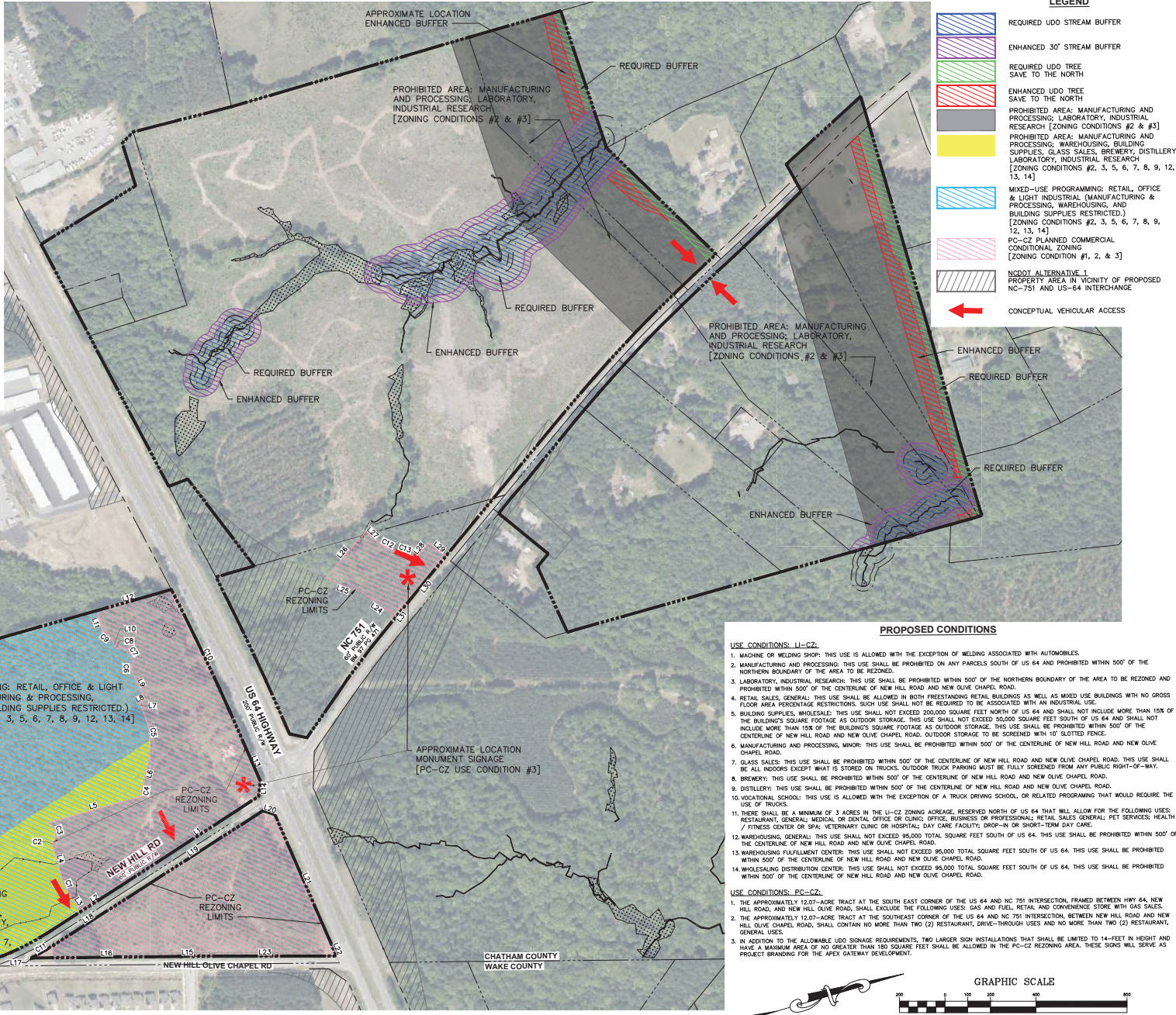
Issue Date:	
Drawn By:	AMK
Checked By:	JRR
Date:	01/20/2023
Scale:	1"=200'
Project Number:	22-0014-504
Drawing Number:	

1 / 1



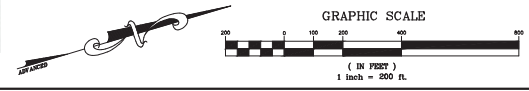
LINE TABLE		LINE TABLE			
LINE	DISTANCE	BEARING	LINE	DISTANCE	BEARING
L1	729.99'	S16°36'09"E	L17	2.75'	S17°03'15"W
L2	203.62'	S16°13'30"E	L18	386.68'	N16°13'30"W
L3	85.24'	S74°05'18"W	L19	712.26'	N16°18'31"W
L4	130.66'	N89°23'43"W	L20	54.34'	N34°43'59"E
L5	425.92'	N00°36'17"E	L21	625.77'	N82°53'07"E
L6	86.38'	N81°01'14"W	L22	45.40'	N81°09'25"E
L7	21.80'	S80°56'38"W	L23	627.70'	S18°19'07"W
L8	30.00'	N09°03'22"W	L24	1861.13'	S82°26'45"W
L9	145.11'	S80°56'38"W	L25	173.88'	S37°28'41"W
L10	27.07'	S80°56'38"W	L26	271.45'	N34°15'32"W
L11	84.70'	N89°23'43"W	L27	62.89'	N58°17'48"E
L12	340.44'	N00°36'17"E	L28	89.17'	N34°15'32"W
L13	214.33'	N82°54'12"E	L29	95.38'	N55°48'44"E
L14	87.03'	S87°21'28"E	L30	311.31'	S34°09'55"E
L15	53.16'	S15°42'07"W	L31	30.81'	S34°32'27"E
L16	658.52'	S15°47'55"W			

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DIST.
C1	016°30'59"	350.00'	100.89'	S82°20'47"W	100.54'
C2	049°49'20"	20.00'	17.39'	N64°23'03"W	16.85'
C3	099°35'44"	57.54'	100.02'	N89°23'43"W	87.90'
C4	008°33'24"	380.00'	56.75'	N64°32'56"W	56.70'
C5	038°47'08"	380.00'	257.24'	N79°39'48"W	252.35'
C6	049°49'20"	20.00'	17.39'	N74°08'42"W	16.85'
C7	127°00'12"	57.50'	127.46'	S67°15'52"W	102.92'
C8	007°18'02"	33.00'	7.68'	S74°47'57"W	7.37'
C9	040°10'11"	92.00'	64.50'	S66°07'13"W	63.19'
C10	023°34'22"	11469.16'	714.54'	N81°06'17"E	714.43'
C11	005°39'21"	1170.03'	115.50'	N13°24'12"W	115.45'
C12	031°09'23"	200.00'	108.52'	N42°40'07"E	107.30'
C13	023°12'02"	215.00'	87.06'	N38°48'26"E	86.47'



Town of Apex, Chatham County, North Carolina  
**APEX GATEWAY - PHASE 2**  
**MASTER PLAN**  
**BEACON PARTNERS**  
**ENHANCED BUFFER EXHIBIT**

DATE: 10/30/2023  
 SCALE: 1"=200'  
 DRAWN BY: AMK  
 CHECKED BY: JRR  
 PROJECT NUMBER:  
**22-0014-504**  
 DRAWING NUMBER:  
**1/1**





# Attachment A

## AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

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

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

Insert legal description below.

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LAND DEPICTED IN DEED BOOK 318 PAGE 352. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:  
COMMENCING AT A FOUND NGS HORIZONTAL CONTROL MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724864.40' E: 2014802.13'), THENCE FROM SAID POINT COMMENCING SOUTH 77 DEGREES 40 MINUTES 11 SECONDS WEST A DISTANCE OF 33.66 FEET TO A CALCULATED POINT, SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724864.40' E: 2014802.13' AND BEING THE TRUE POINT OF BEGINNING.  
THENCE SOUTH 55°47'03" WEST, A DISTANCE OF 30.91 FEET TO A CALCULATED POINT IN THE CENTERLINE OF NC 751; THENCE WITH THE CENTER OF SAID ROAD NORTH 34°05'41" WEST, A DISTANCE OF 79.53 FEET TO A CALCULATED POINT; THENCE NORTH 34°05'41" WEST, A DISTANCE OF 336.89 FEET TO A CALCULATED POINT; THENCE NORTH 33°44'47" WEST, A DISTANCE OF 176.66 FEET TO A CALCULATED POINT; THENCE LEAVING THE CENTERLINE OF NC 751 NORTH 56°08'40" EAST, A DISTANCE OF 30.04 FEET TO A 1/2" IRON PIPE FOUND; THENCE NORTH 55°54'54" EAST, A DISTANCE OF 1,122.10 FEET TO A 1/2" IRON PIPE FOUND; THENCE SOUTH 00°41'08" WEST, A DISTANCE OF 979.44 FEET TO A 1" IRON PIPE FOUND; THENCE SOUTH 81°58'20" WEST, A DISTANCE OF 315.77 FEET TO A SET 5/8 IRON REBAR WITH CAP; THENCE NORTH 34°07'21" WEST, A DISTANCE OF 73.59 FEET TO A 1/2" IRON PIPE FOUND; THENCE SOUTH 55°47'03" WEST, A DISTANCE OF 279.92 FEET TO THE TRUE POINT OF BEGINNING;  
CONTAINING 617,420 SQ. FT. OR 14.17 ACRES OF LAND, MORE OR LESS.  
BEING 17,790 SQ. FT. OR 0.41 ACRES WITHIN NC 751 RIGHT OF WAY.

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

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

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

Insert legal description below.

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 1 DEPICTED IN BOOK OF MAPS 2003 PAGE 0264 AND DESCRIBED AS TRACT 2B AND 3 , BEING BOUND IN THE NORTH BY CANT HOOK PROPERTIES, LLC (DB: 2112, PG 0383); BOUND ON THE EAST SIDE BY CANT HOOK PROPERTIES, LLC (DB: 2112, PG 0383); BOUND TO THE SOUTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 00) AND BY US 64 (200 FEET RIGHT OF WAY); AND BOUND TO THE WEST BY ARYLEX PROPERTIES LLC (BOOK OF MAPS 2069 PAGE 0168); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:  
COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING NORTH 89 DEGREES 15 MINUTES 30 SECONDS WEST A DISTANCE OF 1003.73 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724409.25' E: 2012654.78' AND BEING THE TRUE POINT OF BEGINNING.  
THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) SOUTH 79 DEGREES 05 MINUTES 40 SECONDS WEST A DISTANCE OF 119.63 FEET TO A REBAR FOUND WITH CAP, ALONG THE PROPERTY LINE OF TRACT 2 OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) THENCE NORTH 83 DEGREES 00 MINUTES 12 SECONDS WEST A DISTANCE OF 107.29 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE SOUTH 01 DEGREES 04 MINUTES 43 SECONDS EAST A DISTANCE OF 246.31 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH ALONG HIGHWAY 64, SOUTH 78 DEGREES 39 MINUTES 40 SECONDS WEST A DISTANCE OF 86.62 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH 78 DEGREES 39 MINUTES 54 SECONDS WEST A DISTANCE OF 141.75 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE NORTH ALONG ARYLEX PROPERTIES LLC (DB: 2069 PG: 0168); NORTH 15 DEGREES 18 MINUTES 52 SECONDS WEST A DISTANCE OF 487.93 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH ALONG ARYLEX PROPERTIES LLC (DB: 2069 PG: 0168) SOUTH 89 DEGREES 09 MINUTES 04 SECONDS WEST A DISTANCE OF 197.08 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE NORTH ALONG KUNAL ENTERPRISES LLC (DB: 1124 PG: 0371) NORTH 29 DEGREES 21 MINUTES 59 SECONDS WEST A DISTANCE OF 68.12 FEET TO A AXLE FOUND, THENCE NORTH ALONG CANT HOOK PROPERTIES LLC TRACT 1 (DB: 2112 PG: 0383) NORTH 89 DEGREES 08 MINUTES 38 SECONDS EAST A DISTANCE OF 360.66 FEET TO A FOUND IRON PIPE WITH CAP, THENCE NORTH 89 DEGREES 08 MINUTES 49 SECONDS EAST A DISTANCE OF 437.30 FEET TO A FOUND AXLE, THENCE SOUTH ALONG CANT HOOK PROPERTIES LLC TRACT 2 (DB: 2112 PG: 0383) SOUTH 01 DEGREES 08 MINUTES 04 SECONDS EAST A DISTANCE OF 238.33 FEET TO THE POINT OF BEGINNING.  
CONTAINING 219326 SQUARE FEET OR 5.03 ACRES, MORE OR LESS.

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

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

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

**Insert legal description below.**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 3A DEPICTED IN A BOOK OF MAPS 2003 PAGE 0264, BEING BOUND IN THE NORTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); BOUND ON THE EAST SIDE BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH, TRACT 3 (DB: 1841, PG 0086); BOUND TO THE SOUTH BY HIGHWAY 64 AND BOUND TO THE WEST BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING SOUTH 78 DEGREES 47 MINUTES 07 SECONDS WEST A DISTANCE OF 1138.90 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724409.25' E: 2012654.78' AND BEING THE TRUE POINT OF BEGINNING. THENCE FROM SAID POINT OF BEGINNING, IN A COUNTER CLOCKWISE DIRECTION, AND ALONG THE LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) NORTH 01 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP , THENCE ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086), NORTH 83 DEGREES 00 MINUTES 12 SECONDS WEST A DISTANCE OF 107.29 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE SOUTH ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086), SOUTH 01 DEGREES 04 MINUTES 43 SECONDS EAST A DISTANCE OF 246.31 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE NORTH ALONG NORTHERN RIGHT OF WAY LINE OF US HIGHWAY 64 (200' FOOT RIGHT OF WAY WIDTH), NORTH 78 DEGREES 35 MINUTES 55 SECONDS EAST A DISTANCE OF 107.94 FEET TO THE POINT OF BEGINNING.

CONTAINING 24333 SQUARE FEET OR 0.56 ACRES, MORE OR LESS.



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

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

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

**Insert legal description below.**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF TRACT 3A DEPICTED IN A BOOK OF MAPS 2003 PAGE 0264, BEING BOUND IN THE NORTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); BOUND ON THE EAST SIDE BY CANT HOOK PROPERTIES LLC, TRACT 3 (DB: 2112, PG 383); BOUND ON THE SOUTH BY HIGHWAY 64 AND BOUND TO THE WEST BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING NORTH 89 DEGREES 15 MINUTES 30 SECONDS WEST A DISTANCE OF 1003.73 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724643.74" E: 2012767.99' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, AND ALONG THE PROPERTY LINE OF CANT HOOK PROPERTIES LLC (DB 2112 PG 0383) SOUTH 01 DEGREES 01 MINUTES 47 SECONDS EAST A DISTANCE OF 210.74 FEET TO A 1 INCH IRON PIPE FOUND WITH CAP, THENCE WITH THE NORTHERN RIGHT OF WAY LINE OF US 64 (200 FOOT RIGHT OF WAY WIDTH), SOUTH 78 DEGREES 32 MINUTES 16 SECONDS WEST A DISTANCE 119.69 FEET TO A 3/4 INCH IRON PIPE FOUND WITH CAP, THENCE ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) NORTH 01 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP, THENCE WITH THE EASTERN PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB 1841 PG 0086), NORTH 01 DEGREE 4 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP, THENCE WITH ONE OF THE SOUTHERN PROPERTY LINES OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB 1841 PG 0086), NORTH 79 DEGREES 05 MINUTES 40 SECONDS EAST A DISTANCE OF 119.63 FEET TO THE POINT OF BEGINNING.

CONTAINING 24891 SQUARE FEET OR 0.57 ACRES, MORE OR LESS.

CANTHOOK PARCEL TRACT 1 (TITLE COMMITMENT 22-06322CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 1 CONVEYED IN A DEED BOOK 2015 PAGE 1112, AND BEING BOUND IN THE NORTH BY JAMES L. GIVENS (DB: 757, PG 592); BOUND ON THE EAST SIDE BY RIGHT OF WAY ALONG NC 751 (BM: 0095, PG 0128); BOUND TO THE SOUTH BY CANT HOOK PROPERTIES, LLC (DB: 2112 PG: 0383) AND CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086); AND BOUND TO THE WEST BY KUNAL ENTERPRISES LLC (DB: 1124 PG: 0371) AND BY POE INEZ M & JERRY C TRUSTEES DEWEY C POE (DB: 0775 PG: 0514); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIPE FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 726429.26' E: 2013696.48'), THENCE FROM SAID POINT COMMENCING NORTH 35 DEGREES 53 MINUTES 06 SECONDS WEST A DISTANCE OF 635.98 FEET TO A FOUND IRON PIPE, SAID FOUND IRON PIPE HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 726944.53' E: 2013323.69' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING AND ALONG THE PROPERTY LINE OF JAMES L. GIVENS TRACT 2 (DB: 757, PG 592) SOUTH 60 DEGREES 28 MINUTES 54 SECONDS WEST A DISTANCE OF 29.18 FEET TO A FOUND IRON PIPE WITH CAP, THENCE SOUTH 60 DEGREES 29 MINUTES 08 SECONDS WEST A DISTANCE OF 1069.54 FEET TO A FOUND REBAR WITH CAP, THENCE SOUTH 87 DEGREES 55 MINUTES 10 SECONDS WEST A DISTANCE OF 409.94 FEET TO A FOUND IRON PIPE WITH CAP, THENCE SOUTH ALONG POE INEZ M & JERRY C TRUSTEES DEWEY C POE TRACT (DB: 0775 PG: 0514) SOUTH 00 DEGREES 06 MINUTES 26 SECONDS WEST A DISTANCE OF 1087.05 FEET TO A FOUND AXLE, THENCE SOUTH KUNAL ENTERPRISES LLC (DB: 1124 PG: 0371), SOUTH 02 DEGREES 02 MINUTES 09 SECONDS WEST A DISTANCE OF 445.87 FEET TO A FOUND AXLE, THENCE NORTH ALONG CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086), NORTH 89 DEGREES 08 MINUTES 38 SECONDS EAST A DISTANCE OF 360.66 FEET TO A CALCULATED POINT, THENCE NORTH 89 DEGREES 08 MINUTES 49 SECONDS EAST A DISTANCE OF 437.30 FEET TO A CALCULATED POINT, THENCE NORTH 87 DEGREES 45 MINUTES 59 SECONDS EAST A DISTANCE OF 60.17 FEET TO A FOUND IRON PIPE, THENCE NORTH 87 DEGREES 55 MINUTES 49 SECONDS EAST A DISTANCE OF 106.54 FEET TO A FOUND IRON PIPE, THENCE NORTH ALONG CANT HOOK PROPERTIES LLC TRACT 2 (DB: 2112 PG: 0383) NORTH 02 DEGREES 23 MINUTES 09 SECONDS EAST A DISTANCE OF 421.83 FEET TO A FOUND IRON PIPE WITH CAP, THENCE SOUTH 89 DEGREES 45 MINUTES 43 SECONDS EAST A DISTANCE OF 510.47 FEET TO A FOUND FOUND IRON PIPE WITH CAP, THENCE NORTH 01 DEGREES 37 MINUTES 19 SECONDS EAST A DISTANCE OF 682.37 FEET TO A FOUND REBAR, THENCE SOUTH 89 DEGREES 37 MINUTES 26 SECONDS EAST A DISTANCE OF 444.91 FEET TO A 5/8" REBAR WITH CAP SET, THENCE LEAVING THE WEST SIDE OF NC-751 RIGH OF WA, SOUTH 89 DEGREES 37 MINUTES 26 SECONDS EAST A DISTANCE OF 36.39 FEET TO A CALCULATED POINT IN THE CENTERLINE OF SAID ROAD, THENCE WITH THE CENTERLINE OF NC-751 THE FOLLOWING BEARINGS AND DISTANCES, NORTH 34 DEGREES 05 MINUTES 41 SECONDS WEST A DISTANCE OF 336.89 FEET TO A CALCULATED POINT, THENCE NORTH 33 DEGREES 49 MINUTES 46 SECONDS WEST A DISTANCE OF 101.71 FEET TO A CALCULATED POINT, THENCE NORTH ALONG A CURVE TO THE RIGHT HAVING A CHORD BEARING OF NORTH 32 DEGREES 13 MINUTES 18 SECONDS WEST AND A CHORD DISTANCE OF 412.66 FEET WITH A RADIUS OF 16853.72 FEET TO A CALCULATED POINT, THENCE NORTH ALONG A CURVE TO THE RIGHT HAVING A CHORD BEARING OF NORTH 29 DEGREES 57 MINUTES 09 SECONDS WEST AND A CHORD DISTANCE OF 148.62 FEET WITH A RADIUS OF 4000.00 FEET TO A CALCULATED POINT, THENCE NORTH ALONG A CURVE TO THE RIGHT HAVING A CHORD BEARING OF NORTH 28 DEGREES 00 MINUTES 23 SECONDS WEST AND A CHORD DISTANCE OF 148.46 FEET WITH A RADIUS OF 12000.00 FEET TO A FOUND IRON PIPE, BEING SAID POINT OF BEGINNING.



CONTAINING 2549843 SQUARE FEET OR 58.5 ACRES, MORE OR LESS.  
AREA WITHIN NC 751 ROW, 34179 SQ. FT. OR 0.78 ACRES, MORE OR LESS.

### CANTHOOK PARCEL TRACT 2 (TITLE COMMITMENT 22-06322CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING DEPICTED IN THAT SURVEY AND PLAT ENTITLED "PROPERTY OF MRS EDNA M HEDGEPEETH PREPARED BY WILLIAM O YATES, RLS, DATED APRIL 7, 1975, BEING BOUND IN THE NORTH BY CANT HOOK PROPERTIES, LLC (DB: 2112 PG: 0383); BOUND ON THE EAST BY CANT HOOK PROPERTIES, LLC (DB: 2112 PG: 0383); BOUND TO THE SOUTH BY THE RIGHT OF WAY ALONG U.S. HIGHWAY 64 (BM: 0095 PG: 0128); AND BOUND TO THE WEST BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT ROW DISK FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING SOUTH 78 DEGREES 48 MINUTES 52 SECONDS WEST A DISTANCE OF 1019.21 FEET TO A FOUND IRON PIPE, SAID FOUND IRON PIPE HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724433.031' E: 2012771.781' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING WITH THE EASTERN PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH, TRACT 3 (DB: 1841 PG: 0086) SOUTH 01 DEGREES 01 MINUTES 47 SECONDS EAST A DISTANCE OF 210.74 FEET TO A 1" IRON PIPE FOUND WITH CAP, THENCE ALONG THE RIGHT OF WAY ALONG U.S. HIGHWAY 64 (200 FEET RIGHT OF WAY WIDTH) NORTH 79 DEGREES 30 MINUTES 47 SECONDS EAST A DISTANCE OF 60.31 FEET TO A CALCULATED POINT, THENCE WITH THE WESTERN PROPERTY LINE OF CANT HOOK PROPERTIES LLC PARCEL (DB 2112 PG 383) NORTH 1 DEGREE 1 MINUTE 2 SECONDS WEST A DISTANCE OF 10.13 FEET TO A CALCULATED POINT, THENCE CONTINUING WITH SAID PROPERTY LINE NORTH 00 DEGREES 59 MINUTES 57 SECONDS WEST A DISTANCE OF 430.29 FEET TO A 1 INCH IRON PIPE FOUND WITH CAP, THENCE WITH THE SOUTHERN LINE OF CANT HOOK PROPERTIES LLC PARCEL (DB 2112 PG 383) SOUTH 87 DEGREES 45 MINUTES 59 SECONDS A DISTANCE OF 60.17 FEET TO AN AXLE FOUND, THENCE THE EASTERN PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH, TRACT 3 (DB: 1841 PG: 0086) SOUTH 01 DEGREES 08 MINUTES 04 SECONDS EAST A DISTANCE OF 238.33 TO THE POINT OF BEGINNING.

CONTAINING 26559 SQUARE FEET OR 0.61 ACRES, MORE OR LESS.

### CANTHOOK PARCEL TRACT 3 (TITLE COMMITMENT 22-06322CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 2 DEPICTED IN A BOOK OF MAPS 0095 PAGE 128, BEING BOUND IN THE NORTH BY CANT HOOK PROPERTIES, LLC (DB: 2112 PG: 0383); BOUND TO THE EAST BY A PORTION OF THE RIGHT OF WAY ALONG NC HIGHWAY 751 (60 FEET RIGHT OF WAY WIDTH) AND BY BERKUT JACK CARROLL & NANCY BERKUT BECK (DB: 1977 PG: 0725); BOUND TO THE SOUTH BY THE RIGHT OF WAY ALONG U.S. HIGHWAY 64 (200 FEET RIGHT OF WAY WIDTH) AND MAGNIN MARY ELIZABETH GEEK ETUX JOHN DAVID (DB: 1764 PG: 0003); AND BOUND IN THE WEST BY CANT HOOK PROPERTIES, LLC (DB: 2112 PG: 0383); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF



DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIPE FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 726429.26' E: 2013696.48'), THENCE FROM SAID POINT COMMENCING SOUTH 27 DEGREES 51 MINUTES 13 SECONDS WEST A DISTANCE OF 560.41 FEET TO A FOUND IRON PIPE, SAID FOUND IRON PIPE HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 725933.782' E: 2013958.309' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING AND ALONG THE PROPERTY LINE OF BY BERKUT JACK CARROLL & NANCY BERKUT BECK (DB: 1977 PG: 0725) SOUTH 00 DEGREES 35 MINUTES 50 SECONDS WEST A DISTANCE OF 1092.79 FEET TO A SET REBAR, THENCE SOUTH ALONG MAGNIN MARY ELIZABETH GEEK ETUX JOHN DAVID (DB: 1764 PG: 0003) SOUTH 69 DEGREES 06 MINUTES 08 SECONDS WEST A DISTANCE OF 480.88 FEET TO A FOUND IRON PIPE, THENCE SOUTH 04 DEGREES 09 MINUTES 52 SECONDS EAST A DISTANCE OF 90.02 FEET TO A FOUND AXLE, THENCE SOUTH BY THE RIGHT OF WAY ALONG U.S. HIGHWAY 64 (BM: 0095 PG: 0128) SOUTH 78 DEGREES 36 MINUTES 24 SECONDS WEST A DISTANCE OF 360.29 FEET TO A CALCULATED POINT, THENCE SOUTH 78 DEGREES 36 MINUTES 47 SECONDS WEST A DISTANCE OF 60.00 FEET TO A CALCULATED POINT, THENCE SOUTH 78 DEGREES 35 MINUTES 10 SECONDS WEST A DISTANCE OF 266.38 FEET TO A CALCULATED POINT, THENCE NORTH ALONG CANT HOOK PROPERTIES, LLC TRACT 1 AND 3 (DB: 2112 PG: 0383); NORTH 01 DEGREES 01 MINUTES 2 SECONDS WEST A DISTANCE OF 10.13 FEET TO A CALCULATED POINT, THENCE NORTH 00 DEGREES 59 MINUTES 57 SECONDS WEST A DISTANCE OF 430.29 FEET TO A FOUND IRON PIPE, THENCE NORTH 87 DEGREES 55 MINUTES 49 SECONDS EAST A DISTANCE OF 106.54 FEET TO A FOUND IRON PIPE, THENCE NORTH 02 DEGREES 23 MINUTES 09 SECONDS EAST A DISTANCE OF 421.83 FEET TO A FOUND IRON PIPE WITH CAP, THENCE SOUTH 89 DEGREES 45 MINUTES 43 SECONDS EAST A DISTANCE OF 510.47 FEET TO A FOUND IRON PIPE WITH CAP, THENCE NORTH 01 DEGREES 37 MINUTES 19 SECONDS EAST A DISTANCE OF 682.37 FEET TO A FOUND REBAR, THENCE SOUTH 89 DEGREES 37 MINUTES 26 SECONDS EAST A DISTANCE OF 444.91 FEET TO A SET REBAR, THENCE SOUTH ALONG CANT HOOK PROPERTIES LLC TRACT 1 (DB: 2112 PG: 0383) INTO THE RIGHT OF WAY ON NC HIGHWAY 751 (BM: 0095 PG: 0128) SOUTH 89 DEGREES 37 MINUTES 26 SECONDS EAST A DISTANCE OF 36.75 FEET TO A CALCULATED POINT, THENCE SOUTH ALONG THE RIGHT OF WAY ON NC HIGHWAY 751 (BM: 0095 PG: 0128) SOUTH 00 DEGREES 35 MINUTES 50 SECONDS WEST A DISTANCE OF 52.71 FEET TO A FOUND IRON PIPE, BEING SAID POINT OF BEGINNING.

CONTAINING 1069262 SQUARE FEET OR 24.54 ACRES, MORE OR LESS.

AREA WITHIN NC 751 ROW, 978 SQ. FT., MORE OR LESS.

### CLARK PARCEL TRACT 1 (TITLE COMMITMENT 22-09308CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 1 DEPICTED IN BOOK OF MAPS 2003 PAGE 0264 AND DESCRIBED AS TRACT 2B AND 3, BEING BOUND IN THE NORTH BY CANT HOOK PROPERTIES, LLC (DB: 2112, PG 0383); BOUND ON THE EAST SIDE BY CANT HOOK PROPERTIES, LLC (DB: 2112, PG 0383); BOUND TO THE SOUTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 00) AND BY US 64 (200 FEET RIGHT OF WAY); AND BOUND TO THE WEST BY ARYLEX PROPERTIES LLC (BOOK



OF MAPS 2069 PAGE 0168); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING NORTH 89 DEGREES 15 MINUTES 30 SECONDS WEST A DISTANCE OF 1003.73 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724409.25' E: 2012654.78' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) SOUTH 79 DEGREES 05 MINUTES 40 SECONDS WEST A DISTANCE OF 119.63 FEET TO A REBAR FOUND WITH CAP, ALONG THE PROPERTY LINE OF TRACT 2 OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) THENCE NORTH 83 DEGREES 00 MINUTES 12 SECONDS WEST A DISTANCE OF 107.29 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE SOUTH 01 DEGREES 04 MINUTES 43 SECONDS EAST A DISTANCE OF 246.31 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH ALONG HIGHWAY 64, SOUTH 78 DEGREES 39 MINUTES 40 SECONDS WEST A DISTANCE OF 86.62 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH 78 DEGREES 39 MINUTES 54 SECONDS WEST A DISTANCE OF 141.75 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE NORTH ALONG ARYLEX PROPERTIES LLC (DB: 2069 PG: 0168); NORTH 15 DEGREES 18 MINUTES 52 SECONDS WEST A DISTANCE OF 487.93 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE SOUTH ALONG ARYLEX PROPERTIES LLC (DB: 2069 PG: 0168) SOUTH 89 DEGREES 09 MINUTES 04 SECONDS WEST A DISTANCE OF 197.08 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP, THENCE NORTH ALONG KUNAL ENTERPRISES LLC (DB: 1124 PG: 0371) NORTH 29 DEGREES 21 MINUTES 59 SECONDS WEST A DISTANCE OF 68.12 FEET TO A AXLE FOUND, THENCE NORTH ALONG CANT HOOK PROPERTIES LLC TRACT 1 (DB: 2112 PG: 0383) NORTH 89 DEGREES 08 MINUTES 38 SECONDS EAST A DISTANCE OF 360.66 FEET TO A FOUND IRON PIPE WITH CAP, THENCE NORTH 89 DEGREES 08 MINUTES 49 SECONDS EAST A DISTANCE OF 437.30 FEET TO A FOUND AXLE, THENCE SOUTH ALONG CANT HOOK PROPERTIES LLC TRACT 2 (DB: 2112 PG: 0383) SOUTH 01 DEGREES 08 MINUTES 04 SECONDS EAST A DISTANCE OF 238.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 219326 SQUARE FEET OR 5.03 ACRES, MORE OR LESS.

### CLARK PARCEL TRACT 2 (TITLE COMMITMENT 22-09308CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT 3A DEPICTED IN A BOOK OF MAPS 2003 PAGE 0264, BEING BOUND IN THE NORTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); BOUND ON THE EAST SIDE BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH, TRACT 3 (DB: 1841, PG 0086); BOUND TO THE SOUTH BY HIGHWAY 64 AND BOUND TO THE WEST BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING SOUTH 78 DEGREES 47 MINUTES 07 SECONDS WEST A DISTANCE OF 1138.90 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724409.25' E: 2012654.78' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A COUNTER CLOCKWISE DIRECTION, AND ALONG THE LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) NORTH 01 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP , THENCE ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH



(DB: 1841 PG: 0086), NORTH 83 DEGREES 00 MINUTES 12 SECONDS WEST A DISTANCE OF 107.29 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE SOUTH ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086), SOUTH 01 DEGREES 04 MINUTES 43 SECONDS EAST A DISTANCE OF 246.31 FEET TO A 1/2 INCH IRON PIPE FOUND WITH CAP, THENCE NORTH ALONG NORTHERN RIGHT OF WAY LINE OF US HIGHWAY 64 (200' FOOT RIGHT OF WAY WIDTH), NORTH 78 DEGREES 35 MINUTES 55 SECONDS EAST A DISTANCE OF 107.94 FEET TO THE POINT OF BEGINNING.

CONTAINING 24333 SQUARE FEET OR 0.56 ACRES, MORE OR LESS.

### CLARK PARCEL TRACT 3 (TITLE COMMITMENT 22-09308CH)

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF TRACT 3A DEPICTED IN A BOOK OF MAPS 2003 PAGE 0264, BEING BOUND IN THE NORTH BY CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); BOUND ON THE EAST SIDE BY CANT HOOK PROPERTIES LLC, TRACT 3 (DB: 2112, PG 383); BOUND ON THE SOUTH BY HIGHWAY 64 AND BOUND TO THE WEST BY CANT CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841, PG 0086); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A NCDOT RIGHT OF WAY DISC MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724630.74' E: 2013771.63'), THENCE FROM SAID POINT COMMENCING NORTH 89 DEGREES 15 MINUTES 30 SECONDS WEST A DISTANCE OF 1003.73 FEET TO A REBAR FOUND WITH CAP, SAID FOUND REBAR WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724643.74" E: 2012767.99' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, AND ALONG THE PROPERTY LINE OF CANT HOOK PROPERTIES LLC (DB 2112 PG 0383) SOUTH 01 DEGREES 01 MINUTES 47 SECONDS EAST A DISTANCE OF 210.74 FEET TO A 1 INCH IRON PIPE FOUND WITH CAP, THENCE WITH THE NORTHERN RIGHT OF WAY LINE OF US 64 (200 FOOT RIGHT OF WAY WIDTH), SOUTH 78 DEGREES 32 MINUTES 16 SECONDS WEST A DISTANCE 119.69 FEET TO A 3/4 INCH IRON PIPE FOUND WITH CAP, THENCE ALONG THE PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB: 1841 PG: 0086) NORTH 01 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP, THENCE WITH THE EASTERN PROPERTY LINE OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB 1841 PG 0086), NORTH 01 DEGREE 4 MINUTES 12 SECONDS WEST A DISTANCE OF 211.89 FEET TO A REBAR FOUND WITH CAP, THENCE WITH ONE OF THE SOUTHERN PROPERTY LINES OF CLARK ANDREW L. TRUSTEE & STALEY C. SMITH (DB 1841 PG 0086), NORTH 79 DEGREES 05 MINUTES 40 SECONDS EAST A DISTANCE OF 119.63 FEET TO THE POINT OF BEGINNING.

CONTAINING 24891 SQUARE FEET OR 0.57 ACRES, MORE OR LESS.



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

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

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

Insert legal description below.

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING ALL THE LAND CONVEYED TO WILLIAM J. AULICINO, JR AND WIFE, BARBARA J. AULICINO BY DEED RECORDED IN BOOK 797 PAGE 728, AND DESCRIBED IN PLAT BOOK 11 PG 9 (TITLED "SUBDIVISION OF MARION C. PENNY LAND") AS TRACT B-1, BEING BOUNDED ON THE NORTH BY LOT 1 AND LOT 2 (PB 2014 PG 0320), ON THE SOUTH BY THE LONG TRACT (PB 92 PG 43), ON WEST BY NC 751 (60 FOOT RIGHT OF WAY) AND ON THE EAST BY TRACT 1 (DB 2294 PG 400), (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID 1/2 INCH IRON PIPE BEING NORTH 31 DEGREES 23 MINUTES 00 SECONDS WEST A DISTANCE OF 1,500.86 FEET FROM AN EXISTING NGS MONUMENT STAMPED "FIN" (1984), THE POINT OF COMMENCING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 725147.82' EASTING: 2014478.05'), SAID 1/2 IRON PIPE BEING THE TRUE POINT OF BEGINNING (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726429.10 EASTING: 2013696.46).

THENCE RUNNING IN A CLOCKWISE DIRECTION SOUTH 55 DEGREES 54 MINUTES 54 SECONDS WEST A DISTANCE OF 30.04 FEET TO A CALCULATED POINT IN THE CENTER OF NC-751 (60 FOOT RIGHT OF WAY); THENCE WITH THE CENTERLINE OF NC-751 ROAD, A CURVE TO THE RIGHT HAVING A RADIUS OF 6,853.72 FEET A CHORD BEARING OF NORTH 32 DEGREES 13 MINUTES 17 SECONDS WEST AND A CHORD LENGTH OF 263.11 FEET TO A CALCULATED POINT; THENCE LEAVING THE CENTERLINE OF NC 751, NORTH 55 DEGREES 57 MINUTES 16 SECONDS EAST A DISTANCE OF 30.04 FEET TO A 5/8" REBAR WITH CAP SET ON THE NORTHEAST SIDE OF NC 751 60 FOOT RIGHT OF WAY; THENCE WITH THE SOUTH PROPERTY LINE OF BRENT DROEGE MICHAEL PARCEL, (DESCRIBED AS LOT 1 AND LOT 2 IN PB 2014 PG 320) NORTH 55 DEGREES 57 MINUTES 16 SECONDS EAST A DISTANCE OF 515.75 FEET TO AN EXISTING 1/2 INCH IRON PIPE; THENCE WITH THE SOUTH LINE OF LOT 2 NORTH 55 DEGREES 59 MINUTES 27 SECONDS EAST A DISTANCE OF 239.18 FEET TO AN EXISTING 1/2" IRON PIPE; THENCE WITH THE SOUTH PROPERTY LINE OF LOT 1 NORTH 55 DEGREES 58 MINUTES 49 SECONDS EAST A DISTANCE OF 540.56 FEET TO AN EXISTING 1/2" IRON PIPE WITH YELLOW CAP AND TACK; THENCE LEAVING THE SOUTH PROPERTY LINE OF LOT 1 AND WITH THE EAST PROPERTY LINE OF TRACT 1 (DB 2294 PG 400) SOUTH 0 DEGREES 43 MINUTES 35 SECONDS WEST A DISTANCE OF 318.70 TO AN EXISTING 1/2 IRON PIPE; THENCE LEAVING TRACT 1 AND WITH THE NORTH PROPERTY LINE OF LONG TRACT (PB 92 PG 43) SOUTH 55 DEGREES 54 MINUTES 54 SECONDS WEST A DISTANCE OF 1,122.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 317 453 SQUARE FEET OR 7 47 ACRES, MORE OR LESS.

GIVENS PARCEL  
TRACT 1 (TITLE COMMITMENT 22-09308CH)  
AS SURVEYED LEGAL DESCRIPTION

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE LAND CONVEYED TO JAMES L. GIVENS BY DEED RECORDED IN BOOK OF DEEDS 757 PAGE 592, DESCRIBED AS TRACK 1 IN PB A PG 270 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726429.26 E: 2013696.48), THENCE FROM THE POINT OF COMMENCING N33°21'41"W A DISTANCE OF 893.49' TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING BEING A 1" IRON PIPE FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 727175.52 EASTING: 2013205.13).

THENCE FROM THE POINT OF BEGINNING AND RUNNING IN A CLOCKWISE DIRECTION N60°35'55"E A DISTANCE OF 29.81' TO A CALCULATED POINT IN THE CENTER OF NC-751 (60 FOOT RIGHT OF WAY); THENCE WITH THE CENTERLINE OF NC-751 ROAD, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 12000.27 FEET, A CHORD BEARING OF S26°53'18"E AND A CHORD LENGTH OF 199.32 FEET TO A CALCULATED POINT; THENCE LEAVING THE CENTERLINE OF NC-751, S60°28'06"W A DISTANCE OF 28.99 FEET TO AN IRON PIPE FOUND; THENCE S60°28'06"W A DISTANCE OF 619.45 FEET TO AN IRON PIPE FOUND; THENCE N29°25'20"W A DISTANCE OF 200.65 FEET TO AN IRON PIPE FOUND; THENCE N60°36'10"E 573.18 FEET TO AN IRON PIPE FOUND; THENCE N60°35'55"E A DISTANCE OF 54.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 130,244 SQUARE FEET OR 2.99 ACRES, MORE OR LESS.

AREA WITHIN NC-751 RIGHT OF ROW, 5980 SQUARE FEET OR 0.14 ACRES, MORE OR LESS.

GIVENS PARCEL  
TRACT 2 (TITLE COMMITMENT 22-09308CH)  
AS SURVEYED LEGAL DESCRIPTION

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, AND BEING THE SAME LAND CONVEYED TO JAMES L. GIVENS BY DEED RECORDED IN BOOK OF DEEDS 757 PAGE 592, DESCRIBED AS TRACK 2 IN PB A PG 270 (ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726429.26 E: 2013696.48), THENCE FROM THE POINT OF COMMENCING N35°53'06"W A DISTANCE OF 635.98' TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING BEING A 1/2" IRON PIPE FOUND WITH CAP (BENT) (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF NORTHING: 726944.53 EASTING: 2013323.69).

THENCE FROM THE POINT OF BEGINNING AND RUNNING IN A CLOCKWISE DIRECTION S60°29'09"W A DISTANCE OF 1069.36 FEET TO A REBAR FOUND; THENCE S87°54'28"W A DISTANCE OF 410.09' TO AN IRON PIPE FOUND; THENCE N00°23'00"E A DISTANCE OF 420.69 FEET TO A CONCRETE MONUMENT FOUND; THENCE N87°55'54"E A DISTANCE OF 635.18 FEET TO A CONCRETE MONUMENT FOUND; THENCE N60°37'52"E A DISTANCE OF 43.17 FEET TO AN IRON PIPE FOUND; THENCE S29°25'20"E A DISTANCE OF 200.65 FEET TO AN IRON PIPE FOUND; THENCE N60°28'06"E A DISTANCE OF 619.45 FEET TO AN IRON PIPE FOUND; THENCE N60°28'06"E A DISTANCE OF 28.99 FEET TO A CALCULATED POINT IN THE CENTER OF NC-751 (60 FOOT RIGHT OF WAY); THENCE WITH THE CENTERLINE OF NC-751 ROAD, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 12000.00 FEET, A CHORD BEARING OF S27°30'29"E AND A CHORD LENGTH OF 60.28 FEET TO A CALCULATED POINT; THENCE LEAVING THE CENTERLINE OF NC-751 ROAD, S60°28'54"W A DISTANCE OF 29.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 453,459 SQUARE FEET OR 10.41 ACRES, MORE OR LESS.

AREA WITHIN NC-751 RIGHT OF ROW, 1808 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.



## Exhibit A

## LOT 1

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8 INCH REBAR MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724864.40' E: 2014802.13'), THENCE FROM SAID POINT COMMENCING SOUTH 77 DEGREES 40 MINUTES 11 SECONDS WEST A DISTANCE OF 67.33 FEET TO A RIGHT OF WAY DISK, SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724850.02' E: 2014736.35' AND BEING THE TRUE POINT OF BEGINNING.  
 THENCE SOUTH 29 DEGREES 01 MINUTES 41 SECONDS WEST, A DISTANCE OF 79.03 FEET TO A 5/8" REBAR WITH CAP SET;  
 THENCE SOUTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 11,840.67 FEET, A CENTRAL ANGLE OF 03 DEGREES 41 MINUTES 13 SECONDS AND A CHORD THAT BEARS SOUTH 81 DEGREES 22 MINUTES 04 SECONDS WEST, A CHORD DISTANCE OF 761.55 FEET TO A CALCULATED POINT;  
 THENCE NORTH 00 DEGREES 36 MINUTES 17 SECONDS EAST, A DISTANCE OF 174.44 FEET TO A FOUND 5/8 INCH REBAR;  
 THENCE NORTH 00 DEGREES 35 MINUTES 50 SECONDS EAST, A DISTANCE OF 1,092.79 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP;  
 THENCE NORTH 00 DEGREES 12 MINUTES 32 SECONDS EAST, A DISTANCE OF 52.71 FEET TO A CALCULATED POINT IN NC HIGHWAY 751;  
 THENCE ALONG THE CENTER OF NC HIGHWAY 751 THE FOLLOWING BEARINGS AND DISTANCES;  
 SOUTH 34 DEGREES 10 MINUTES 03 SECONDS EAST, A DISTANCE OF 687.19 FEET TO A CALCULATED POINT;  
 SOUTH 34 DEGREES 32 MINUTES 27 SECONDS EAST, A DISTANCE OF 202.20 FEET TO A CALCULATED POINT;  
 SOUTH 36 DEGREES 43 MINUTES 39 SECONDS EAST, A DISTANCE OF 169.90 FEET TO A CALCULATED POINT;  
 SOUTH 38 DEGREES 57 MINUTES 16 SECONDS EAST, A DISTANCE OF 331.72 FEET TO A CALCULATED POINT;  
 THENCE LEAVING NC HIGHWAY 751 SOUTH 77 DEGREES 40 MINUTES 11 SECONDS WEST, A DISTANCE OF 33.66 FEET TO THE TRUE POINT OF BEGINNING;  
 CONTAINING 546,013 SQ. FT. OF LAND OR 12.53 ACRES, MORE OR LESS

**EXHIBIT A**

LOT 1

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8 INCH REBAR MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724864.40' E: 2014802.13'), THENCE FROM SAID POINT COMMENCING SOUTH 77 DEGREES 40 MINUTES 11 SECONDS WEST A DISTANCE OF 67.33 FEET TO A RIGHT OF WAY DISK, SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724850.02' E: 2014736.35' AND BEING THE TRUE POINT OF BEGINNING.

THENCE SOUTH 29 DEGREES 01 MINUTES 41 SECONDS WEST, A DISTANCE OF 79.03 FEET TO A 5/8" REBAR WITH CAP SET;

THENCE SOUTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 11,840.67 FEET, A CENTRAL ANGLE OF 03 DEGREES 41 MINUTES 13 SECONDS AND A CHORD THAT BEARS SOUTH 81 DEGREES 22 MINUTES 04 SECONDS WEST, A CHORD DISTANCE OF 761.55 FEET TO A CALCULATED POINT;

THENCE NORTH 00 DEGREES 36 MINUTES 17 SECONDS EAST, A DISTANCE OF 174.44 FEET TO A FOUND 5/8 INCH REBAR;

THENCE NORTH 00 DEGREES 35 MINUTES 50 SECONDS EAST, A DISTANCE OF 1,092.79 FEET TO A FOUND 1/2 INCH IRON PIPE WITH CAP;

THENCE NORTH 00 DEGREES 12 MINUTES 32 SECONDS EAST, A DISTANCE OF 52.71 FEET TO A CALCULATED POINT IN NC HIGHWAY 751;

THENCE ALONG THE CENTER OF NC HIGHWAY 751 THE FOLLOWING BEARINGS AND DISTANCES;

SOUTH 34 DEGREES 10 MINUTES 03 SECONDS EAST, A DISTANCE OF 687.19 FEET TO A CALCULATED POINT;

SOUTH 34 DEGREES 32 MINUTES 27 SECONDS EAST, A DISTANCE OF 202.20 FEET TO A CALCULATED POINT;

SOUTH 36 DEGREES 43 MINUTES 39 SECONDS EAST, A DISTANCE OF 169.90 FEET TO A CALCULATED POINT;

SOUTH 38 DEGREES 57 MINUTES 16 SECONDS EAST, A DISTANCE OF 331.72 FEET TO A CALCULATED POINT;

THENCE LEAVING NC HIGHWAY 751 SOUTH 77 DEGREES 40 MINUTES 11 SECONDS WEST, A DISTANCE OF 33.66 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 546,013 SQ. FT. OF LAND OR 12.53 ACRES, MORE OR LESS.

LOT 2

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8 INCH REBAR MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724864.40' E: 2014802.13'), THENCE FROM SAID POINT COMMENCING SOUTH 12 DEGREES 37 MINUTES 56 SECONDS EAST A DISTANCE OF 271.24 FEET TO A RIGHT OF WAY DISK, SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724,599.73 E: 2,014,861.45 AND BEING THE TRUE POINT OF BEGINNING.

THENCE SOUTH 67 DEGREES 21 MINUTES 28 SECONDS EAST, A DISTANCE OF 67.03 FEET TO A RIGHT OF WAY DISK;

THENCE NORTH 89 DEGREES 11 MINUTES 53 SECONDS EAST, A DISTANCE OF 33.08 FEET TO A CALCULATED POINT BEING ON NEW HILL ROAD;

THENCE ALONG NEW HILL ROAD SOUTH 16 DEGREES 27 MINUTES 27 SECONDS EAST, A DISTANCE OF 721.12 FEET TO A CALCULATED POINT;

THENCE SOUTH 16 DEGREES 13 MINUTES 30 SECONDS EAST, A DISTANCE OF 380.63 FEET TO A CALCULATED POINT;

THENCE SOUTHEASTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 12 DEGREES 57 MINUTES 26 SECONDS AND A CHORD THAT BEARS SOUTH 09 DEGREES 45 MINUTES 10 SECONDS EAST, A CHORD DISTANCE OF 257.26 FEET TO A CALCULATED POINT IN NEW HILL ROAD AND NEW HILL OLIVE CHAPEL ROAD;



THENCE WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 00 DEGREES 43 MINUTES 25 SECONDS AND A CHORD THAT BEARS SOUTH 02 DEGREES 54 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 14.40 FEET TO A CALCULATED POINT IN NEW HILL ROAD AND NEW HILL OLIVE CHAPEL ROAD;

THENCE WITH THE COUNTY LINE BETWEEN WAKE AND CHATHAM COUNTY (BM 1961 PG 68) SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST A DISTANCE OF 162.92 FEET TO A CALCULATED POINT IN THE WESTERN SIDE OF NEW HILL OLIVE CHAPEL ROAD RIGHT OF WAY;

THENCE LEAVING THE COUNTY LINE AND WITH THE WESTERN RIGHT OF WAY SIDE OF NEW HILL OLIVE CHAPEL ROAD NORTH 6 DEGREES 02 MINUTES 53 SECONDS EAST A DISTANCE OF 128.40 FEET TO A 5/8 INCH REBAR WITH CAP SET,

THENCE LEAVING THE WESTERN SIDE OF NEW HILL CHAPEL ROAD RIGHT OF WAY SOUTH 15 DEGREES 55 MINUTES 22 SECONDS WEST, A DISTANCE OF 878.54 FEET TO A 2 INCH IRON PIPE FOUND;

THENCE NORTH 84 DEGREES 48 MINUTES 37 SECONDS WEST, A DISTANCE OF 1,121.89 FEET TO A 3/4 INCH IRON PIPE FOUND;

THENCE NORTH 00 DEGREES 36 MINUTES 17 SECONDS EAST, A DISTANCE OF 1,985.81 FEET TO A CALCULATED POINT;

THENCE NORTHEASTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 11,459.16 FEET, A CENTRAL ANGLE OF 03 DEGREES 34 MINUTES 23 SECONDS AND A CHORD THAT BEARS NORTH 81 DEGREES 06 MINUTES 11 SECONDS EAST, A CHORD DISTANCE OF 714.43 FEET TO A CALCULATED POINT;

THENCE NORTH 82 DEGREES 54 MINUTES 12 SECONDS EAST, A DISTANCE OF 214.33 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 2,599,783 SQ. FT. OF LAND OR 59.68 ACRES, MORE OR LESS.

LOT 3

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8 INCH REBAR MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 724864.40' E: 2014802.13'), THENCE FROM SAID POINT COMMENCING SOUTH 32 DEGREES 54 MINUTES 03 SECONDS EAST A DISTANCE OF 344.87 FEET TO A RIGHT OF WAY DISK, SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 724574.85' E: 2014989.45' AND BEING THE TRUE POINT OF BEGINNING.

THENCE NORTH 34 DEGREES 43 MINUTES 39 SECONDS EAST, A DISTANCE OF 54.34 FEET TO A CALCULATED POINT;

THENCE NORTH 82 DEGREES 53 MINUTES 07 SECONDS EAST, A DISTANCE OF 625.77 FEET TO FOUND 5/8 INCH REBAR;

THENCE NORTH 83 DEGREES 08 MINUTES 25 SECONDS EAST, A DISTANCE OF 85.45 FEET TO A CALCULATED POINT IN NEW HILL OLIVE CHAPEL ROAD AND ON THE CHATHAM COUNTY AND WAKE COUNTY LINE;

THENCE WITH SAID ROAD SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,515.68 FEET TO A CALCULATED POINT IN NEW HILL ROAD AND NEW HILL OLIVE CHAPEL ROAD;

THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 00 DEGREES 43 MINUTES 25 SECONDS AND A CHORD THAT BEARS NORTH 02 DEGREES 54 MINUTES 44 SECONDS WEST, A CHORD DISTANCE OF 14.40 FEET TO A CALCULATED POINT;

THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 12 DEGREES 57 MINUTES 26 SECONDS AND A CHORD THAT BEARS NORTH 09 DEGREES 45 MINUTES 10 SECONDS WEST, A CHORD DISTANCE OF 257.26 FEET TO A CALCULATED POINT;

THENCE NORTH 16 DEGREES 13 MINUTES 30 SECONDS WEST A DISTANCE OF 380.63 FEET TO A CALCULATED POINT;

THENCE ALONG NEW HILL ROAD NORTH 16 DEGREES 27 MINUTES 27 SECONDS WEST, A DISTANCE OF 721.12 FEET TO A CALCULATED POINT;

THENCE NORTH 89 DEGREES 11 MINUTES 53 SECONDS EAST, A DISTANCE OF 33.08 FEET TO THE POINT OF BEGINNING

CONTAINING 525,846 SQ. FT. OF LAND OR 12.07 ACRES, MORE OR LESS.

TOTAL ACREAGE OF LOT 1, LOT 2, AND LOT 3 TOTALING 84.28 ACRES OF LAND MORE OR LESS.

**.41 ACRES BETWEEN LOT 2 (DB: 1977, PG: 725), VICKIE RIGGSBEE GOODWIN (DB 14684, PG: 704), AND SUSAN W. YATES (DB:18856, PG: 2143)**

BEGINNING AT A 5/8" REBAR SET ON THE WESTERN SIDE OF NEW HILL OLIVE CHAPEL ROAD RIGHT OF WAY; THENCE WITH THE WESTERN SIDE OF SAID RIGHT OF WAY A CURVE TO THE LEFT THAT BEARS SOUTH 06 DEGREES 02 MINUTES 53 SECONDS WEST HAVING A CHORD DISTANCE OF 128.40 FEET AND A RADIUS OF 1,494.58 FEET; THENCE LEAVING SAID RIGHT OF WAY AND WITH THE CHATHAM-WAKE COUNTY LINE (LINE F ON BM 1961 PG 68) SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST A DISTANCE OF 747.78 FEET TO A CALCULATED POINT; THENCE LEAVING SAID COUNTY LINE NORTH 84 DEGREES 48 MINUTES 37 SECONDS WEST A DISTANCE OF 22.91 FEET TO A 2" IRON PIPE FOUND; THENCE NORTH 15 DEGREES 55 MINUTES 22 SECONDS EAST A DISTANCE OF 878.54 FEET TO THE POINT OF BEGINNING.

CONTAINING 17,792 SQ. FT. OR 0.41 ACRES MORE OR LESS



**EXHIBIT A**

LOT 1

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

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THENCE NORTH 00 DEGREES 12 MINUTES 32 SECONDS EAST, A DISTANCE OF 52.71 FEET TO A CALCULATED POINT IN NC HIGHWAY 751;

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THENCE WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 00 DEGREES 43 MINUTES 25 SECONDS AND A CHORD THAT BEARS SOUTH 02 DEGREES 54 MINUTES 44 SECONDS EAST, A CHORD DISTANCE OF 14.40 FEET TO A CALCULATED POINT IN NEW HILL ROAD AND NEW HILL OLIVE CHAPEL ROAD;

THENCE WITH THE COUNTY LINE BETWEEN WAKE AND CHATHAM COUNTY (BM 1961 PG 68) SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST A DISTANCE OF 162.92 FEET TO A CALCULATED POINT IN THE WESTERN SIDE OF NEW HILL OLIVE CHAPEL ROAD RIGHT OF WAY;

THENCE LEAVING THE COUNTY LINE AND WITH THE WESTERN RIGHT OF WAY SIDE OF NEW HILL OLIVE CHAPEL ROAD NORTH 6 DEGREES 02 MINUTES 53 SECONDS EAST A DISTANCE OF 128.40 FEET TO A 5/8 INCH REBAR WITH CAP SET,

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THENCE NORTH 84 DEGREES 48 MINUTES 37 SECONDS WEST, A DISTANCE OF 1,121.89 FEET TO A 3/4 INCH IRON PIPE FOUND;

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THENCE NORTHEASTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 11,459.16 FEET, A CENTRAL ANGLE OF 03 DEGREES 34 MINUTES 23 SECONDS AND A CHORD THAT BEARS NORTH 81 DEGREES 06 MINUTES 11 SECONDS EAST, A CHORD DISTANCE OF 714.43 FEET TO A CALCULATED POINT;

THENCE NORTH 82 DEGREES 54 MINUTES 12 SECONDS EAST, A DISTANCE OF 214.33 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 2,599,783 SQ. FT. OF LAND OR 59.68 ACRES, MORE OR LESS.

LOT 3

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN DEED BOOK 1977 PAGE 0725. ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:



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THENCE NORTH 34 DEGREES 43 MINUTES 39 SECONDS EAST, A DISTANCE OF 54.34 FEET TO A CALCULATED POINT;

THENCE NORTH 82 DEGREES 53 MINUTES 07 SECONDS EAST, A DISTANCE OF 625.77 FEET TO FOUND 5/8 INCH REBAR;

THENCE NORTH 83 DEGREES 08 MINUTES 25 SECONDS EAST, A DISTANCE OF 85.45 FEET TO A CALCULATED POINT IN NEW HILL OLIVE CHAPEL ROAD AND ON THE CHATHAM COUNTY AND WAKE COUNTY LINE;

THENCE WITH SAID ROAD SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,515.68 FEET TO A CALCULATED POINT IN NEW HILL ROAD AND NEW HILL OLIVE CHAPEL ROAD;

THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 00 DEGREES 43 MINUTES 25 SECONDS AND A CHORD THAT BEARS NORTH 02 DEGREES 54 MINUTES 44 SECONDS WEST, A CHORD DISTANCE OF 14.40 FEET TO A CALCULATED POINT;

THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,140.03 FEET, A CENTRAL ANGLE OF 12 DEGREES 57 MINUTES 26 SECONDS AND A CHORD THAT BEARS NORTH 09 DEGREES 45 MINUTES 10 SECONDS WEST, A CHORD DISTANCE OF 257.26 FEET TO A CALCULATED POINT;

THENCE NORTH 16 DEGREES 13 MINUTES 30 SECONDS WEST A DISTANCE OF 380.63 FEET TO A CALCULATED POINT;

THENCE ALONG NEW HILL ROAD NORTH 16 DEGREES 27 MINUTES 27 SECONDS WEST, A DISTANCE OF 721.12 FEET TO A CALCULATED POINT;

THENCE NORTH 89 DEGREES 11 MINUTES 53 SECONDS EAST, A DISTANCE OF 33.08 FEET TO THE POINT OF BEGINNING

CONTAINING 525,846 SQ. FT. OF LAND OR 12.07 ACRES, MORE OR LESS.

TOTAL ACREAGE OF LOT 1, LOT 2, AND LOT 3 TOTALING 84.28 ACRES OF LAND MORE OR LESS.

**.41 ACRES BETWEEN LOT 2 (DB: 1977, PG: 725), VICKIE RIGGSBEE GOODWIN (DB 14684, PG: 704), AND SUSAN W. YATES (DB:18856, PG: 2143)**

BEGINNING AT A 5/8" REBAR SET ON THE WESTERN SIDE OF NEW HILL OLIVE CHAPEL ROAD RIGHT OF WAY; THENCE WITH THE WESTERN SIDE OF SAID RIGHT OF WAY A CURVE TO THE LEFT THAT BEARS SOUTH 06 DEGREES 02 MINUTES 53 SECONDS WEST HAVING A CHORD DISTANCE OF 128.40 FEET AND A RADIUS OF 1,494.58 FEET; THENCE LEAVING SAID RIGHT OF WAY AND WITH THE CHATHAM-WAKE COUNTY LINE (LINE F ON BM 1961 PG 68) SOUTH 15 DEGREES 53 MINUTES 07 SECONDS WEST A DISTANCE OF 747.78 FEET TO A CALCULATED POINT; THENCE LEAVING SAID COUNTY LINE NORTH 84 DEGREES 48 MINUTES 37 SECONDS WEST A DISTANCE OF 22.91 FEET TO A 2" IRON PIPE FOUND; THENCE NORTH 15 DEGREES 55 MINUTES 22 SECONDS EAST A DISTANCE OF 878.54 FEET TO THE POINT OF BEGINNING.

CONTAINING 17,792 SQ. FT. OR 0.41 ACRES MORE OR LESS

Application #:

Submittal Date:

Insert legal description below.

Tract 1

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN BOOK OF MAPS 2014 PAGE 0320 AND DESCRIBED AS LOT 1, BEING BOUND IN THE NORTH BY DRODGE INVESTMENTS, LLC (DB: 1949, PG 0612); BOUND ON THE EAST SIDE BY REGINALD MILLS JR WILLIAM S MILLS (DB: LQ, PG 0235); BOUND TO THE SOUTH BY ALUCINO WILLIAM J ALUCINO BARBARA J (DB: 797 PG: 728); BOUND TO THE WEST BY NC 751 (BOOK OF MAPS 2014 PAGE 0320); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 727970.55' E: 2014637.34', THENCE FROM SAID POINT COMMENCING SOUTH 00 DEGREES 44 MINUTES 16 SECONDS WEST A DISTANCE OF 313.33 FEET TO AN IRON PIPE FOUND WITH WHITE CAP AND TACK, SAID FOUND IRON PIPE WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 727657.24' E: 2014633.31' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF REGINALD MILLS JR WILLIAM S MILLS (DB: LQ, PG 0235) SOUTH 00 DEGREES 42 MINUTES 32 SECONDS WEST A DISTANCE OF 280.64 FEET TO A 1/2" IRON PIPE FOUND, THENCE ALONG THE PROPERTY LINE OF ALUCINO WILLIAM J ALUCINO BARBARA J (DB: 797 PG: 728) SOUTH 55 DEGREES 58 MINUTES 49 SECONDS WEST A DISTANCE OF 540.56 FEET TO A 1/2 INCH IRON PIPE FOUND, THENCE SOUTH 55 DEGREES 59 MINUTES 27 SECONDS WEST A DISTANCE OF 239.18 FEET TO A FOUND 1/2 INCH IRON PIPE, THENCE SOUTH 55 DEGREES 57 MINUTES 16 SECONDS WEST A DISTANCE OF 515.74 FEET TO A FOUND 5/8 INCH IRON REBAR ON THE EASTERN SIDE OF NC 751 60 FOOT RIGHT OF WAY, THENCE NORTH ALONG NC 751 EASTERN 60 FOOT RIGHT OF WAY, NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 6,378.08 FEET, A CENTRAL ANGLE OF 00°39'22" AND A CHORD THAT BEARS NORTH 30 DEGREES 48 MINUTES 44 SECONDS WEST A DISTANCE OF 73.04 FEET TO A CALCULATED POINT, THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3,970.00 FEET, A CENTRAL ANGLE OF 02°07'44" AND A CHORD THAT BEARS NORTH 29 DEGREES 57 MINUTES 16 SECONDS WEST A DISTANCE OF 147.50 FEET TO A CALCULATED POINT, THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 10,752.26 FEET, A CENTRAL ANGLE OF 00°44'42" AND A CHORD THAT BEARS NORTH 28 DEGREES 00 MINUTES 24 SECONDS WEST A DISTANCE OF 139.81 FEET TO A FOUND 1 INCH IRON PIPE, THENCE LEAVING THE EASTERN SIDE OF NC 751 60 FOOT RIGHT OF WAY WITH DRODGE INVESTMENTS, LLC (DB: 1949, PG 0612) NORTH 70 DEGREES 55 MINUTES 12 SECONDS EAST A DISTANCE OF 503.27 FEET TO A FOUND 1/2 INCH IRON PIPE, THENCE NORTH 55 DEGREES 53 MINUTES 25 SECONDS WEST A DISTANCE OF 939.91 FEET TO THE POINT OF BEGINNING.



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

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

Insert legal description below.

## Tract 2

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT LOT 1 DEPICTED IN BOOK OF MAPS 2014 PAGE 0320 AND DESCRIBED AS LOT 1 , BEING BOUND IN THE NORTH EAST AND WEST BY BRENT MICHAEL DROEGE (DB: 2148, PG 1047); BOUND ON THE SOUTH SIDE BY BIN – AG LLC (DB: 2301 PG: 443); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 727970.55' E: 2014637.34', THENCE FROM SAID POINT COMMENCING SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST A DISTANCE OF 44.94 FEET TO A 1 INCH IRON PIPE FOUND, THENCE SOUTH 0 DEGREES 52 MINUTES 26 SECONDS WEST A DISTANCE OF 96.50 FEET TO A 1/2" IRON PIPE FOUND, THENCE SOUTH 1 DEGREE 03 MINUTES 08 SECONDS WEST 171.91 FEET TO A 1/2" IRON PIPE FOUND WITH WHITE CAP AND TACK, THENCE SOUTH 52 DEGREES 00 MINUTES 09 SECONDS WEST A DISTANCE OF 702.23 FEET TO A 1/2 INCH IRON PIPE FOUND, SAID FOUND IRON PIPE HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 727224.93' E: 2014079.92' AND BEING THE TRUE POINT OF BEGINNING:

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF BRENT MICHAEL DROEGE (DB: 2148, PG 1047) SOUTH 34 DEGREES 03 MINUTES 08 SECONDS EAST A DISTANCE OF 181.93 FEET TO A 1/2" IRON PIPE FOUND, THENCE SOUTH 55 DEGREES 59 MINUTES 27 SECONDS WEST A DISTANCE OF 239.18 FEET TO A 1/2" IRON PIPE FOUND, THENCE NORTH 34 DEGREES 06 MINUTES 37 SECONDS WEST A DISTANCE OF 181.48 FEET TO A 1/2" IRON PIPE FOUND, THENCE NORTH 55 DEGREES 53 MINUTES 00 SECONDS EAST A DISTANCE OF 239.36 FEET TO THE POINT OF BEGINNING.  
CONTAINING 43,477 SQUARE FEET OR 1.00 ACRES, MORE OR LESS.

Application #:

Submittal Date:

Insert legal description below.

## Tract 3

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT C DESCRIBED IN DEED BOOK 1949 PAGE 612 AND DESCRIBED AS TRACT C, BEING BOUND IN THE NORTH BY DRODGE INVESTMENTS, LLC (DB: 2207, PG 426); BOUND ON THE EAST SIDE BY MILLS CHATHAM INVESTMENT PROPERTIES, LLC (DB: 2294, PG 400) AND US GOVERNMENT (DB: NA PG: NA); BOUND TO THE SOUTH BY BRENT MICHAEL DROEGE (DB: 2148 PG: 1047); BOUND TO THE WEST BY THE CENTERLINE OF NC 751 (BOOK OF MAPS 2014 PAGE 0320); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A 1/2" IRON PIPE MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 727970.55' E: 2014637.34', THENCE FROM SAID POINT COMMENCING SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST A DISTANCE OF 44.94 FEET TO A 1 INCH IRON PIPE FOUND, THENCE SOUTH 0 DEGREES 52 MINUTES 26 SECONDS WEST A DISTANCE OF 96.50 FEET TO A 1/2" IRON PIPE FOUND, THENCE SOUTH 1 DEGREE 03 MINUTES 08 SECONDS WEST 171.91 FEET TO A 1/2" IRON PIPE FOUND WITH WHITE CAP AND TACK, SAID FOUND IRON PIPE WITH CAP HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 727657.24' E: 2014633.31' AND BEING THE TRUE POINT OF BEGINNING.

THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF BRENT MICHAEL DROEGE (DB: 2148, PG 1047) SOUTH 55 DEGREES 53 MINUTES 25 SECONDS WEST A DISTANCE OF 939.91 FEET TO A 1/2 INCH IRON PIPE FOUND, THENCE SOUTH 70 DEGREES 55 MINUTES 12 SECONDS WEST A DISTANCE OF 503.27 FEET TO A 1 INCH IRON PIPE FOUND, THENCE SOUTH 70 DEGREES 24 MINUTES 53 SECONDS WEST A DISTANCE OF 30.35 FEET INTO THE 60 FOOT RIGHT OF WAY TO A CALCULATED POINT, THENCE ALONG THE CENTERLINE OF NC 751 NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 12,000.00 FEET, A CENTRAL ANGLE OF 01°31'52" AND A CHORD THAT BEARS NORTH 26 DEGREES 54 MINUTES 17 SECONDS WEST A DISTANCE OF 320.69 FEET TO A CALCULATED POINT, THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 10,366.27 FEET, A CENTRAL ANGLE OF 00°17'57" AND A CHORD THAT BEARS NORTH 26 DEGREES 50 MINUTES 57 SECONDS WEST, A CHORD DISTANCE OF 54.15 FEET TO A CALCULATED POINT, THENCE LEAVING THE NC 751 RIGHT OF WAY ALONG THE PROPERTY LINE OF DRODGE INVESTMENTS LLC (DB: 2207 PG: 426) NORTH 65 DEGREES 53 MINUTES 09 SECONDS EAST A DISTANCE OF 29.51 FEET TO A FOUND 1/4 INCH REBAR THENCE NORTH 66 DEGREES 25 MINUTES 40 SECONDS EAST A

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

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

**Insert legal description below.**

SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT DESCRIBED IN DEED BOOK 1395 PAGE 247, BEING BOUND IN THE NORTH BY SEAGROVES TIMOTHY S (DB: 1629, PG 0303) AND SEAGROVES TIMOTHY S (DB: 0711, PG 0749); BOUND ON THE EAST SIDE BY US GOVERNMENT (DB: NA PG: NA); BOUND TO THE SOUTH BY TRACT D DRODGE INVESTMENTS LLC (DB: 2207 PG: 426); BOUND TO THE WEST SIDE BY US GOVERNMENT (DB: NA PG: NA); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:  
COMMENCING AT A FOUND 1/2 INCH IRON PIPE MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 727,829.13' E: 2,014,636.47'), THENCE FROM SAID POINT COMMENCING NORTH 00 DEGREES 52 MINUTES 26 SECONDS EAST A DISTANCE OF 96.50 FEET TO A 1 INCH IRON PIPE FOUND, THENCE NORTH 00 DEGREES 45 MINUTES 27 SECONDS WEST A DISTANCE OF 30 FEET TO A REBAR SET WITH CAP, SAID REBAR WITH CAP SET HAVING A NORTH CAROLINA STATE PLANE COORDINATES OF N: 727,955.61' E: 2,014,637.54' AND BEING THE TRUE POINT OF BEGINNING.  
THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, SOUTH 77 DEGREES 51 MINUTES 31 SECONDS WEST A DISTANCE OF 1630.04 FEET TO A FOUND 1/4 INCH REBAR, THENCE SOUTH 77 DEGREES 02 MINUTES 02 SECONDS WEST A DISTANCE OF 60.81 FEET TO A FOUND 1/2 INCH IRON PIPE, THENCE SOUTH 77 DEGREES 37 MINUTES 11 SECONDS WEST A DISTANCE OF 73.36 FEET TO A 1/4" IRON REBAR FOUND, THENCE ALONG THE PROPERTY LINE OF US GOVERNMENT (DB: NA PG: NA) NORTH 25 DEGREES 54 MINUTES 27 SECONDS WEST A DISTANCE OF 442.50 FEET TO A 1 INCH AXLE FOUND, THENCE ALONG THE PROPERTY LINE OF SEAGROVES TIMOTHY S (DB: 1629, PG 0303) AND SEAGROVES TIMOTHY S (DB: 0711, PG 0749) SOUTH 89 DEGREES 48 MINUTES 19 SECONDS EAST A DISTANCE OF 1080.27 FEET TO A FOUND 1.25 INCH GUN BARREL, THENCE SOUTH 89 DEGREES 06 MINUTES 54 SECONDS EAST A DISTANCE OF 485.11 FEET TO A FOUND 1 1/4 INCH IRON PIPE, THENCE NORTH 89 DEGREES 57 MINUTES 13 SECONDS EAST A DISTANCE OF 352.30 FEET TO A FOUND 1/2 INCH IRON PIPE, THENCE SOUTH ALONG THE US GOVERNMENT (DB: NA PG: NA) SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST A DISTANCE OF 14.94 FEET TO A SET 5/8" REBAR WITH CAP BEING THE TRUE POINT OF BEGINNING.  
CONTAINING 393,523 SQUARE FEET OR 9.03 ACRES, MORE OR LESS.



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

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

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

**Insert legal description below.**

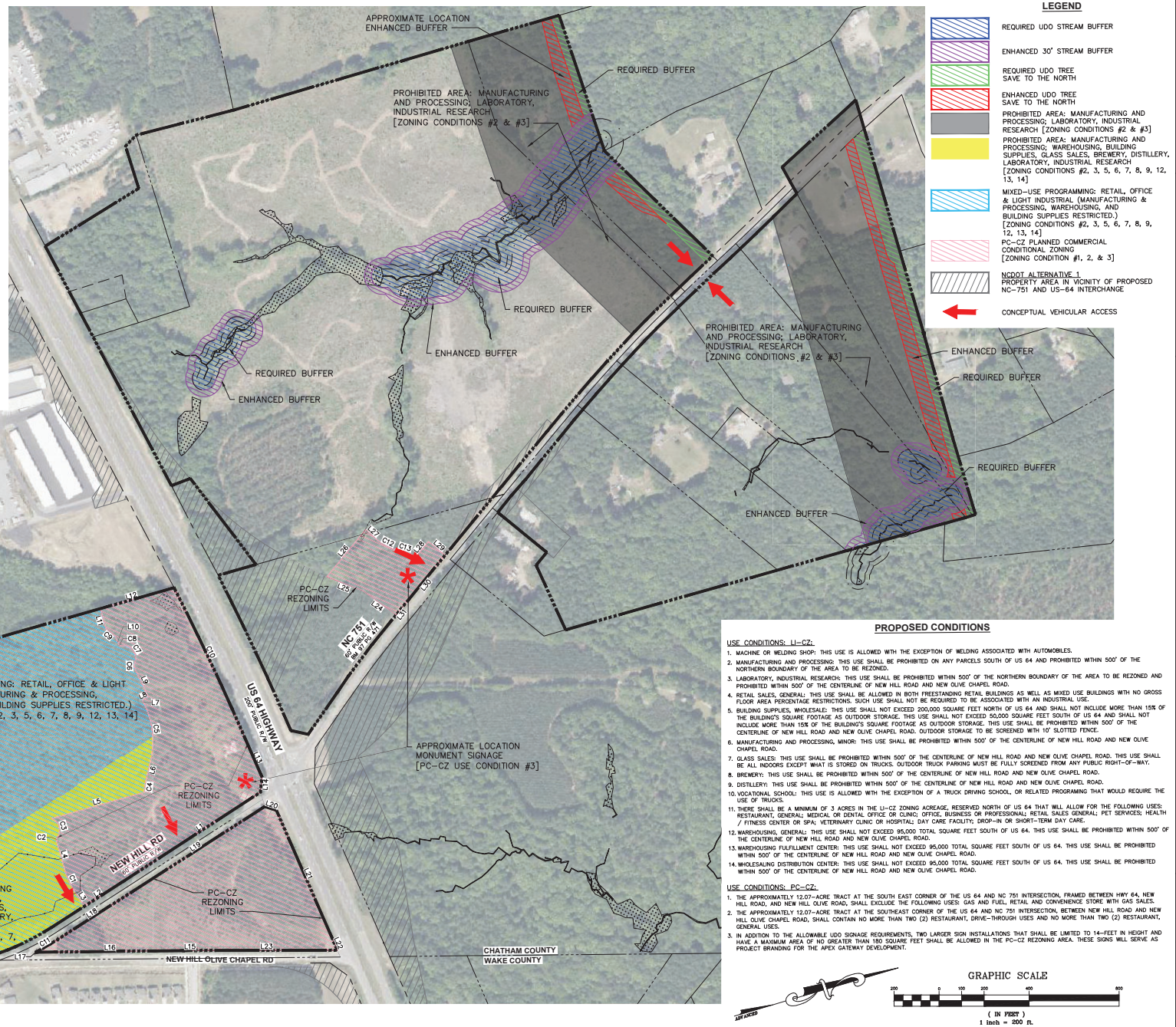
SITUATED AND LYING IN THE STATE OF NORTH CAROLINA, CHATHAM COUNTY, TOWNSHIP OF NEW HOPE, BEING ALL OF THAT TRACT C DESCRIBED IN DEED BOOK 2207 PAGE 426 AND DESCRIBED AS TRACT D, BEING BOUND IN THE NORTH BY MCLAIN PHILIP MICHAEL (DB: 1395, PG 247); BOUND ON THE EAST SIDE BY US GOVERNMENT (DB: NA PG: NA); BOUND TO THE SOUTH BY TRACT C OF DRODGE INVESTMENTS LLC (DB: 1949 PG: 612); BOUND TO THE WEST SIDE BY US GOVERNMENT (DB: NA PG: NA) AND PIERPONT WILLIAM R ETUX BARBARA E PIERPONT (DB: 1915 PG: 1170); ALL REFERENCES TO DEED BOOKS AND PLAT BOOKS IN THIS DESCRIPTION REFER TO THE RECORDS OF THE CHATHAM COUNTY REGISTER OF DEEDS OFFICE, NORTH CAROLINA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:  
COMMENCING AT A FOUND 1/2 INCH IRON PIPE MONUMENT FOUND (HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N: 727,829.13' E: 2,014,636.47'), THENCE FROM SAID POINT COMMENCING NORTH 00 DEGREES 52 MINUTES 26 SECONDS EAST A DISTANCE OF 96.50 FEET TO A 1 INCH IRON PIPE FOUND, SAID FOUND IRON PIPE HAVING NORTH CAROLINA STATE PLANE COORDINATES N: 727,925.62 ' E: 2,014,637.94' AND BEING THE TRUE POINT OF BEGINNING.  
THENCE FROM SAID POINT OF BEGINNING, IN A CLOCKWISE DIRECTION, ALONG THE PROPERTY LINE OF MCLAIN PHILIP MICHAEL (DB: 1395, PG 247), SOUTH 66 DEGREES 25 MINUTES 40 SECONDS WEST A DISTANCE OF 1559.85 FEET TO A 1/4 IRON REBAR FOUND, THENCE SOUTH 66 DEGREES 25 MINUTES 40 SECONDS WEST A DISTANCE OF 29.52 FEET TO A CALCULATED POINT, THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 10,366.27 FEET, A CENTRAL ANGLE OF 01°06'23" AND A CHORD THAT BEARS NORTH 27 DEGREES 33 MINUTES 13 SECONDS WEST A DISTANCE OF 200.19 FEET TO A CALCULATED POINT, THENCE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 18,752.40 FEET, A CENTRAL ANGLE OF 00°28'48" AND A CHORD THAT BEARS NORTH 28 DEGREES 14 MINUTES 53 SECONDS WEST A DISTANCE OF 157.13 FEET TO A CALCULATED POINT, THENCE NORTH 77 DEGREES 02 MINUTES 02 SECONDS EAST A DISTANCE OF 30.53 FEET TO A 1/4" IRON REBAR FOUND, THENCE NORTH 77 DEGREES 51 MINUTES 31 SECONDS EAST A DISTANCE OF 1630.04 FEET TO A SET 5/8" REBAR WITH CAP, THENCE SOUTH 00 DEGREES 45 MINUTES 27 SECONDS EAST A DISTANCE OF 30.00 FEET TO A 1" IRON PIPE FOUND BEING THE TRUE POINT OF BEGINNING.  
CONTAINING 307,698 SQUARE FEET OR 7.06 ACRES, MORE OR LESS.



# Attachment "A"

LINE TABLE		LINE TABLE			
LINE	DISTANCE	BEARING	LINE	DISTANCE	BEARING
L1	729.99'	S16°36'09"E	L17	2.75'	S17°03'15"W
L2	203.62'	S16°13'30"E	L18	386.68'	N16°13'30"W
L3	85.24'	S74°05'18"W	L19	712.26'	N16°18'31"W
L4	130.66'	N89°23'43"W	L20	54.34'	N34°43'59"E
L5	425.92'	N00°36'17"E	L21	625.77'	N82°53'07"E
L6	86.38'	N80°16'14"W	L22	45.40'	N81°09'29"E
L7	21.80'	S80°56'38"W	L23	627.70'	S18°19'07"W
L8	30.00'	N09°03'22"W	L24	1861.13'	S82°28'45"W
L9	145.11'	S80°56'38"W	L25	173.88'	S37°28'41"W
L10	27.07'	S80°56'38"W	L26	271.45'	N34°15'32"W
L11	84.70'	N89°23'43"W	L27	62.89'	N58°17'48"E
L12	340.44'	N00°36'17"E	L28	89.17'	N34°15'32"W
L13	214.33'	N82°54'12"E	L29	95.38'	N55°48'44"E
L14	87.03'	S67°21'28"E	L30	311.31'	S34°09'55"E
L15	53.16'	S15°42'07"W	L31	30.81'	S34°32'27"E
L16	658.52'	S15°47'55"W			

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DIST.
C1	016°30'59"	350.00'	100.89'	S82°20'47"W	100.54'
C2	049°49'20"	20.00'	17.39'	N64°23'03"W	16.85'
C3	099°35'44"	57.54'	100.02'	N89°23'43"W	87.90'
C4	008°33'24"	380.00'	56.75'	N64°32'56"W	56.70'
C5	038°47'08"	380.00'	257.24'	N79°39'48"W	252.35'
C6	049°49'20"	20.00'	17.39'	N74°08'42"W	16.85'
C7	127°01'12"	57.50'	127.46'	S67°15'52"W	102.92'
C8	007°18'02"	33.00'	7.68'	S74°47'57"W	7.37'
C9	040°10'11"	92.00'	64.50'	S66°07'13"W	63.19'
C10	023°34'22"	11469.16'	714.54'	N81°06'17"E	714.43'
C11	005°39'21"	1170.03'	115.50'	N13°24'12"W	115.45'
C12	031°09'23"	200.00'	108.52'	N42°40'07"E	107.30'
C13	023°12'02"	215.00'	87.06'	N38°48'26"E	86.47'



PLAN PREPARED BY: JRM / C-2782

PLAN PREPARED FOR: BEACON PARTNERS

Town of Apex, Chatham County, North Carolina

**APEX GATEWAY - PHASE 2**

**MASTER PLAN**

**BEACON PARTNERS**

**ENHANCED BUFFER EXHIBIT**

Date: 10/30/2023  
Scale: 1"=200'

Drawn By: AMK  
Checked By: JRR

Project Number: 22-0014-504

Drawing Number: 1/1



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

### Requested Motion

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ12 Sweetwater PUD Amendment, David Schmidt, ExperienceOne Homes, LLC, petitioner, for the properties located at 1451 Richardson Rd; 1051 & 1075 Newland Ave; 2800, 2810 Teachey Pl, & 2820 Teachey Pl; 0 Core Banks St and 0 Little Gem Lane (PINs 0722550034, 0722544876, 0722544404, 0722457646, 0722454406, 0722443942, 0722441499, and 0722441386).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Case No. 23CZ20 was approved at the January 23, 2024 Town Council meeting.

### Attachments

- CN15-A1: Statement and Ordinance - Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance
- CN15-A2: Attachment A - Legal Description - Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance
- CN15-A3: Attachment B - Sweetwater PUD Amendment Text - Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance





**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 41.33 ACRES LOCATED AT 1451 RICHARDSON RD; 1051 & 1075 NEWLAND AVE; 2800, 2810 TEACHEY PL, & 2820 TEACHEY PL; 0 CORE BANKS ST AND 0 LITTLE GEM LANE FROM PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ #22CZ03 & #23CZ12) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ) #23CZ20**

**WHEREAS**, David Schmidt, ExperienceOne Homes, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 2<sup>nd</sup> day of October 2023 (the “Application”). The proposed conditional zoning is designated #23CZ20;

**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 #23CZ20 before the Planning Board on the 8<sup>th</sup> day of January 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of January 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ20. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ20;

**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 #23CZ20 before the Apex Town Council on the 23<sup>rd</sup> day of January 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of January 2024. 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 #23CZ20 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 increased building height north of Core Banks Street which is needed for a potential hotel use and will allow for more of the development to be commercial uses rather than office. The proposed rezoning will increase the tax base and provide services to the nearby community; and

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ20 rezoning the subject tract located at 1451 Richardson Rd; 1051 & 1075 Newland Ave; 2800, 2810 Teachey Pl, & 2820 Teachey Pl; 0 Core Banks St and 0 Little Gem Lane from Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03 & #23CZ12) to Planned Unit Development-Conditional Zoning (PUD-CZ).

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

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

**Ordinance Amending the Official Zoning District Map #23CZ20**

**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 Planned Unit Development-Conditional Zoning (PUD-CZ #22CZ03 and #23CZ12) 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 \_\_\_\_\_ 2024.

**TOWN OF APEX**

\_\_\_\_\_

Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

EXHIBIT ALAND DESCRIPTION FOR LOT 9  
SWEETWATER LIGHTBRIDGE ACADEMY PARCEL

**BEING** ALL OF THAT TRACT OR PARCEL OF REAL PROPERTY LYING LOCATED IN WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT, SAID POINT BEING PUBLISHED IN THE NATIONAL GEODETIC SURVEY AS "JORDAN LAKE CORS ARP" (PID: DL3891) AND HAVING NC GRID COORDINATES OF NORTHING: 739,273.05' & EASTING: 1,989,789.69'; THENCE S 67°10'24" E A GRID DISTANCE OF 38,481.64 FEET TO A CALCULATED POINT; SAID POINT LYING ON THE NORTHERN MARGIN OF CORE BANKS ROAD AND BEING A COMMON CORNER WITH THE EASTERN MARGIN OF NEWLAND AVENUE; HAVING NC GRID COORDINATES OF NORTHING: 723,344.34' AND EASTING: 2,025,257.55'; HEREBY KNOWN AS THE **POINT OF BEGINNING**.

THENCE ALONG THE EASTERN MARGIN OF NEWLAND AVENUE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 22.00 FEET AND A CHORD BEARING OF N 18°43'28" W FOR A CHORD DISTANCE OF 20.85 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 201.32 FEET AND A CHORD BEARING OF N 16°06'11" E FOR A CHORD DISTANCE OF 35.54 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 174.00 FEET AND A CHORD BEARING OF N 19°33'59" E FOR A CHORD DISTANCE OF 15.97 FEET TO A POINT; THENCE N 22°11'49" E A DISTANCE OF 62.10 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 174.50 FEET AND A CHORD BEARING OF N 14°17'00" E FOR A CHORD DISTANCE OF 48.05 FEET TO A POINT; THENCE N 00°39'14" E A DISTANCE OF 30.94 FEET TO A POINT; THENCE N 06°39'05" W A DISTANCE OF 55.35 FEET TO A POINT; THENCE LEAVING SAID MARGIN S 67°48'11" E A DISTANCE OF 88.99 FEET TO A POINT; THENCE N 22°11'49" E A DISTANCE OF 36.50 FEET TO A POINT; THENCE S 67°48'11" E A DISTANCE OF 38.00 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 64.00 FEET AND A CHORD BEARING OF S 37°38'16" E FOR A CHORD DISTANCE OF 64.32 FEET TO A POINT; THENCE S 11°31'48" W A DISTANCE OF 4.92 FEET TO A POINT; THENCE S 12°05'41" E A DISTANCE OF 39.20 FEET TO A POINT; THENCE S 67°09'17" E A DISTANCE OF 110.97 FEET TO A POINT; THENCE S 19°26'18" W A DISTANCE OF 88.92 FEET TO A POINT; THENCE S 40°40'32" W A DISTANCE OF 17.71 FEET TO A POINT; THENCE S 66°17'51" W A DISTANCE OF 68.41 FEET TO A POINT; THENCE S 84°48'32" W A DISTANCE OF 28.06 FEET TO A POINT; THENCE S 51°45'08" W A DISTANCE OF 17.32 FEET TO A POINT, SAID POINT LYING ON THE NORTHERN MARGIN OF CORE BANKS ROAD; THENCE WITH SAID MARGIN N 76°47'20" W A DISTANCE OF 33.34 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 1030.00 FEET AND A CHORD BEARING OF N 80°40'51" W FOR A CHORD DISTANCE OF 139.82 FEET TO A POINT; THENCE N 84°34'21" W A DISTANCE OF 2.17 FEET TO A POINT. SAID POINT BEING THE **POINT AND PLACE OF BEGINNING**, HAVING AN AREA OF 60,001 SQUARE FEET OR 1.377 ACRES MORE OR LESS.

BEING A PORTION OF THE PROPERTY ACQUIRED BY KEP APEX, LLC IN DEED RECORDED IN BOOK 16739, PAGE 1802 AND BOOK 16823, PAGE 2446, AND SHOWN ON MAP RECORDED IN BOOK OF MAPS 2016, PAGE 588, ALL OF THE WAKE COUNTY REGISTRY.

**TOGETHER WITH:** (A) A NON-EXCLUSIVE EASEMENT AND RIGHT OF WAY FOR INGRESS, EGRESS, AND REGRESS TO AND FROM CORE BANKS STREET OVER NEWLAND AVENUE AS THE SAME IS DEPICTED ON VARIOUS UNRECORDED MAPS DEPICTING THE ABOVE PROPERTY, INCLUDING THE MAP ENTITLED "LIGHTBRIDGE ACADEMY AT SWEETWATER CONSTRUCTION DRAWINGS LAYOUT PLAN" ATTACHED TO THE FIRST AMENDMENT TO LEASE BETWEEN KEP



APEX, LLC AND JOULE, INC. DATED OCTOBER 23, 2019, WHICH MAP IS INCORPORATED HEREIN BY REFERENCE; AND, (B) A NON-EXCLUSIVE EASEMENT TO DISCHARGE STORMWATER ORIGINATING ON THE ABOVE PROPERTY INTO THE "PROPOSED WET DETENTION POND" LOCATED NORTH OF THE ABOVE PROPERTY AS DEPICTED ON THOSE "INFRASTRUCTURE CONSTRUCTION DRAWINGS FOR SWEETWATER – PHASE 9A" DATED THROUGH MAY 23, 2019, WHICH SAID DRAWINGS ARE INCORPORATED HEREIN BY REFERENCE.

THE PROPERTY IS ALSO CONVEYED TOGETHER WITH AND SUBJECT TO THE RIGHT TO USE THE JOINT DRIVE TO BE LOCATED OFF OF NEWLAND AVENUE AS THE SAME IS DEPICTED ON THE MAP ATTACHED TO THE AFORESAID FIRST AMENDMENT TO LEASE. MAINTENANCE OBLIGATIONS AND OTHER MATTERS AFFECTING THE FOREGOING MAY BE SET FORTH IN A MASTER DECLARATION, CROSS-ACCESS AGREEMENT, OR SIMILAR DOCUMENT(S) EXECUTED BY THE PARTIES AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF WAKE COUNTY.

**NORTH CAROLINA SPECIAL WARRANTY DEED**

Excise Tax: \$N/A

Real Estate Identification Nos.: 0120755 and 0148944

Return to: Grantee

This instrument was prepared by: Weatherspoon & Voltz LLP

Brief description for the Index: Lots 8 and 9A, Sweetwater Subdivision, Apex, NC

THIS DEED is made this 10<sup>th</sup> day of November, 2021, by and between:

GRANTOR	GRANTEE
KEPE1 GLOBAL, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	KEPE1 STC, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple those certain lots or parcels of land situated in White Oak Township, Wake County, North Carolina and being described as follows:

Set forth on **Exhibit A** attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 18791, Page 2386, Wake County Registry.

A map showing the above described property is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company


By:   
Edward M. Kalikow, Manager

~~By: \_\_\_\_\_~~  
David Schmidt, Manager

STATE OF NEW YORK  
COUNTY OF Nassau

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.

Date: October 29<sup>th</sup>, 2021

  
Notary Public

Jennifer J. Grim  
Printed Name

My commission expires: 4/20/2023

[Official seal]

**JENNIFER J. GRIM**  
Notary Public State Of New York  
No. 01GR6323464  
Qualified In Nassau County  
Commission Expires April 20, 2023



A map showing the above described property is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company

By: \_\_\_\_\_  
Edward M. Kalikow, Manager

By: David Schmidt  
David Schmidt, Manager

~~STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_~~

~~I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.~~

~~Date: October \_\_\_\_, 2021~~

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

~~\_\_\_\_\_  
Printed Name~~

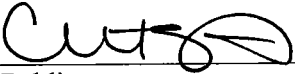
~~My commission expires: \_\_\_\_\_~~

~~[Official seal]~~

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: David Schmidt.

Date: <sup>November</sup> ~~October~~ 5<sup>th</sup>, 2021

  
Notary Public

Carrie H. Stephenson  
Printed Name

My commission expires: 12/15/21

[Official seal]

CARRIE H STEPHENSON  
Notary Public, North Carolina  
Harnett County  
My Commission Expires  
December 15, 2021

Exhibit A

BEING ALL of Lot 8 and Lot 9A, as shown and described on survey entitled "Master Subdivision Final Plat of Sweetwater Phase 9, Lots 8, 9 and 9A", prepared by CE Group, a plat of which is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry, reference to such plat being hereby made for a more particular description of the metes, bounds, courses and distances of such parcels.



**NORTH CAROLINA SPECIAL WARRANTY DEED**

Excise Tax: \$N/A

Real Estate Identification Nos.: 0120755 and 0148944

Return to: Grantee

This instrument was prepared by: Weatherspoon & Voltz LLP

Brief description for the Index: Lots 8 and 9A, Sweetwater Subdivision, Apex, NC

THIS DEED is made this 10<sup>th</sup> day of November, 2021, by and between:

GRANTOR	GRANTEE
KEPE1 GLOBAL, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	KEPE1 STC, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple those certain lots or parcels of land situated in White Oak Township, Wake County, North Carolina and being described as follows:

Set forth on **Exhibit A** attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 18791, Page 2386, Wake County Registry.

A map showing the above described property is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company

By:   
Edward M. Kalikow, Manager

~~By: \_\_\_\_\_~~  
David Schmidt, Manager

STATE OF NEW YORK  
COUNTY OF Nassau

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.

Date: October 29<sup>th</sup>, 2021

  
Notary Public

Jennifer J. Grim  
Printed Name

My commission expires: 4/20/2023

[Official seal]

**JENNIFER J. GRIM**  
Notary Public State Of New York  
No. 01GR6323464  
Qualified In Nassau County  
Commission Expires April 20, 2023

A map showing the above described property is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company

By: \_\_\_\_\_  
Edward M. Kalikow, Manager

By: David Schmidt, MGR  
David Schmidt, Manager

~~STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_~~

~~I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.~~

~~Date: October \_\_\_\_, 2021~~

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

~~\_\_\_\_\_  
Printed Name~~

~~My commission expires: \_\_\_\_\_~~

~~[Official seal]~~



STATE OF NORTH CAROLINA  
COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: David Schmidt.

Date: <sup>November</sup> ~~October~~ 5<sup>th</sup>, 2021

  
Notary Public

Carrie H. Stephenson  
Printed Name

My commission expires: 12/15/21

[Official seal]

CARRIE H STEPHENSON  
Notary Public, North Carolina  
Harnett County  
My Commission Expires  
December 15, 2021

Exhibit A

BEING ALL of Lot 8 and Lot 9A, as shown and described on survey entitled "Master Subdivision Final Plat of Sweetwater Phase 9, Lots 8, 9 and 9A", prepared by CE Group, a plat of which is recorded in Book of Maps 2021, Pages 676 and 677, Wake County Registry, reference to such plat being hereby made for a more particular description of the metes, bounds, courses and distances of such parcels.

Excise Tax \$5,000.00	Recording Time, Book and Page
-----------------------	-------------------------------

Tax Lot No.: \_\_\_\_\_ Parcel Identifier No.: 0722454406 and 0722457646

Mail after recording to Grantee

This instrument was prepared by: Parker Poe Adams & Bernstein LLP, 620 S. Tryon Street, Suite 800, Charlotte, NC 28202 (TPL)

Brief Description For The Index:

Lot 1 and Lot 2, Book of Maps 2022, Page 2181

**NORTH CAROLINA SPECIAL WARRANTY DEED**

**THIS DEED** made this 17<sup>th</sup> day of August, 2023, by and between:

GRANTOR	GRANTEE
<b>KEPEI HOLDINGS, LLC,</b> a North Carolina limited liability company  7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	<b>HARRIS TEETER PROPERTIES, LLC,</b> a North Carolina limited liability company  701 Crestdale Road Matthews, NC 28105

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.



**WITNESSETH**, that Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, all that certain lot or parcel of land described in **Exhibit A** attached hereto ("**Property**").

The Property was acquired by Grantor by instrument recorded in Book 018792, at Page 02056, Wake County Register of Deeds.

The Property does not include the primary residence of Grantor.

**TO HAVE AND TO HOLD** the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions:

- (1) Ad valorem taxes and assessments for the year 2023 and subsequent years not yet due and payable.
- (2) Matters affecting title to the Property which would be shown on a current and accurate survey of the Property.
- (3) Easements, covenants, restrictions and conditions of record.
- (4) All statutes, codes, laws, ordinances, orders, rules and regulations of any governmental authority applicable to the Property, including those relating to zoning, subdivision, construction and land use.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal, the day and year first above written.

**KEPE1 HOLDINGS, LLC,**  
a North Carolina limited liability company

By: KEPE1 Global, LLC,  
a North Carolina limited liability company,  
its sole Member

By: *Edward Kalikow*  
Edward Kalikow  
Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, *William H. Weatherspoon, Jr.*, a Notary Public for Wake County, State of North Carolina, do hereby certify that **Edward Kalikow** ("**Signatory**"), personally appeared before me this day and acknowledged that he is the Manager of **KEPE1 Global LLC**, a North Carolina limited liability company, said limited liability company being the sole Member of **KEPE1 Holdings, LLC**, a North Carolina limited liability company, and that he, in such capacity and being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

(I have personal knowledge of the identity of the Signatory); or

(I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

(check one of the following)

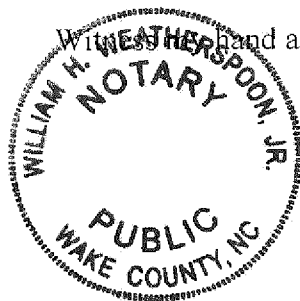
a driver's license or

in the form of \_\_\_\_\_); or

(a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this *16<sup>th</sup>* day of August, 2023.



*William H. Weatherspoon, Jr.*  
Notary Public  
My Commission Expires: *3-27-2026*

[NOTARIAL STAMP-SEAL]

*[Signature Page to Special Warranty Deed]*

**Exhibit A**

**Legal Description**

Lying and being in White Oak Township, Wake County, North Carolina, and more particularly described as follows:

**Tract One:**

Being all of Lot 1, containing 7.563 acres, more or less, as shown on the plat recorded in Book of Maps 2022, Page 2181, Wake County Register of Deeds.

**Tract Two:**

Being all of Lot 2, containing 2.065 acres, more or less, as shown on the plat recorded in Book of Maps 2022, Page 2181, Wake County Register of Deeds.



**NORTH CAROLINA SPECIAL WARRANTY DEED**

Excise Tax: \$N/A

Real Estate Identification No.: 0436595

Return to: Grantee

This instrument was prepared by: Weatherspoon & Voltz LLP

Brief description for the Index: Lot 3, Phase 10, Sweetwater Commercial, Apex, NC

THIS DEED is made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between:

GRANTOR	GRANTEE
KEPE1 HOLDINGS, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	KEPE1 STC WEST, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple that certain lot or parcel of land situated in White Oak Township, Wake County, North Carolina and being described as follows:

Set forth on **Exhibit A** attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 18792, Page 2056, Wake County Registry.

A map showing the above-described property is recorded in Book of Maps 2022, Page 2181, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

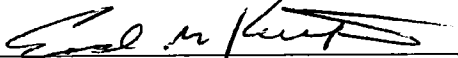
- 1. Ad valorem taxes for 2023 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 HOLDINGS, LLC,  
a North Carolina limited liability company

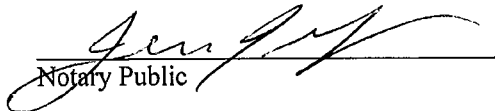
By: KEPE1 Global, LLC,  
a North Carolina limited liability company, its Manager

By:   
Edward M. Kalikow, Manager

STATE OF NEW YORK  
COUNTY OF NASSAU

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.

Date: April 18<sup>th</sup>, 2023

  
Notary Public

Jennifer J. Grim  
Printed Name

My commission expires: 4/20/27

[Official seal]

**JENNIFER J. GRIM**  
Notary Public State Of New York  
No. 01GR6323464  
Qualified In Nassau County  
Commission Expires April 20, 2027

[Signatures continued on following page]

KEPE1 HOLDINGS, LLC,  
a North Carolina limited liability company

By: KEPE1 Global, LLC,  
a North Carolina limited liability company, its Manager

By: [Signature] MGR.  
David Schmidt, Manager

STATE OF NORTH CAROLINA  
COUNTY OF Harnett

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: David Schmidt.

Date: ~~April~~ <sup>May</sup> 22, 2023

[Signature]  
Notary Public

Carrie H. Stephenson  
Printed Name

My commission expires: 12/15/26

[Official seal]

**Carrie H. Stephenson  
Notary Public, North Carolina  
Harnett County  
My Commission Expires  
December 15, 2026**



Exhibit A

BEING ALL of Lot 3, containing 6.181 acres, as shown and described on survey entitled "Recombination Plat Phase 10 Sweetwater Commercial", prepared by CE Group, a plat of which is recorded in Book of Maps 2022, Page 2181, Wake County Registry, reference to such plat being hereby made for a more particular description of the metes, bounds, courses and distances of such parcel.

**NORTH CAROLINA SPECIAL WARRANTY DEED**

Excise Tax: \$N/A

Parcel Identification Nos.: 0722-45-8740; 0722-45-6374; 0722-45-3275 and 0722-44-1499

Return to: Grantee

This instrument was prepared by: Weatherspoon & Voltz LLP

Brief description for the Index: Sweetwater Commercial Land, U.S. Highway 64 West, Apex, NC

THIS DEED is made this 10<sup>th</sup> day of November, 2021, by and between:

GRANTOR	GRANTEE
KEPE1 GLOBAL, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	KEPE1 HOLDINGS, LLC, a North Carolina limited liability company  c/o The Kalikow Group 7001 Brush Hollow Road, Suite 200 Westbury, NY 11590

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple those certain lots or parcels of land situated in White Oak Township, Wake County, North Carolina and being described as follows:

Set forth on **Exhibit A** attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 18791, Page 2671, Wake County Registry.

A map showing the above described property is recorded in Book of Maps 2017, Pages 424 - 426, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.
- 3. Deed of Trust in favor of Truist Bank recorded in Book 18672, Page 1490, Wake County Registry.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company

By: *Edward M. Kalikow*  
Edward M. Kalikow, Manager

~~By: \_\_\_\_\_  
David Schmidt, Manager~~

STATE OF NEW YORK  
COUNTY OF Nassau

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.

Date: October 20<sup>th</sup>, 2021

*Jennifer J. Grim*  
Notary Public  
Jennifer J. Grim  
Printed Name

My commission expires: 4/20/2023

[Official seal]

**JENNIFER J. GRIM**  
Notary Public State Of New York  
No. 01GR6323464  
Qualified In Nassau County  
Commission Expires April 20, 2023



A map showing the above described property is recorded in Book of Maps 2017, Pages 424 - 426, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor hereby warrants that Grantor has done nothing to impair such title as Grantor received, and Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following:

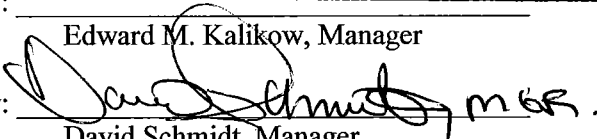
- 1. Ad valorem taxes for 2021 and subsequent years.
- 2. Easements, restrictions and rights-of-way of record.
- 3. Deed of Trust in favor of Truist Bank recorded in Book 18672, Page 1490, Wake County Registry.

All or a portion of the property herein conveyed  includes or  does not include the primary residence of Grantor.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed as of the day and year first above written.

KEPE1 GLOBAL, LLC,  
a North Carolina limited liability company

By: \_\_\_\_\_  
Edward M. Kalikow, Manager

By:  \_\_\_\_\_  
David Schmidt, Manager

~~STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_~~

~~I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: Edward M. Kalikow.~~

~~Date: October \_\_\_\_, 2021~~

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

~~\_\_\_\_\_  
Printed Name~~

~~My commission expires: \_\_\_\_\_~~

~~[Official seal]~~

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: David Schmidt.

Date: ~~October~~ November 5<sup>th</sup>, 2021

[Signature]  
Notary Public

Carrie H. Stephenson  
Printed Name

My commission expires: 12/15/21

[Official seal]

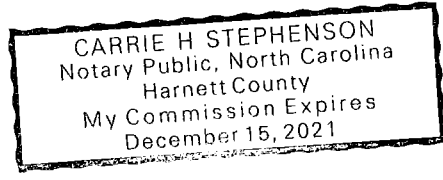


Exhibit A

Tract 1:

BEING all of that tract or parcel containing 13.432 acres as shown on maps of Sweetwater Phase 1 & 8 (LOTS 335-397), recorded in Book of Maps 2017, Pages 424-425, Wake County Registry.

Tract 2:

BEING all of that tract or parcel containing 1.785 acres as shown on maps of Sweetwater Phase 1 & 8 (LOTS 335-397), recorded in Book of Maps 2017, Pages 424-425, Wake County Registry.

Tract 3:

BEING all of that tract or parcel containing 0.590 acre as shown on maps of Sweetwater Phase 1 & 8 (LOTS 335-397), recorded in Book of Maps 2017, Pages 424-425, Wake County Registry.

Tract 4:

BEING all of that tract or parcel containing 0.935 acre as shown on maps of Sweetwater Phase 1 & 8 (LOTS 335-397), recorded in Book of Maps 2017, Pages 425-426, Wake County Registry.



Excise Tax \$5,000.00	Recording Time, Book and Page
-----------------------	-------------------------------

Tax Lot No.: \_\_\_\_\_ Parcel Identifier No.: 0722454406 and 0722457646

Mail after recording to Grantee

This instrument was prepared by: Parker Poe Adams & Bernstein LLP, 620 S. Tryon Street, Suite 800, Charlotte, NC 28202 (TPL)

Brief Description For The Index:

Lot 1 and Lot 2, Book of Maps 2022, Page 2181

**NORTH CAROLINA SPECIAL WARRANTY DEED**

**THIS DEED** made this 17<sup>th</sup> day of August, 2023, by and between:

GRANTOR	GRANTEE
<b>KEPEI HOLDINGS, LLC,</b> a North Carolina limited liability company  7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	<b>HARRIS TEETER PROPERTIES, LLC,</b> a North Carolina limited liability company  701 Crestdale Road Matthews, NC 28105

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

**WITNESSETH**, that Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, all that certain lot or parcel of land described in **Exhibit A** attached hereto ("**Property**").

The Property was acquired by Grantor by instrument recorded in Book 018792, at Page 02056, Wake County Register of Deeds.

The Property does not include the primary residence of Grantor.

**TO HAVE AND TO HOLD** the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions:

- (1) Ad valorem taxes and assessments for the year 2023 and subsequent years not yet due and payable.
- (2) Matters affecting title to the Property which would be shown on a current and accurate survey of the Property.
- (3) Easements, covenants, restrictions and conditions of record.
- (4) All statutes, codes, laws, ordinances, orders, rules and regulations of any governmental authority applicable to the Property, including those relating to zoning, subdivision, construction and land use.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal, the day and year first above written.

**KEPEI HOLDINGS, LLC,**  
a North Carolina limited liability company

By: KEPEI Global, LLC,  
a North Carolina limited liability company,  
its sole Member

By: *Edward Kalikow*  
Edward Kalikow  
Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, *William H. Weatherspoon, Jr.*, a Notary Public for Wake County, State of North Carolina, do hereby certify that **Edward Kalikow** ("**Signatory**"), personally appeared before me this day and acknowledged that he is the Manager of **KEPEI Global LLC**, a North Carolina limited liability company, said limited liability company being the sole Member of **KEPEI Holdings, LLC**, a North Carolina limited liability company, and that he, in such capacity and being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

I certify that the Signatory personally appeared before me this day, and  
*(check one of the following)*

(I have personal knowledge of the identity of the Signatory); or

(I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:

*(check one of the following)*

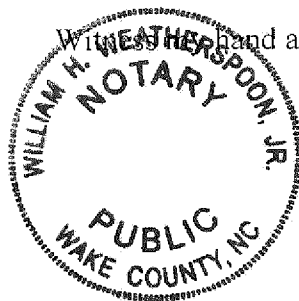
a driver's license or

in the form of \_\_\_\_\_); or

(a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this *16<sup>th</sup>* day of August, 2023.



*William H. Weatherspoon, Jr.*  
Notary Public  
My Commission Expires: *3-27-2026*

[NOTARIAL STAMP-SEAL]

*[Signature Page to Special Warranty Deed]*



**Exhibit A**

**Legal Description**

Lying and being in White Oak Township, Wake County, North Carolina, and more particularly described as follows:

**Tract One:**

Being all of Lot 1, containing 7.563 acres, more or less, as shown on the plat recorded in Book of Maps 2022, Page 2181, Wake County Register of Deeds.

**Tract Two:**

Being all of Lot 2, containing 2.065 acres, more or less, as shown on the plat recorded in Book of Maps 2022, Page 2181, Wake County Register of Deeds.

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$0

PIN: Out of 0120755

Mail To: Grantee

This instrument was prepared by: **Robert A. Brady Attorney at Law, 160 Iowa Lane, Suite 104, Cary, North Carolina 27511**

Brief description for the Index: Lot 9, Sweetwater Lightbridge Academy

**THIS DEED**, made this 26<sup>th</sup> day of February, 2020, by and between

<b>GRANTOR</b>	<b>GRANTEE</b>
KEP Apex, LLC  7001 Brush Hollow Road, Suite 200 Westbury, NY 11590	Sweetwater Lightbridge, LLC  P.O. Box 5509 Cary, NC 27512

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

**WITNESSETH**, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land more particularly described as follows:

Submitted electronically by "Robert A. Brady, Attorney at Law"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Wake County Register of Deeds.

Lying and being in the Wake County, North Carolina, and being more particularly described as follows:

See Attached Exhibit "A"

**TO HAVE AND TO HOLD** the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. Easements, set-backs, restrictions and other matters shown on plats of survey Wake County Registry.
2. Utility Easements of Record.
3. Ad Valorem Taxes for 2020 and subsequent years.

**IN WITNESS WHEREOF**, the Grantor has duly executed the foregoing as of the day and year first above written.

KEP Apex, LLC

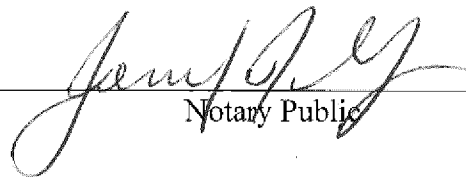
 (SEAL)  
 By: Edward Kalikow, Managing Member

State of New York  
County of NASSAU

I, Jennifer J Grim, a Notary Public of NASSAU County, New York, certify that Edward Kalikow, Managing Member of KEP Apex, LLC, personally appeared before me this day and acknowledged to me that he is the Managing Member of KEP Apex, LLC, a North Carolina LLC, and that by authority duly given and as the act of such entity, he voluntarily signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal this 26<sup>th</sup> day of February, 2020.

My commission expires: 04/20/2023

  
 Notary Public

**JENNIFER J. GRIM**  
 Notary Public State Of New York  
 No. 01GR6323464  
 Qualified In Nassau County  
 Commission Expires April 20, 2023



**Sweetwater PUD Amendment**

Proposed Rezoning Changes

December 11,2023

The PUD will retain all of the conditions from rezoning #17CZ21, #18CZ01, #22CZ03 and #23CZ12 except:

**I. Revisions to Section 6:**

**Section 6: Design Controls**

**NONRESIDENTIAL/MIXED-USE AREAS:**

**Office:** A minimum of ~~55,000~~ **20,000** square feet of office will be provided in this section.

**Building Height:**

Maximum Height: ~~62 Feet (5 Story)~~ **77 Feet (6 Stories)**  
39 Feet (2 Story) – PINs 0722-44-1499 & 0722-44-1386

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Christy Wentzell, Captain

Department(s): Police

### Requested Motion

Motion to approve the terms and conditions for purchase and use of Gladiator Forensics' software license and permission to use Wake County Sheriff's Office Gladiator Forensics Server, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

### Approval Recommended?

Yes

### Item Details

Gladiator Forensics provides forensics intelligence gathering and analytical tools. They have two platforms, ESPA (Enterprise Sensor Processing and Analytics) and GAR (Gladiator Autonomous Receiver) that were designed by telecommunication experts with intimate knowledge of crime investigation protocols. The company is a proven, reliable wireless network forensics platform that can discover and present highly accurate facts regarding activity on cellular and Wi-Fi networks and devices, both historically and in real-time. It is widely used by federal, state, and local law enforcement agencies to include the DEA, SBI, and Wake County Sheriff's Office (WCSO). A few noted highlights of Gladiator Forensics include:

- Crime investigation methods using telecom geo-location data
- Autonomous wireless-network Recon solution for border security, apprehension, and search and rescue operations
- CALEA compliant lawfully intercepted electronic surveillance solution
- Patented True-Coverage mapping, which defines and prioritizes target search areas based on actual cellular network coverage and configuration
- Call detail records and geo-location analysis, mapping, and reporting
- Forensic phone evidence reports for prosecution and court presentations

The ESPA Platform is Gladiator's forensics geographic information system which unifies case management, data storage, and analytics from all of Gladiator's intelligence gathering and analytical tools. It is considered a unified command center for real-time monitoring, network recon, and geo-location data, for a complete and comprehensive assessment of telecom evidentiary data.

The GAR Platform is a wireless network Recon platform, uses patented analytics to prioritize and confine search areas in-line with actual RF network coverage and cell-tower activity. GAR is fully configurable to support all wireless access technologies globally, including the 5G networks. Gladiator's Recon measurements and analytics are fully customizable and can be configured remotely.

Gladiator Forensics also provides Smart Track and Sentinel. Smart Track is an automated live monitoring system for geo-fencing, alerts, and mapping GPS and email pings. Sentinel is an electronic solution that allows monitoring a subject's real time location and mobility tailored with detail views including location and update messages.

Wake County Sheriff's Office currently owns and operates a Gladiator Forensics Server. They are allowing access to the server, with only the purchase of a Gladiator license. This will allow the police department to have access to real-time crime mapping, geo-fencing, and intelligence gathering. Currently, the Holly Springs Police Department and Cary Police Department along with other Sheriff's Offices in the region have partnered with WCSO to utilize the Gladiator Server.

#### Attachments

- CN16-A1: Gladiator Forensics Quote - Software License - Gladiator Forensics
- CN16-A2: Gladiator Forensics Terms and Conditions - Software License - Gladiator Forensics





**Gladiator Forensics, LLC**  
 100 Rialto Place Ste 605  
 Melbourne, FL 32901  
 (202) 465-4753  
 sales@gladiator-forensics.com  
 www.gladiator-forensics.com



## Quote

### ADDRESS

Captian Christy Wentzell  
 Apex Police Department

**QUOTE #** Apex-2024-01-02 OSS

**DATE** 01/02/2024

**EXPIRATION DATE** 03/02/2024

ITEM DESCRIPTION	SKU	QTY	UNIT PRICE \$	SUB-TOTAL \$
<b>Enterprise Pkg - Real Time</b> ESPA/ST/PRTT (1) concurrent license includes total of three named users	E-RT-PKG	1	9,100.00	9,100.00
<b>OSS Network Access (annual)</b> OSS Network Access (Annual)	E-OSS-ACCESS	1	600.00	600.00
<b>Enterprise Mobile App - Annual</b> G-Scout Mobile app per user (Annual)	E-APP	3	400.00	1,200.00
1 Gladaitor OSS license (3 users, 1 concurrent) on the WCSO OSS Server. 3 Mobile app licenses (Annual License)		SUBTOTAL		10,900.00
		TAX		0.00
		TOTAL		<b>\$10,900.00</b>

Accepted By

Accepted Date

# TERMS & CONDITIONS

This TERMS & CONDITIONS OF USAGE (the “Terms”) set forth the terms and conditions for use of the Gladiator Forensics LLC (“Gladiator”) software available through this portal. Gladiator reserves the right to change these Terms from time to time and such changes shall be published on the Gladiator website.

## 1. DEFINITIONS

- a. **“Materials”** shall mean the written materials relating to the operation and use of the Gladiator Software including, but not limited to, user guides, technical support, release notes, and online help files regarding use of the Gladiator Software, and any other materials prepared in connection with any Gladiator Software modification, correction, or enhancement, and shall include any updated versions of Materials as may be provided by Gladiator from time to time (1) in the ordinary course of Gladiator’s business; (2) as part of an online tutorials or help files provided; or (3) in the course of providing web seminars or other information sessions for customers and users of the Software.
- b. **“Base Components”** means the hardware, software, and hosting environment that Gladiator makes available for use by You as part of the Service.
- c. **“Cloud Hosting”** means the provision of products and services in a hosted, virtualized environment, accessible via the internet.
- d. **“Enterprise”** means the provision of products and services in a self-hosted environment, on your own premises, using your own servers, hardware and associated IT support services.
- e. **“Gladiator Software”** means Gladiator proprietary software applications and user interfaces provided by Gladiator and made available to You by Gladiator as part of the Service. Gladiator Software may contain third-party components licensed to Gladiator.
- f. **“Your Data”** means all data, files, including hypertext markup language files, documents, audio and visual information, graphics, scripts, programs, applets or servlets that You create, install, upload to or transfer in or through the Service or provides in the course of using the Service, excluding identification and other information provided by You relative to Your Users.
- g. **“Electronic Communications”** shall mean any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically to or from the Service.
- h. **“Infrastructure Support Services”** shall mean the support provided by Gladiator for the maintenance and stability of the computer hardware and hosting environment provided as part of the Service.
- i. **“Product Support Services”** shall mean the support provided by Gladiator to remediate, correct, or abate errors in the Gladiator Software that is provided as part of the Service.
- j. **“Purchase Order Form(s)”** refers to Your document, in either electronic or written form, issued by You to confirm Your purchase of the Service. The parties acknowledge and agree that the terms and conditions of any such Purchase Order Form shall not be binding upon Gladiator, or in any way modify, amend, or supersede the terms and conditions of these Terms.
- k. **“Service”** shall mean the software and infrastructure in a hosted environment provided and maintained by Gladiator to which You are being granted access under these Terms via a web site or another designated IP address. Service shall also include any hardware purchased from Gladiator including,

without limitation, the Gladiator GAR. Service or Services includes Product Support Services described in these Terms.

- l. **“Term”** means any Initial Term or Renewal Term as defined in these Terms.
- m. **“Third Party Products”** means application software products provided by third party vendors, including operating system and application software with which the Gladiator Software interfaces and which provides certain functionality essential to the operation of the Gladiator Software. Third Party Products are licensed to Gladiator for incorporation and use in the hosted environment as part of the Service. For the sake of clarity, the term Third-Party Products does not refer to third-party software components, if any, incorporated into Gladiator Software.
- n. **“User(s)”** means You, Your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied authorization, user identifications and passwords by You (as necessary) or on Your behalf.

## 2. PRIVACY

Your Privacy is important to us. While processing is based on consent and to the extent permitted by law, by agreeing to these Terms and Conditions, you consent to Gladiator’s collection, and use of Your Content and Data, strictly for the purposes of rendering the support requested by You as the user. In some cases, we may provide separate notice and request your consent for the strict purpose of providing you with the requested support services.

## 3. YOUR Data

Some of our Services will allow you to store or share Your Data with others or receive material or information from others. We do not claim ownership of Your Data. Your Data remains Your Data and you are responsible for it.

- If you share Your Data with others, you understand that they may be able to, on a worldwide basis, use, save, record, reproduce, broadcast, transmit, share and display Your Data. If you do not want others to have that ability, do not use the Services to share Your Data. You represent and warrant that for the duration of these Terms, you have (and will have) all the rights necessary for Your Data that is uploaded, stored, or shared on or through the Services and that the collection, use, and retention of Your Data will not violate any law or rights of others. Gladiator cannot be held responsible for Your Data or the material others upload, store or share using the Services.
- To the extent necessary to provide the Services to you and others, to protect you and the Services, and to improve Gladiator’s products and services, you grant to Gladiator access, to make copies of, retain, transmit, reformat, display, and distribute via communication tools Your Data on the Services.

## 4. CODE OF CONDUCT

By agreeing to these Terms, you’re agreeing that, when using the Services, you:



- Will not do anything illegal.
- Will not engage in any activity that exploits, harms, or threatens to harm children.
- Will not send spam. Spam is unwanted or unsolicited bulk email, postings, contact requests, SMS (text messages), or instant messages.
- Will not circumvent any restrictions on access to or availability of the Services.
- Will not engage in activity that is harmful to you, the Services, or others (e.g., transmitting viruses, stalking, posting terrorist content, communicating hate speech, or advocating violence against others).
- Will not infringe upon the rights of others (e.g., unauthorized sharing of copyrighted material, resale or other distribution).
- Will not engage in activity that illegally violates the privacy of others.
- Will not help others break these rules.
- Will not use third-party content or data without proper authority.
- Will not engage in activity without proper authority including, without limitation, obtaining necessary court ordered documentation such as a search warrant or other order of a court of competent jurisdiction as required in the circumstances.

**Enforcement.** If you violate these Terms, Gladiator may stop providing Services to you, or close your Gladiator account, or both. Gladiator may also block delivery of a communication to or from the Services in an effort to enforce these Terms or we may remove or refuse to publish Your Content for any reason. When investigating alleged violations of these Terms, Gladiator reserves the right to audit usage of services by your users in order to resolve the issue. However, we cannot monitor the entire Services and make no attempt to do so.

## 5. INSTALLATION/LIMITATION OF LIABILITY

You will ensure that Your computer systems are compatible with the requirement necessary to use the Gladiator Software. You acknowledge that the system requirements may change from time to time, primarily as a result of modifications to the Gladiator Software and Service. Gladiator shall not be liable, or responsible, for any deficiency, malfunction, or operational error, in Your system. Gladiator shall not be liable, or responsible, for any breach of security attributable to Your system, software, security, practices, or any other reason under Your control.

## 6. LICENSE GRANT

**LICENSE GRANT BY GLADIATOR TO YOU.** Subject to the terms and conditions of these Terms, Gladiator grants to You during the Term of these Terms the nontransferable, nonexclusive, worldwide right to permit Users to (a) use the Service, including the Base Components, (b) display and print Your Data, and (c) use the Materials solely in connection with the Service, all solely for Your own internal business operations, provided such internal business operations shall not include commercial time-sharing, rental, outsourcing, service bureau or similar use. For purpose of this license grant, the term "You" shall include any outsourced or other third-party consultants or similar personnel supporting You as part of their typical business practices, acting under Your direction, and

for whom You are fully responsible hereunder. You acknowledge and agrees that the license granted herein, is bound by the rights granted to You in these Terms are subject to all of the following agreements and restrictions: (i) the maximum number of Users that You authorize to access the Service shall not exceed the number of licenses You have been granted; (ii) licenses may be reassigned from time to time to new Users who are replacing former Users who are no longer permitted to access the Service; (iii) You shall not license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, or otherwise commercially exploit, or make the Service, or the Materials, available to any third party other than an authorized User; (iv) You shall not modify, make derivative works of, disassemble, reverse compile, or reverse engineer, any part of the Service, including, without limitation, the Gladiator Software or Materials that are provided as a part thereof, or access the Service or Materials in order to build a similar, or competitive, product or service; (v) You shall not create Internet "links" to the Service, or "frame" or "mirror" any part of the Service, including any content contained in the Service, on any other server or device; (vi) except as expressly stated herein, no part of the Service, or Materials, may be copied, reproduced, distributed, republished, downloaded, displayed, posted, or transmitted in any form, or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or other means; (vii) You agree to make every reasonable effort to prevent unauthorized third parties from accessing the Service; (viii) You acknowledge and agree that Gladiator, or its Third Party vendors, shall own all right, title and interest in and to all intellectual property rights in the Service, and the Materials, and any suggestions, enhancement requests, feedback, or recommendations provided by You, or Your Users, relating to the Service, or the Materials, including all unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, know-how, and other trade secret rights, and all other intellectual property rights, derivatives, or improvements thereof; (ix) unauthorized use, resale, or commercial exploitation of any part of the Service or Materials in any way is expressly prohibited; (x) You do not acquire any rights in the Service or Materials, express or implied, other than those expressly granted in these Terms, and all rights not expressly granted to You are reserved by Gladiator and Third Party vendors; and (xi) these Terms is not a sale and does not convey any rights of ownership in, or related to, the Service, Gladiator Software, Third Party Products, Materials, or any other items that are provided under this license, to You.

**LICENSE GRANT BY YOU TO GLADIATOR.** Subject to the Terms, You grant to Gladiator, and its Third Party vendors, the non-exclusive, nontransferable worldwide right to copy, store, record, transmit, display, view, print, or otherwise use (a) Your Content or Data solely to the extent necessary to provide the Service, and Materials, to You, and (b) any trademarks that You provide Gladiator for the purpose of including them in Your user interface of the Service ("Your Trademarks"). You acknowledge and agree that Your Data, and information regarding You or Your Users, that is provided to Gladiator and its Third-Party vendors in connection with these Terms, may be (a) processed by Gladiator and its Third-Party vendors to the extent necessary to provide the Service, and (b) transferred outside of the country or any other jurisdiction where You or Your Users are located. In addition, You acknowledge and agree that it is Your obligation to inform Your Users and customers of the processing of Your Data and information regarding You and Your Users pursuant to these Terms, and to ensure that such Users or customers have given any necessary consent to such processing as required by all applicable data protection legislation. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and copyright, of all of Your Data and information regarding You or Your Users. You agree that the license to the Your Data shall survive termination of these Terms solely for the purpose of storing backup copies of Your Data in accordance with these Terms.

By providing You with the Services, Gladiator does not acquire any right, title, or interest, in the content material (including but not limited to text, software, scripts, trademarks, logos, HTML coding, domain names, links, graphics, audio, video, and any data) that You make available for use by

Users by means of the Services (collectively “Content”). Except as expressly set forth herein, You are solely responsible for all Content.

## 7. PROPRIETARY RIGHTS

You acknowledge and agree that the Service, and any necessary software used in connection with the Service, contains proprietary and confidential information that is protected by applicable intellectual property laws, and other laws. You further acknowledge and agree that the content, or information, presented to You during a trial or through the Service may be protected by copyrights, trademarks, service marks, patents, or other proprietary rights, and laws. Except where expressly provided otherwise by Gladiator, nothing in the Service, the Materials, or the Terms, shall be construed to confer any license to any of Gladiator's (or its third-party manufacturer's, author's, developer's, vendor's, and service provider's ("Third Party vendors"), intellectual property rights, whether by estoppel, implication, or otherwise. Without limiting the generality of the foregoing, any names or trademarks of the Gladiator Software, and other Gladiator service marks, logos, and product service names, are marks of Gladiator (the “Gladiator Marks”). You agree not to display or use the Gladiator marks, or the marks of any Third-Party vendor, in any manner without the owner's express prior written permission. Gladiator reserves the right to subcontract any or all services provided hereunder to third parties.

## 8. LICENSE FEE, TERM AND PAYMENT

You will pay the required licensing, support, and maintenance fees for each hosted or enterprise product license purchased. For the Annual Hosted Services, the term (“Term”) for such service will commence on the date You access the Service, and shall be entitled to continue using the Services until the anniversary renewal date of the subscription. Should You decide not to renew their subscription, Gladiator will delete all related data to the account. Any data that You need must be retrieved prior to the termination of the annual subscription. For Gladiator-OSS enterprise installations, the usage of the Gladiator products and services will be stipulated by the terms and conditions of the enterprise contract. You shall not have access to the Gladiator Software of Service until the fee is paid in full.

Notwithstanding the foregoing, Gladiator assumes no liability or responsibility for any loss of Your Data or information that is lost or corrupted due to system crashes, erroneous deletions, or other unplanned events.

## 9. REQUIREMENTS

### 9.1. Service Extensions or Updates

You further agree that, unless explicitly stated otherwise, any new features that augment or enhance the Service, and or any new Service subsequently purchased by You pursuant to an amendment accepted by Gladiator referencing these Terms will be subject to these Terms.



## 9.2. You Must Have Internet Access

In order to use the Service, You must have or must obtain access to the World Wide Web, either directly or through devices that access Web-based Content. You must also provide all equipment necessary to make (and maintain) such connection to the World Wide Web.

## 9.3. Email and Notices

You agree to provide Gladiator with Your e-mail address, and to accept emails (or other Electronic Communications) from Gladiator at the e-mail address You specify. Notwithstanding any provision in these Terms to the contrary, acknowledgement by one of Your officers is not required with respect to e-mail communications pertaining to Your use of the Service, including without limitation communications relating to support, maintenance, or updating of the Service. You further agree the Gladiator may provide any required notices, including legal notices to You, through either e-mail (or other electronic transmission), by mail, or by express delivery service.

## 9.4. Passwords, Access and Notification

You may designate up to the number of Users that corresponds to the number of permitted Users. You will provide and assign unique password and user names to each authorized User for each license purchased. You acknowledge and agree that You are prohibited from sharing passwords and or user names with unauthorized users. You will be responsible for the confidentiality and use of Your (including Your employees') passwords and user names. You will also be responsible for all Electronic Communications, including those containing business information, account registration, account holder information, financial information, Your Data, and all other data of any kind, contained within emails or otherwise entered electronically through the Service, or under Your account. Gladiator will act as though any Electronic Communications it receives under Your passwords, User name, or account number will have been sent by You. You agree to notify Gladiator if You become aware of any loss, theft, or unauthorized use, of any of Your passwords, user names, or account number. The foregoing shall also apply to any Purchase Order Forms submitted by the You for further User licenses.

## 9.5. Your Responsibilities

You agree to comply with all applicable local, state, national, and foreign laws, treaties, regulations, and conventions, in connection with its use of the Service, including without limitation those related to data privacy, international communications, and the exportation of technical or personal data. You will ensure that any use of the Service by Your Users is in accordance with the terms of these Terms. You agree to notify Gladiator immediately of any unauthorized use of any password, account, or any other known or suspected breach of security, or any known, or suspected, distribution of Your Data. You acknowledge and agree that the Service is subject to the U.S. Export Administration Laws and Regulations. You agree that no part of the Service, or information obtained through use of the Service, is being or will be acquired for, shipped, transferred, or re-exported, directly or indirectly, to proscribed or embargoed countries, or their nationals, nor be used for nuclear activities, chemical biological weapons, or missile projects, unless authorized by the U.S. Government. Proscribed countries are set forth in the U.S. Export Administration Regulations, and are subject to change without notice, and You must comply with the list as it exists in fact. You certify that neither You nor any Users are on the U.S. Department of Commerce's Denied Persons List, or affiliated lists, or on the U.S. Department of Treasury's Specially Designated Nationals List. You agrees to comply strictly with all U.S. export laws and assumes sole responsibility for obtaining licenses to export or re-export as may be required. Any unauthorized use of the Service

may violate copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations, and statutes. The Service may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000.

You are solely responsible for obtaining all licenses and permissions necessary related to Your Data, including without limitation, licenses for any third-party software included in the Your Data.

You shall not resell the Services directly or indirectly to third parties.

## 9.6. Transmission of Data

You understand that the technical processing and transmission of Your Electronic Communications is fundamentally necessary to Your use of the Service. You expressly consent to Gladiator's interception and storage of Electronic Communications or Your Data, and You acknowledge and understand that Your Electronic Communications will involve transmission over the internet, and over various networks, only part of which may be owned or operated by Gladiator. You acknowledge and understand that changes to Your Electronic Communications may occur in order to conform and adapt such data to the technical requirements of connecting networks or devices. You further understand that Electronic Communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone, or other electronic means. You agree that Gladiator is not responsible for any Electronic Communications or Your Data which are lost, altered, intercepted or stored, without authorizations during the transmission of any data whatsoever across networks not owned or operated by Gladiator.

## 9.7. Gladiator's Support

Gladiator will make commercially reasonable efforts to promote Your successful utilization of the Service, including but not limited to maintenance and support of the Base Components, providing user guides and on-line help, and product support. Infrastructure Support Services shall be provided as reasonably deemed necessary by Gladiator. Infrastructure Support Services pertain to the maintenance of the computer hardware and hosting environment provided as part of the Service exclusively for the organization that has purchased the services and has a current and active contract. Gladiator will also provide Product Support for Gladiator Software or Gladiator hardware employed as part of the Service. Product Support pertains to support designed to remedy errors in Gladiator Software or hardware that cause it to deviate from the specifications as described in the Materials.

## 9.8. Confidential Information

Each party may have access to information that is confidential to the other party ("Confidential Information"). For purposes of these Terms, Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential, as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Your Confidential Information shall include, but not be limited to, Your Data. A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure without any obligation of confidentiality, and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of, or reference, to the other party's Confidential

Information, as established by written records. The parties agree to use commercially reasonable efforts not to make each other's Confidential Information available in any form to any third party. Notwithstanding the foregoing, You acknowledge and agree that Gladiator may disclose Your Confidential Information to Gladiator's Third-Party vendors solely to the extent necessary to provide products or services under these Terms. This Section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law, or valid order of a court, or other governmental authority; provided, however, that a party who has been subpoenaed, or otherwise compelled by a valid law or court order, to disclose Confidential Information (the "Responding Party") shall first have given sufficient and prompt written notice to the other party of the receipt of any subpoena or other request for such disclosure, so as to permit such party an opportunity to obtain a protective order, or take other appropriate action. The Responding Party will cooperate in the other party's efforts to obtain a protective order, or other reasonable assurance that confidential treatment will be afforded protection as Confidential Information. If the Responding Party is compelled as a matter of law to disclose the Confidential Information, it may disclose to the party compelling the disclosure only that part of the Confidential Information as is required by law to be disclosed.

The obligations in this Section shall not apply to the recipient of Confidential Information or Gladiator with respect to Your Data to the extent disclosure of Confidential Information or You Data is required to comply with laws, or respond to requests by a regulatory or judicial body, or as otherwise required for legal process. In the event that any such disclosure is required, the recipient, or Gladiator with respect to Your Data, reserves the right to charge the other party on a time-and-materials basis for recipient's/Gladiator's reasonable efforts related to its compliance and response, including, if applicable, reasonable attorney's fees.

## 10. SUSPENSION/TERMINATION

### 10.1. Suspension for Delinquent Account

Gladiator reserves the right to suspend access, support or use of the Service for any account for which any payment is due but remains unpaid. You agree that Gladiator shall not be liable to You, or to any third party, for any suspension of the Service resulting from Your non-payment of the fees as described in this Section.

### 10.2. Suspension for Ongoing Harm

You agree that Gladiator may, with reasonably contemporaneous telephonic or electronic mail notice to You, suspend Your access to the Service if Gladiator reasonably concludes that Your use of the Service is causing immediate and ongoing harm to Gladiator or others. Gladiator will use commercially reasonable efforts to resolve the issues causing the suspension of Service. You agree that Gladiator will not be liable to You or to any third party for any suspension of the Service under such circumstances as described in this Section.

### 10.3. Handling of Your Data in the Event of Termination

You acknowledge and agree that following termination of the Service, You will return all Materials (except that it may retain a copy for archival purposes or as otherwise provided in these Terms) to Gladiator, and Gladiator may immediately deactivate Your account. Furthermore, unless otherwise



agreed-upon by the Parties in writing, Gladiator shall remove or overwrite all of Your Data from Gladiator's systems following the effective date of termination or cancellation, in accordance with Gladiator's standard procedures. Notwithstanding the foregoing, nothing shall preclude Gladiator from maintaining one copy of Your Data if required by law.

## 10.4. Handling of Application in the Event of Termination

Upon termination of Your use of the Services, you are solely responsible for the retention of Your Data, and Your application documentation updated during the hosting period by Your users (if any) as defined in these Terms.

# 11. MODIFICATION/DISCONTINUATION/MAINTENANCE

## 11.1. Modification to or Discontinuation of the Service

Gladiator reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof). Notwithstanding the foregoing, except for routinely scheduled down time, or as otherwise provided in these Terms, Gladiator shall use commercially reasonable efforts to notify You prior to any such modification; further, Gladiator shall consider Your validation needs and requirements in connection with any modification of the Service. You acknowledge that Gladiator reserves the right to discontinue offering the Service at any time. You agree that Gladiator will not be liable to You or any third party for any modification or discontinuance of the Service as described in this Section 11.

## 11.2. Modification to Third Party Software and Support Cost

In the event that Gladiator incur any increased cost from Third party software licenses or annual support fees during the term of these Terms, Gladiator reserves the right to pass these costs to You.

## 11.3. Maintenance

In order to perform maintenance, including infrastructure and application upgrades, there will be routinely scheduled down time. Gladiator further reserves the right to issue new releases in which Gladiator adds functionality to the Service. You acknowledge that these periodic major releases can take several hours to complete.

In order to perform maintenance services, your account with Gladiator must be current and active. Gladiator reserves the right to discontinue any and all product related support and services upon the expiration date of maintenance services.

In the event that Gladiator, in its sole discretion, determines that any maintenance is necessary that would affect Your use of the Service, Gladiator will use commercially reasonable efforts to notify You as soon as it becomes aware of such need.

## 12. WARRANTIES

### 12.1. Warranty of Functionality

Gladiator warrants to You that the Service will comply with the material functionality described in the Materials and that such functionality will be maintained in all material respects in subsequent upgrades to the Service. The warranty granted by Gladiator is subject to normal product usage and does not cover damages caused from misuse of the product or by Force Majeure. Your sole and exclusive remedy for Gladiator's breach of this warranty shall be that Gladiator shall use commercially reasonable efforts to correct such errors, or modify the Service, to achieve the material functionality described in the Materials within a reasonable period of time. However, Gladiator shall have no obligation with respect to this warranty claim unless notified of such claim within (30) days of the first material functionality problem. Further, Gladiator shall have no obligation with respect to this warranty claim, and You may not terminate the Agreement, where any alleged nonconformity is due to User error as reasonably determined by the parties after investigation and analysis by Gladiator's Product Support Center. Gladiator does not warrant that the Service will be free of non-material errors, bugs, or minor interruption, or that all such errors will be corrected.

### 12.2. Data Maintenance and Backup Warranty

Gladiator warrants during the Term of this Agreement, that it will, at a minimum, utilize and maintain the backup procedures for its Hosted services. In the event of a breach of this provision, Gladiator will use commercially reasonable efforts to correct Your Data or restore Your Data within ten (10) business days.

### 12.3. Non-Infringement Warranty

Gladiator warrants that it is the sole owner of, and or has full power and authority to grant, the license and use of the Service and other rights granted by the Agreement to You with respect to the Service; and that neither the performance by You in its utilization of the Service, nor the license of and authorized use by You of the Service, as described herein, will in any way constitute an infringement or other violation of any U. S. copyright, trade secret, trademark, patent, invention, proprietary information, non-disclosure, or other rights of any third party.

## 13. DISCLAIMER OF WARRANTIES

Except as otherwise stated in section 12 above, gladiator does not represent that your use of the service will be secure, timely, uninterrupted or error free; or that the service will meet your requirements; or that all errors in the service or documentation will be corrected; or that the system that makes the service available will be free of viruses or other harmful components; or the service will operate in combination with other hardware, software, systems, or data, not provided by gladiator; or the operation of the services will be secure; or that gladiator and its third party vendors will be able to prevent third parties from accessing your data or your confidential information; or any errors will be corrected; or any of your data will be accurate or reliable. The warranties stated in

section 12 above are the sole and exclusive warranties offered by gladiator. There are no other warranties or conditions, express or implied, including without limitation, those of merchantability or fitness for a particular purpose. Except as stated in section 12 above, the service is provided to you on an “as is” and “as available” basis and is for commercial use only. You assume all responsibility for determining whether the service or the information generated thereby is accurate or sufficient for your purpose.

## 14. LIMITATIONS OF LIABILITY

### 14.1. No Consequential Damages

Neither party shall be liable to the other party for exemplary, punitive, special, incidental, indirect or consequential damages including without limitation, interruption of business, lost profits, lost or corrupted data or content, lost revenue arising out of these terms (including without limitation the service, the use of the service or the inability to use service), even if the party has been advised of the possibility of such damages.

### 14.2. Direct Damage Limitations

14.2.1. In no event shall the aggregate liability of gladiator or any third-party vendors arising out of or in connection with these terms, including any license, use, or other employment of the service, whether such liability arises from any claim based on breach or repudiation of contract, breach of warranty, tort, or otherwise, exceed the total amounts actually paid by you for the particular case or matter related to the claim.

14.2.2. Except for a failure of gladiator to comply with its obligations with respect to hosted services, and subject to section 14.2.1 above, gladiator shall not be liable for any damages resulting from the loss or corruption of any data or content whether resulting from delays, no deliveries, mis deliveries, service interruptions or otherwise. Further, gladiator shall not be liable for any use, identification, misidentification, or other consequence of your use of the service in connection with your business.

### 14.3. Exclusions

The limitations of liability set forth in sections 14.1 and 14.2 shall not apply with respect to: (i) damages to persons or tangible property occasioned by the willful misconduct or gross negligence of a party, (ii) breaches by you of license terms applicable to gladiator provided software and third party products as set forth in section 6 above, (iii) your unauthorized use of gladiator’s or third-party vendor’s intellectual property, materials or assets; (iv) damages incurred as a result of a breach by a party of its obligations under section 9.8 that result in the disclosure of confidential information of the other party, or (v) claims that are the subject of indemnification pursuant to section 14 (which are subject to the limits, if any contained therein). Damages as limited by this section 14 are your sole and exclusive remedy if another remedy is provided and such remedy is deemed to fail of its essential purpose.



## 15. INDEMNIFICATION

### 15.1. Personal Injury and Property Damage

Each party (the “**Indemnifying Party**”) agrees to defend at its expense and indemnify and hold harmless the other party and its affiliates, directors, officers, employees, agents, successors and assigns (each an “**Indemnified Party**”), in accordance with the procedures described in this Section, from and against any and all losses, costs, damages, liabilities and expenses including without limitation, reasonable legal fees and expenses paid to or for the benefit of an unaffiliated third party (collectively, “**Losses**”) arising from or in connection with any such third party claim for: (i) the death or bodily injury of any person caused by the negligence or willful misconduct of the Indemnifying Party; or (ii) the damage, loss or destruction of any real or tangible personal property caused by the negligence or willful misconduct of the Indemnifying Party.

### 15.2. Infringement

Gladiator will indemnify, defend and hold You harmless for Losses You incur as a direct result of any unaffiliated third party claim based on any claim that the Service infringes any U.S. copyright, trademark or trade secret, except to the extent resulting from (i) Your modification of the Service, or combination by You of the Services with other products or services, if the Service would not have been infringing but for such combination or modification, (ii) Your use of the Service in a manner not authorized herein or for which it was not designed, (iii) Your failure to use an updated non-infringing version of the applicable intellectual property to the extent You were notified that the update cured an infringement, (iv) changes to the Service made by Gladiator at the direction of You, or (v) Your Data. If any item for which Gladiator has an indemnification obligation under this Section becomes, or in Gladiator’s reasonable opinion is likely to become, the subject of an infringement or misappropriation claim or proceeding, Gladiator will, in addition to indemnifying You as provided in this Section, promptly take the following actions, at no additional charge to You, in the listed order of priority: (a) secure the right to continue using the item or (b) replace or modify the item to make it non-infringing. If neither of such actions can be accomplished by Gladiator using commercially reasonable efforts, and only in such event, Gladiator will remove the item from the Service and the applicable Service fee will be equitably adjusted to reflect such removal. This Section 15.2 states Your sole and exclusive remedy for Gladiator’s infringement or misappropriation of intellectual property of a third party.

### 15.3. Your Indemnity

You shall defend and indemnify Gladiator and its Third Party Vendors against any and all Losses incurred by Gladiator and its Third Party Vendors arising out of or in connection with a claim by a third party (i) alleging that Your Data or Your Trademarks, or any use thereof, infringes the rights of, or has caused harm to, a third party, or (ii) arising out of Your breach of Sections 9.5 and 9.8.

You will indemnify, defend and hold harmless Gladiator, its affiliates, successors, and assigns, including the applicable officers, directors, employees, and agents thereof for damages, costs and attorneys’ fees Gladiator incurs from any unaffiliated third-party claim arising from Your Content, or use of the Services by You or any end user.

## 15.4. Indemnification Procedures

The party seeking indemnification shall give prompt notice of the claim and will tender the defense; provided, however, that such party's failure to provide notification shall not affect the indemnifying party's indemnification obligations except to the extent that the failure to notify delays or prejudices the indemnifying party's ability to defend the applicable claim. The indemnifying party shall conduct the defense and shall have control of the litigation, and the indemnified party shall cooperate in defending against the claim. The indemnified party shall have the right, at any time and at its own expense, to participate in the defense of the claim with counsel of its own choosing. The indemnifying party shall not make any settlement of the claim that results in any liability or imposes any obligation on the indemnified party without the prior written consent of the indemnified party. If the indemnifying party fails to (i) respond to the notice of a claim, or (ii) assume the defense of a claim, the party seeking indemnification shall have the right to defend the claim in such manner as it may deem appropriate, at the reasonable cost, expense, and risk of the indemnifying party, and the indemnifying party shall promptly reimburse the indemnified party for all such costs and expenses.

## 16. NOTICES

Except as otherwise provided in Section 9.3 above, any notice required or permitted under the terms of these Terms or required by law must be in writing and must be delivered by email whose receipt is acknowledged by an officer of the receiving Party. The proper email addresses shall be (i) for Gladiator, the email address provide on Gladiator's Portal; and for You, the primary email address used by You for accessing the Service. Notices shall be considered to have been given upon receipt of machine confirmation of successful transmission email as described herein.

## 17. NO ASSIGNMENT

You may not assign this Agreement without the prior written approval of Gladiator. Any purported assignment in violation of this section shall be void.

## 18. U.S. GOVERNMENT RESTRICTED RIGHTS

Any use of the Service by or on behalf of the United States of America, its agencies and/or instrumentalities ("U.S. Government"), is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph I(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs I(1) and (2) of the Commercial Computer Software – Restricted Rights at 48 CFR 52.227-19, as applicable.

## 19. FORCE MAJEURE

Neither party will be liable to the other for any failure or delay in the performance of such party's non-monetary obligations due to causes beyond its control, such as failure or delay caused, directly or indirectly, by fire, flood, earthquakes, other elements of nature, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, epidemics, communications line or power failures, or governmental laws, court orders, and regulations imposed after the fact.

## 20. GENERAL PROVISIONS & BINDING ARBITRATION

Any action related to these Terms will be governed by Florida law and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply. Any disputes, actions, claims or causes of action arising out of or in connection with these Terms or the Service shall be subject to the exclusive jurisdiction of the State of Florida. Any dispute arising from or related to these Terms shall first be subject to Mediation under the Mediation Rules of the American Arbitration Association and such Mediation shall take place in Brevard County, Florida. Any dispute that is not resolved between the parties or through Mediation as provided above, shall be subject to binding arbitration under the Rules of the American Arbitration Association using the Expedited Procedures for Commercial Disputes. Such arbitration shall take place in Brevard County, Florida. These Terms represents the parties' entire understanding relating to the use of the Service and supersedes any prior or contemporaneous, conflicting or additional, communications. No text or information set forth on any Purchase Order Form, preprinted form or document shall add to or vary the terms and conditions of these Terms. If any provision of these Terms is held to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between Gladiator and You as a result of these Terms or use of the Service. The failure of Gladiator to enforce any right or provision in these Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Gladiator in writing. Gladiator reserves the right to assign its right to receive and collect payments hereunder. Any rights not expressly granted herein are reserved by Gladiator.



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Captain Joey Best

Department(s): Police

### Requested Motion

Motion to declare one badge and service weapon (Glock Model 19, 9mm handgun, Serial Number XWZ747) as surplus property, and award these items to retired Sergeant John Jones.

### .Approval Recommended?

### Item Details

North Carolina General Statute 20-187.2(a) allows the governing body of a municipality to, upon request, declare as surplus the badge and side arm of a retiring police officer. The statute states that the badge is to be awarded at "no cost" to the retiring member and that the side arm be awarded "at a price determined by such governing body".

Sergeant John Jones retired from the Apex Police Department on December 31, 2023 and has made a request to be awarded his badge and service handgun.

In recognition of his 30 years of service in law enforcement to the Apex Police Department, Captain Best requests that one "Retired" badge and one handgun (described below) be declared surplus, that the price for such handgun be set at \$1.00, and that the badge and handgun be awarded to retired Sergeant John Jones.

- Glock Model 19, 9mm handgun, Serial Number XWZ747

### Attachments

N/A



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Steve Maynard, Purchasing Manager

Department(s): Finance

### Requested Motion

Motion to declare the following two (2) vehicles as surplus, authorize the sale of both vehicles, and authorize the Purchasing Manager and Interim Town Manager, or their designee, to sign documents necessary to complete the sale:

**Vehicle A** - 1999 GMC C8500 Vin # 1GDP7H1CXXJ512964

**Vehicle B** - 2008 International Workstar 7300 Vin # 1HTZZAAR98J047097

### Approval Recommended?

Yes

### Item Details

State law (G.S. 160A-265) provides authority to local governments to sell personal property that is no longer of use. The Town must receive consideration or compensation for the property. Per Town's Policy property estimated at \$30,000 and greater must be declared surplus by Town Council.

The value of each vehicle is estimated to be \$30,000. The Town is partnering with Auctions International, an online auction to ensure the Town receives the maximum price for the surplus vehicles.

### Vehicles

- A. 1999 GMC C8500 Vin # 1GDP7H1CXXJ512964
- B. 2008 International Workstar 7300 Vin # 1HTZZAAR98J047097

### Attachments

- CN18-A1: Vehicle Inspection Form - Unit 13A - 2008 International Workstar 7300 - Surplus Vehicles
- CN18-A2: Vehicle Inspection Form - Unit 84A - 1999 GMC C8500 - Surplus Vehicles



## Vehicle Inspection Form

<b>Inventory ID:</b> <u>13a</u>	<b>Asset Number:</b>	<b>Fair Market Value:</b> <u>\$ 30,000</u>																	
<b>Short Description:</b> Year <u>2008</u> Make <u>International</u> Model <u>Workstar 7300</u>																			
<b>VIN:</b> <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr><td>1</td><td>H</td><td>T</td><td>Z</td><td>Z</td><td>A</td><td>A</td><td>R</td><td>9</td><td>8</td><td>J</td><td>0</td><td>4</td><td>7</td><td>0</td><td>9</td><td>7</td></tr> </table> Title Restriction: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			1	H	T	Z	Z	A	A	R	9	8	J	0	4	7	0	9	7
1	H	T	Z	Z	A	A	R	9	8	J	0	4	7	0	9	7			
<b>Mileage/Odometer:</b> <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr><td>2</td><td>4</td><td>2</td><td>6</td><td>2</td></tr> </table> Odometer Accurate <input checked="" type="checkbox"/> Y <input type="checkbox"/> N: <u>Hour \$ 4849</u>			2	4	2	6	2												
2	4	2	6	2															
<b>Long Description:</b> This Vehicle: <input checked="" type="checkbox"/> Starts <input type="checkbox"/> Starts with a Boost & <input checked="" type="checkbox"/> Runs <input type="checkbox"/> Does Not Run <input type="checkbox"/> For Parts Only <b>Engine- Type:</b> <u>7.6</u> L, V <input type="checkbox"/> Gas <input checked="" type="checkbox"/> Diesel Engine <u>MaxxForce International Engine</u> Engine Condition: <input checked="" type="checkbox"/> Runs <input type="checkbox"/> Needs repair <input type="checkbox"/> is in unknown condition Repairs needed: <u>NONE KNOWN</u> This vehicle was maintained every <u>4000</u> <input type="checkbox"/> Days <input type="checkbox"/> Hours <input checked="" type="checkbox"/> Miles Date Removed From Service: <u>11-1-23</u> Maintenance Records: <input checked="" type="checkbox"/> Available <input type="checkbox"/> Not Available For Inspection <b>Transmission:</b> <input checked="" type="checkbox"/> Automatic <input type="checkbox"/> Manual <u>Speed</u> Transmission Condition: <input checked="" type="checkbox"/> Operable <input type="checkbox"/> Needs repair <input type="checkbox"/> Is Unknown Condition Repairs Needed: _____ <b>Drivetrain:</b> <input checked="" type="checkbox"/> 2 Wheel Drive <input type="checkbox"/> 4 Wheel Drive Condition: _____																			
<b>Exterior:</b> Color: <u>White</u> <b>Windows:</b> <input checked="" type="checkbox"/> No Cracked Glass <input type="checkbox"/> Cracked Minor: <input checked="" type="checkbox"/> Dents <input type="checkbox"/> Scratches <input checked="" type="checkbox"/> Dings <b>Tire Condition:</b> <input type="checkbox"/> Low <input type="checkbox"/> Flat <input type="checkbox"/> Hubcaps <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 Major Damage to: _____ Additional Damage: _____ Decals: <input type="checkbox"/> None <input type="checkbox"/> Have Been Sprayed or <input checked="" type="checkbox"/> Have been Removed & <input checked="" type="checkbox"/> Impressions Remain <input type="checkbox"/> No Impressions Emergency equip: <input type="checkbox"/> None <input type="checkbox"/> Has been removed & <input type="checkbox"/> There are holes in the exterior <input type="checkbox"/> There are no holes																			
<b>Interior:</b> Color <u>Gray</u> <input type="checkbox"/> Cloth <input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Leather Damage to Seats: <u>Driver seat damage</u> Damage to Dash/Floor: <u>Minor</u> Radio: <input checked="" type="checkbox"/> Stock or <input type="checkbox"/> Brand & Model: _____ <input type="checkbox"/> AM <input type="checkbox"/> AM/FM <input type="checkbox"/> AM/FM Cassette <input type="checkbox"/> AM/FM CD <input checked="" type="checkbox"/> AC (Condition: <input checked="" type="checkbox"/> Cold <input type="checkbox"/> Unknown) <input type="checkbox"/> No AC Air Bags <input type="checkbox"/> drivers side <input type="checkbox"/> dual <input type="checkbox"/> Cruise Control <input type="checkbox"/> Tilt Steering <input type="checkbox"/> Remote Mirrors <input type="checkbox"/> Climate Control Power: <input type="checkbox"/> Windows <input type="checkbox"/> Door Locks <input checked="" type="checkbox"/> Steering <input type="checkbox"/> Seats <u>Pole Claw Cylinder Leaking <sup>Hyd.</sup> oil</u>																			
<b>Additional Equipment:</b> <u>Winch stopped working, Small Hydraulic Leak at Turntable</u> Manufacturer <u>Aitec</u> Model <u>D2050A-TR</u> Serial # <u>0108BW0187</u>																			
<b>Location of Asset:</b> _____ <b>For more information contact:</b> _____ <b>Reminder:</b> Do not close items on or surrounding a Holiday, on Friday nights, or Weekends. Stagger closing times by 10 minutes.																			



## Vehicle Inspection Form

<b>Inventory ID:</b> <u>84a</u>	<b>Asset Number:</b>	<b>Fair Market Value:</b> \$ <u>30,000</u>																	
<b>Short Description:</b> Year <u>1999</u> Make <u>GMC</u> Model <u>C8500</u>																			
<b>VIN:</b> <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td>1</td><td>G</td><td>D</td><td>P</td><td>7</td><td>H</td><td>1</td><td>C</td><td>X</td><td>X</td><td>J</td><td>5</td><td>1</td><td>2</td><td>9</td><td>6</td><td>4</td></tr></table> Title Restriction: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			1	G	D	P	7	H	1	C	X	X	J	5	1	2	9	6	4
1	G	D	P	7	H	1	C	X	X	J	5	1	2	9	6	4			
<b>Mileage/Odometer:</b> <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td>2</td><td>6</td><td>1</td><td>6</td><td>8</td></tr></table> Odometer Accurate <input checked="" type="checkbox"/> Y <input type="checkbox"/> N: _____			2	6	1	6	8												
2	6	1	6	8															
<b>Long Description:</b> This Vehicle: <input type="checkbox"/> Starts <input checked="" type="checkbox"/> Starts with a Boost & <input type="checkbox"/> Runs <input type="checkbox"/> Does Not Run <input type="checkbox"/> For Parts Only <b>Engine- Type:</b> <u>7.2L, V</u> <input type="checkbox"/> Gas <input checked="" type="checkbox"/> Diesel Engine <u>CAT ENGINE</u> Engine Condition: <input type="checkbox"/> Runs <input type="checkbox"/> Needs repair <input type="checkbox"/> is in unknown condition Repairs needed: <u>ABS Light is ON</u> This vehicle was maintained every <u>4000</u> <input type="checkbox"/> Days <input type="checkbox"/> Hours <input checked="" type="checkbox"/> Miles Date Removed From Service: <u>11-3-23</u> Maintenance Records: <input checked="" type="checkbox"/> Available <input type="checkbox"/> Not Available For Inspection <b>Transmission:</b> <input checked="" type="checkbox"/> Automatic <input type="checkbox"/> Manual <u>Speed</u> Transmission Condition: <input checked="" type="checkbox"/> Operable <input type="checkbox"/> Needs repair <input type="checkbox"/> Is Unknown Condition Repairs Needed: _____ <b>Drivetrain:</b> <input checked="" type="checkbox"/> 2 Wheel Drive <input type="checkbox"/> 4 Wheel Drive Condition: _____																			
<b>Exterior:</b> Color: <u>White</u> Windows: <input type="checkbox"/> No Cracked Glass <input type="checkbox"/> Cracked Minor: <input checked="" type="checkbox"/> Dents <input checked="" type="checkbox"/> Scratches <input checked="" type="checkbox"/> Dings Tire Condition: <input type="checkbox"/> Low <input type="checkbox"/> Flat Hubcaps <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 Major Damage to: <u>Left Rear Tool Box Door Dented</u> Additional Damage: <u>Minor - Rust, faded Paint</u> Decals: <input type="checkbox"/> None <input type="checkbox"/> Have Been Sprayed or <input checked="" type="checkbox"/> Have been Removed & <input checked="" type="checkbox"/> Impressions Remain <input type="checkbox"/> No Impressions Emergency equip: <input type="checkbox"/> None <input checked="" type="checkbox"/> Has been removed & <input type="checkbox"/> There are holes in the exterior <input type="checkbox"/> There are no holes																			
<b>Interior:</b> Color <u>Gray</u> <input type="checkbox"/> Cloth <input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Leather Damage to Seats: <u>Torn</u> Damage to Dash/Floor: <u>Minor</u> Radio: <input checked="" type="checkbox"/> Stock or <input type="checkbox"/> Brand & Model: <u>NOT WORKING</u> <input type="checkbox"/> AM <input type="checkbox"/> AM/FM <input type="checkbox"/> AM/FM Cassette <input type="checkbox"/> AM/FM CD <input checked="" type="checkbox"/> AC (Condition: <input checked="" type="checkbox"/> Cold <input type="checkbox"/> Unknown) <input type="checkbox"/> No AC Air Bags <input type="checkbox"/> drivers side <input type="checkbox"/> dual <input type="checkbox"/> Cruise Control <input type="checkbox"/> Tilt Steering <input type="checkbox"/> Remote Mirrors <input type="checkbox"/> Climate Control Power: <input type="checkbox"/> Windows <input type="checkbox"/> Door Locks <input checked="" type="checkbox"/> Steering <input type="checkbox"/> Seats																			
<b>Additional Equipment:</b> <u><del>IMT</del> Crane IMT 9800 Series</u> Manufacturer <u>IMT</u> Model <u>1495</u> Serial # <u>1495991001</u>																			
<b>Location of Asset:</b> _____ <b>For more information contact:</b> _____ <b>Reminder:</b> Do not close items on or surrounding a Holiday, on Friday nights, or Weekends. Stagger closing times by 10 minutes.																			

*Cylinder Retainer collar is falling off cylinder + will allow Stage to freely slide  
Pump is aerating and noisy*

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to approve Apex Tax Reports dated January 9, 2024.

### Approval Recommended?

Yes

### Item Details

The Wake County Board of Commissioners, in regular session on February 5, 2024, approved and accepted the enclosed tax report for the Town of Apex, dated January 9, 2024 for the period of December 1, 2023 through December 31, 2023.

### Attachments

- CN19-A1: Tax Report for December 2023





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

TEL 919 856 6180  
FAX 919 856 5699

SHINICA THOMAS, CHAIR  
SUSAN EVANS, VICE-CHAIR  
VICKIE ADAMSON  
MATT CALABRIA  
DON MIAL  
CHERYL STALLINGS  
TARA WATERS

February 6, 2024

Mr. Allen Coleman  
Town Clerk  
Town of Apex  
Post Office Box 250  
Apex, North Carolina 27502

Dear Mr. Coleman:

The Wake County Board of Commissioners, in regular session on February 5, 2024, approved and accepted the enclosed tax report for the Town of Apex.

The attached adopted actions are submitted for your review; no local board action is required.

Sincerely,

A handwritten signature in cursive script that reads "Yvonne Gilyard".

Yvonne Gilyard  
Clerk to the Board  
Wake County Board of Commissioners

Enclosure(s)





Wake County Tax Administration

Rebate Details  
12/01/2023 - 12/31/2023  
APEX

DATE 01/09/2024  
TIME 2:02:22 PM  
PAGE 1

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	BILLING YEAR	OWNER
---------------	----------	----------	-----------	-----------------	---------------	--------------	----------------	----------	--------------	-------

**BUSINESS ACCOUNTS**

866556	16.98	0.00	1.70	0.00	18.68	12/18/2023	0006457904	2023	2023	000000	PATHWAYS TREATMENT CENTER INC
865813	3.07	0.00	0.00	0.00	3.07	12/07/2023	0006818952	2023	2023	006000	CROWN EQUIPMENT CORPORATION
865527	79.80	0.00	7.98	0.00	87.78	12/01/2023	0006145543	2023	2023	000000	ASSEMBLY FASTENERS INC.

SUBTOTALS FOR BUSINESS ACCOUNTS 99.85 0.00 9.68 0.00 109.53 3 Properties Rebated

**INDIVIDUAL PROPERTY ACCOUNTS**

865828	2.16	0.00	0.22	0.00	2.38	12/07/2023	0006941765	2023	2023	000000	ACADEMY LTD #289
--------	------	------	------	------	------	------------	------------	------	------	--------	------------------

SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS 2.16 0.00 0.22 0.00 2.38 1 Properties Rebated

**INDIVIDUAL REAL ESTATE ACCOUNTS**

866125	226.25	0.00	0.00	0.00	226.25	12/14/2023	0000444484	2023	2023	000000	WAI, FLORENCE FUNGMING
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SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS 226.25 0.00 0.00 0.00 226.25 1 Properties Rebated



Wake County Tax Administration

Rebate Details  
 12/01/2023 - 12/31/2023  
 APEX

DATE 01/09/2024  
 TIME 2:02:27 PM  
 PAGE 2

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	BILLING YEAR	OWNER
---------------	----------	----------	-----------	-----------------	---------------	--------------	----------------	----------	--------------	-------

TOTAL REBATED FOR APEX	328.26	0.00	9.90	0.00	338.16					
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5 Properties Rebated for City

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Councilmember Terry Mahaffey, Sponsor  
Barbara Conroy Co-Founder and President of Apex Public School Foundation

Department(s): Governing Body  
Apex Public School Foundation

### Requested Motion

Presentation of the Peak S.T.A.R. Award for the 2<sup>nd</sup> Quarter of the 2024-2025 School Year.

### Approval Recommended?

N/A

### Item Details

The Apex Town Council is pleased to work in partnership with the Apex Public School Foundation (APSF) to present the Peak S.T.A.R. Award to a deserving Apex school staff member, teacher, or someone in school administration. This award will be presented quarterly by the Apex Town Council and the APSF.

### Attachments

- N/A







*"The Peak of Good Living"*

TOWN OF APEX  
NORTH CAROLINA

## *Proclamation*

### **Black History Month 2024**

*from the Office of the Mayor*

WHEREAS, During the observance of Black History Month, the Town of Apex intentionally highlights the substantial contributions made by Black Americans and those of African descent to our town, community, and country; and,

WHEREAS, The origin of Black History Month traces back to Dr. Carter G. Woodson in 1926, who wanted to bring national attention to the contributions African Americans have made to the history of our nation; and,

WHEREAS, We affirm that Black history is American history, with the essence of Black culture, narratives, and achievements serving as the cornerstone of our national identity; and,

WHEREAS, The Town of Apex acknowledges the historical stains of slavery, Jim Crow, and redlining, as well as the ongoing repercussions these systems have created within the Black Community; and,

WHEREAS, In honor of Black History Month, The Town of Apex is proud to present A Hip-Hop Dance Class on February 10<sup>th</sup> at the Senior Center, and the Counter History Ice Cream Social and panel discussion on February 15<sup>th</sup> at the Halle Cultural Arts Center, which will explore two programs documenting Black History in the south: The Counter History Royal Ice Cream Sit-In and the Virtual MLK Project.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the Month of February, 2024, Black History Month in the Town of Apex, and invite residents to join us in enriching our knowledge of the contributions of Black Americans, and in celebrating their lives and culture throughout the year.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 13th day of February 2024

Jacques Gilbert, Mayor

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Nicole Kreiser, Deputy Tax Administrator

Department(s): Wake County Tax Administration

### Requested Motion

Receive as information results of the Wake County 2024 Revaluation.

### Approval Recommended?

No.

### Item Details

Nicole Kriesier, Deputy Tax Administrator with Wake County Department of Tax Administration will present the results of the 2024 Revaluation. This process is required by the North Carolina General Statutes and to evaluate real property at least once every 8 years, however, in 2016 Wake County transitioned from an 8-year to a 4-year revaluation cycle.

### Attachments

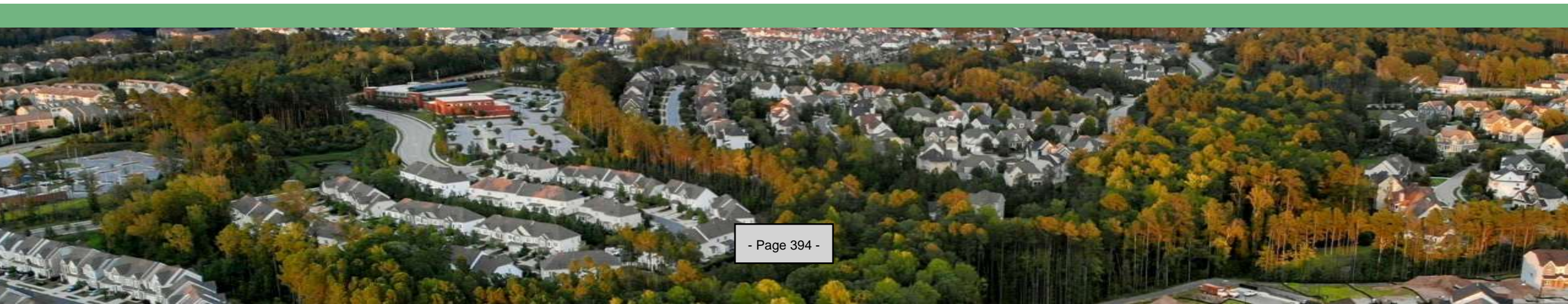
- PR3 - PowerPoint Presentation - Wake County 2024 Revaluation Results





# 2024 Revaluation Results

**Town of Apex  
February 13, 2024**





# Overview

- Brief description of revaluation and why it is required
- Revaluation project
- Revaluation results
- Information for property owners
- Next steps

# What is Revaluation?

The process of updating Wake County's **real property** values to reflect **fair market value** as of **January 1, 2024**



# Why Perform a Revaluation?

- ▶ **Required by NC General Statutes**  
North Carolina law requires all counties to revalue real property at least once every 8 years.

Note: Wake County transitioned from an 8-year to a 4-year revaluation cycle in 2016.

- ▶ **Tax Equity and Fairness**  
Revaluation ensures property values accurately reflect their market value, so that the property tax burden is spread equitably across all taxpayers.



# Revaluation Includes:

- Real property or all residential and commercial land and structures, which includes homes, apartments, condominiums, office buildings, stores and warehouses.
- Fair market value is the most probable price a property would bring at sale in an open and competitive market.
- Effective date is January 1, 2024. The last revaluation was conducted 4 years ago with an effective date of January 1, 2020.

*Revaluation impacts approximately 89% of Apex's property tax base.*

# Revaluation Excludes:

- ▶ Personal property such as business computers, office furniture, machinery, manufacturing equipment
- ▶ Vehicles: registered motor vehicles, other vehicles, trailers, campers, boats, airplanes
- ▶ Public utility property: electric/nuclear power generation, gas companies, bus lines, railroads



*These property types are appraised annually; 11 percent of Apex's tax base.*

# Mass Appraisal

- Mass appraisal is the process of appraising a large number of properties as of a given effective date, using data, standardized methods, and statistical analysis to arrive at uniform and equitable values.
- General revaluations are conducted by applying mass appraisal techniques, with thorough analysis from appraisal staff and the use of computer-assisted mass appraisal (CAMA) software system.
- The sales approach, cost approach, and income approach to value are all considered when applicable to appraise all real property.



# Revaluation Steps

**Neighborhooding**



**Land and  
Building Pricing**







**Field and  
Office Review**



**Notice of Assessment  
Appeal Review**



# Wake County Revaluation Review Activity

Property Type	Office Reviews	Field Reviews
 Residential	220,553	151,798
 Rural	13,744	16,457
 Commercial	14,534	9,200
 Total Reviewed	248,831	177,455

# Wake County Revaluation History

	1992	2000	2008	2016	2020
Total Parcels	165,000	230,000	325,000	360,000	395,000
Single Family	105,000	150,000	258,000	283,700	312,000
% Change from Reappraisal	43%	43%	40%	5%	23%
Taxable Value Post Reappraisal	\$21 B	\$43 B	\$94 B	\$118.3 B	\$162.2 B
Taxable Value After Growth (New Construction)	\$30 B	\$67 B	\$112.3 B	\$131.3 B	\$178.5 B



# Wake County Real Property as of 1/1/24



Residential Parcels

403,886



Commercial Parcels

23,641



Total Parcels

427,527

# Apex Real Property as of 1/1/24



Residential Parcels

26,501



Commercial Parcels




1,098



Total Parcels


27,599

# Wake County 2024 Revaluation Results

Real Property Component		Overall Change
	Residential	53%
	Commercial	45%
	Total	51%



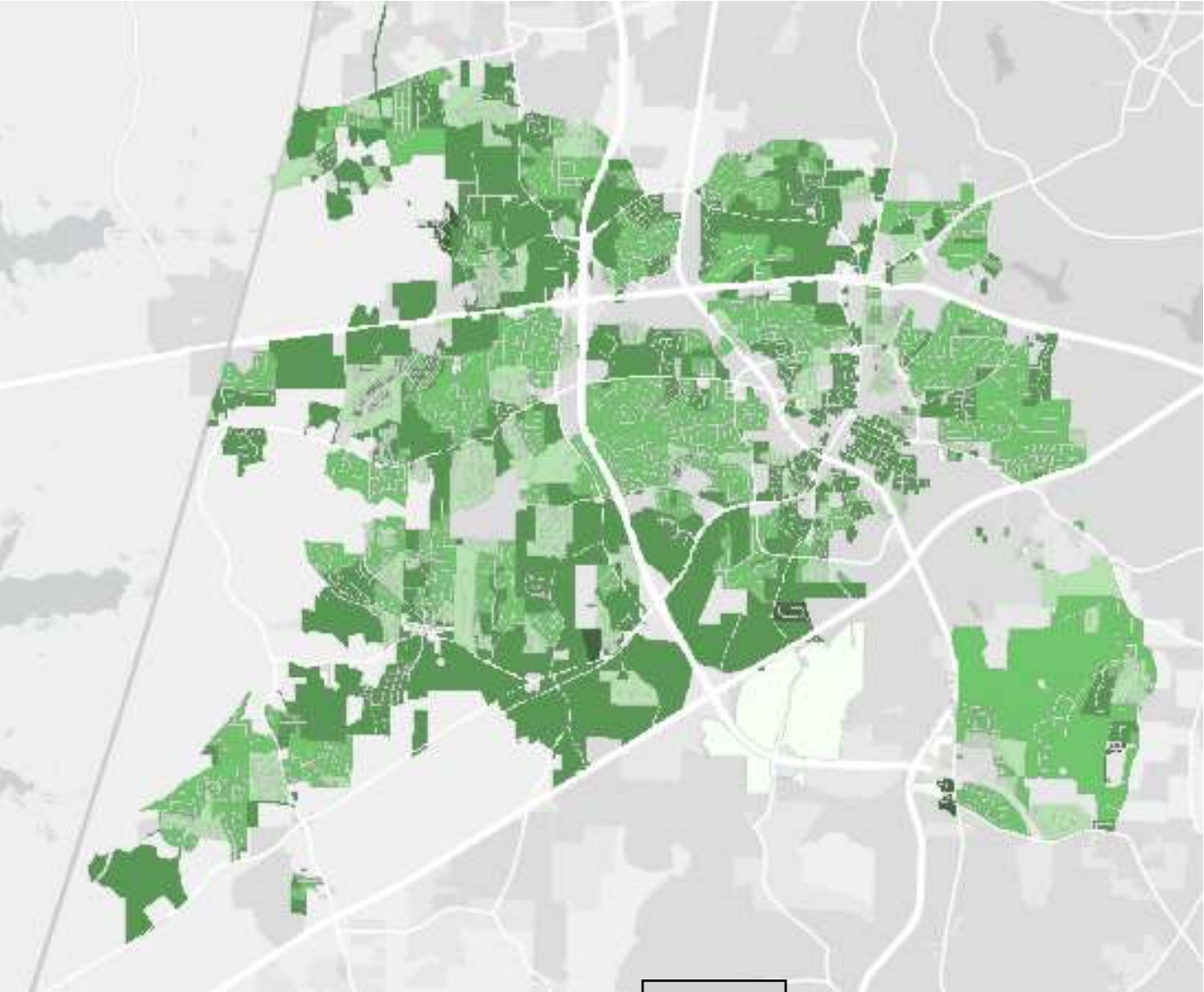
# Apex 2024 Revaluation Results

Real Property Component		Overall Change
	Residential	57%
	Commercial	53%
	Total	56%

# Percent Change by Jurisdiction

Jurisdiction	Residential Change	Commercial Change	Overall Change
Apex	57%	53%	56%
Cary	56%	39%	51%
Fuquay-Varina	54%	52%	54%
Garner	54%	59%	56%
Holly Springs	53%	80%	58%
Knightdale	51%	67%	57%
Morrisville	55%	37%	45%
Raleigh	52%	43%	48%
Rolesville	51%	52%	51%
Wake Forest	51%	50%	51%
Wendell	63%	75%	65%
Zebulon	48%	50%	49%
Unincorporated	52%	41%	51%
Wake County Overall	53%	45%	51%

# Apex Change in Assessed Value



### Percent Change

- < 35%
- 35% - 50%
- 50% - 65%
- 65% - 90%
- > 90%



# Apex Median Single-Family Home

**Before Revaluation**

**After Revaluation**

\$366,837

\$570,997



# Commercial Real Property Tax Base

	Before Revaluation	After Revaluation
Total	\$2.0 B	\$3.1 B



# Apex Commercial Value Drivers

Property Type	Total Change
Mini-Storage	119%
Industrial	78%
Apartment	52%
Retail	42%
Restaurants	26%
Office	18%





# Apex: Percent Residential/Commercial

Real Property Component	Before Revaluation	Percent	After Revaluation	Percent
Residential	\$9.5 B	82%	\$14.8 B	83%
Commercial	\$2.0 B	18%	\$3.1 B	17%
Total	\$11.5 B	100%	\$17.9 B	100%



# Municipal Total Tax Base

Jurisdiction	Estimated FY 24 Base	Estimated FY 25 Base	Average Annual Growth
Apex	\$12.49 B	\$19.39 B	6.43%
Cary	\$34.40 B	\$49.68 B	2.10%
Fuquay-Varina	\$6.46 B	\$10.24 B	10.88%
Garner	\$5.89 B	\$9.00 B	7.91%
Holly Springs	\$8.12 B	\$12.56 B	8.60%
Knightdale	\$2.75 B	\$4.27 B	4.19%
Morrisville	\$6.87 B	\$9.42 B	3.84%
Raleigh	\$81.77 B	\$115.63 B	2.41%
Rolesville	\$1.63 B	\$2.51 B	8.12%
Wake Forest	\$7.64 B	\$11.36 B	4.67%
Wendell	\$1.60 B	\$2.79 B	13.31%
Zebulon	\$1.82 B	\$2.47 B	10.21%
Wake County Overall	\$207.2 B	\$301.05 B	3.44%

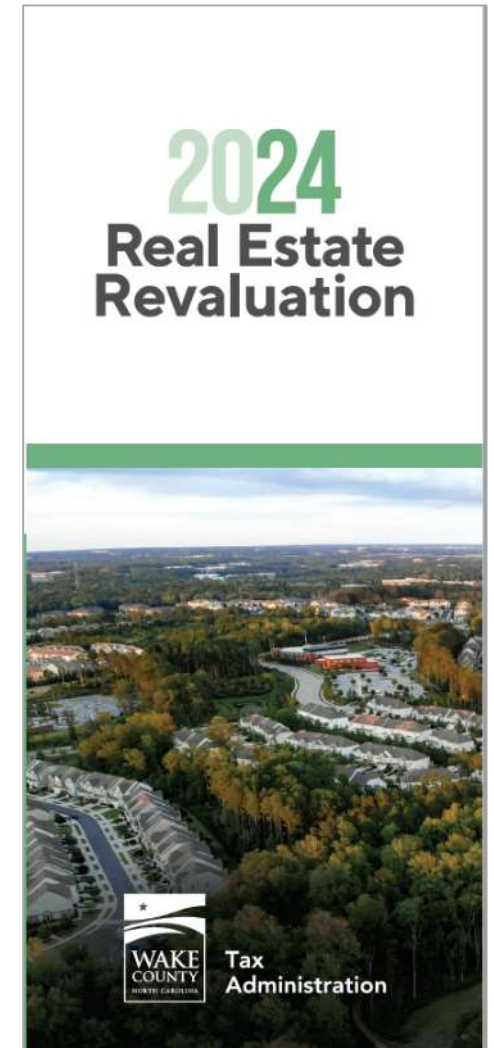
# Resources Available to the Public





# Tools for Property Owners: Informational Brochure

- Included in each Notice of Assessment
  - What is Revaluation and Why is it Important?
  - How is Revaluation Conducted?
  - Will My Value Stay The Same Between Revaluations?
  - Will This Affect My Property Tax Bill?
  - What if I Disagree With My Value?
  - How Do I File an Appeal?
  - Tax Relief Programs



# Tools for Property Owners: Updated Information Online



- [Wake.gov/revaluation](http://Wake.gov/revaluation)
  - Frequently Asked Questions
  - Appeals
  - Revaluation Statistics
  - Tax Portal
  - Property Search
  - Comparable Sales
  - Revenue-Neutral Calculator
  - Schedule of Values



## About Revaluation

Every four years, Wake County revalues real estate to ensure all properties are valued and taxed equitably. Real estate revaluations are required by law in North Carolina, and they set the tax value of all residential and commercial land and structures such as homes, office buildings, stores, and farms. They do not include what is classified as individual personal property, such as vehicles, boats, airplanes, and business equipment, which are valued annually.



# Tools for Property Owners: Residential Comparable Sales Search

**2024 Real Estate Revaluation**

Find Property

Refine By: Distance 1 miles | Sale Date 2022-01-01 - 2024-01-01 | Heated Area 1,696 - 2,348 SqFt | Year Built | Effective Year Built | Story Height | Acreage

**Subject Property** [Save Comparables \(10\)](#)

**4504 Gwynnebrook Cir**  
Distance: N/A | Total Value: \$636,115  
Acreage: 0.22 | Heated Area: 2,112 SqFt  
Sale Date: 09/02/2022 | Effective Year Built: 1988

**3 Nearby Sales**

**7708 Highlandview Cir** [Comparable](#) **\$572,500**  
Distance: 236 ft | Total Value: \$223,090  
Acreage: 0.29 | Heated Area: 2,211 SqFt  
Sale Date: 07/19/2022 | Effective Year Built: 1986

**4301 Fortingale Cir** [Comparable](#) **\$462,000**  
Distance: 542 ft | Total Value: \$289,764  
Acreage: 0.2 | Heated Area: 1,773 SqFt  
Sale Date: 06/21/2021 | Effective Year Built: 1988

**4505 Fortingale Cir** [Comparable](#) **\$470,000**  
Distance: 614 ft | Total Value: \$281,354  
Acreage: 0.26 | Heated Area: 1,744 SqFt  
Sale Date: 07/07/2022 | Effective Year Built: 1988

Map | Satellite

Comparables

- Page 418 -

# Tools for Property Owners: Revenue Neutral Calculator

- Real Estate
- Adjustment Forms
- Deferred Tax Forms
- Publications
- Datafiles

## Revenue Neutral Tax Calculator

**Effective Jan 1, 2024** all real property in Wake County was revalued at 100% fair market value. The prior assessed value represented 100% fair market value as of Jan 1, 2020.

The purpose of the revaluation is to re-establish tax equity and fairness between properties that may have changed in value at different rates depending on property type and location.

Wake County currently operates on a four-year revaluation cycle. State law requires the calculation of a revenue neutral rate. Revenue neutral is a budget term that means the revenue brought in by property taxes in a revaluation year would be approximately the same as if the revaluation had not taken place. It is computed by increasing the fiscal year 2023-2024 jurisdictional operating budget by the average annual growth in the tax base since the 2020 revaluation, then dividing the result by the revalued tax base. The revenue neutral rate is not property-specific. This revenue neutral rate serves as the starting point for fiscal year 2024-2025 budget deliberations and must be reported in the fiscal year 2024-2025 operating budget, but it may not ultimately be adopted.

Changes in tax liability for individual properties depend on two factors:

1. How much the property changed in value between 2020 and 2024, and
2. The final tax rates adopted by each taxing jurisdiction in June 2024.

[Learn more about tax relief programs for the permanent residence of qualified homeowners.](#)

[Learn more about revenue neutral tax rates](#)

**Search by Real Estate ID (REID):** Enter your Real Estate ID number as it appears on your Notice of Appraised Value. If you have lost or misplaced your notice, you can look it up by using the Property Search tool in the Real Estate menu on the left side of the screen.

Real Estate ID



# Tools for Property Owners: Online Tutorial about Appeals



2024  
Real Estate  
Revaluation



## How to File an Appeal



# Tax Relief Programs: 2024



## Deadline to Apply: June 1, 2024

Late applications may be accepted on a case-by-case basis. Forgetting or not knowing about the program are typically not valid reasons for lateness. Examples of good cause may include: physical or mental illness, death of an immediate family member, military deployment, or delay in receiving disability certification.

To find out more, visit  
[wake.gov/taxrelief](http://wake.gov/taxrelief) or call  
**919-856-5400**

	<b>Seniors and Disabled Program</b> (Elderly or Disabled Homestead Exclusion)	<b>Tax Deferment Program</b> (Circuit Breaker Tax Deferment Program)	<b>Disabled Veterans Program</b> (Disabled Veterans Exclusion)
<b>Who Can Apply</b> (These requirements MUST be met as of January 1, 2024)	65 years & older  <b>OR</b>  Anyone totally and permanently disabled	65 years & older OR Anyone totally and permanently disabled  <b>AND</b> Owned and occupied home for at least five years	Veterans of any age with a total & permanent disability connected to their military service or their unmarried surviving spouse
<b>Gross Income Requirement</b> (Income BEFORE taxes or other deductions are taken out. It is NOT Adjusted Income.)	<b>\$36,700 or less</b> during 2023 (Combined income for married couples)	<b>\$55,050 or less</b> during 2023 (Combined income for married couples)	NONE
<b>Tax Relief Benefit</b> (Home value includes the residence, related improvements, and up to one acre of the building site.)	<b>\$25,000 or 50%</b> off home value, whichever is greater.	Taxes limited to 4% of income if gross income is <b>\$36,700 or less</b>  Taxes limited to 5% of income if gross income is <b>\$36,700 to \$55,050</b>  <b>Last 3 years</b> of deferred taxes (with interest) may become due if a disqualifying event occurs.	Home value is reduced by <b>\$45,000</b>

# Remaining 2024 Revaluation Schedule

- January 16, 2024
  - Presentation of Revaluation Results
  - Information online at [wake.gov/revaluation](http://wake.gov/revaluation)
- January 17, 2024
  - New assessed value notices mailed
- March 1, 2024
  - Deadline for property owners to file informal assessment reviews
- April 24, 2024
  - Board of Equalization and Review (BOER) convenes for 2024
- May 15, 2024
  - Deadline for property owners to file a formal appeal to the BOER
- Through Fall 2024
  - BOER considers all timely filed formal appeals



# Customer Service

- Revaluation Call Center: 919-857-3800



- Dedicated Revaluation Email:  
[revaluation@wake.gov](mailto:revaluation@wake.gov)



- Tax Administration office in Wake County  
Justice Center





# 2024 Real Estate Revaluation

Wake County Tax Administration

919-857-3800

[revaluation@wake.gov](mailto:revaluation@wake.gov)

[Wake.gov/revaluation](https://wake.gov/revaluation)



# STAFF REPORT

## Amendments to the Unified Development Ordinance

February 13, 2024 Town Council Meeting



### Requested by Planning Staff:

#### 1. Amendments to Sec. 12.2 *Terms Defined* in order to expand the boundaries of the Downtown Festival District.

**Background:** In May 2022, the Downtown Festival District was created in order to allow more flexibility in the number of promotional events allowed in the downtown area and to set a reduced setback for outdoor operations of certain retail, restaurant and alcohol related uses and outdoor areas associated with promotional events than that required outside of the district.

#### 12.2 Terms Defined

...

##### Downtown Festival District

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of the surrounding residential neighborhoods. Legal description of boundaries: Beginning at an iron pipe being the southwest property corner of the Town of Apex Police Department and being the northwest corner of the Kenneth E. and Cheryl H. Koch, Jr. property; thence along the western property line of the Town of Apex Police Department N 29°37'50" E 91.05' to a point; thence continuing along said property line N 30°23'22" E 13.01' to a point; thence along the same property line N 40°38'29" E 142.69' to a point on the northern right-of-way of Saunders Street; thence along the Saunders Street northern right-of-way S 64°28'48" E 19.44' to a point; thence S 64°15'35" E 89.31' to a point on the aforementioned right-of-way; thence leaving the northern right-of-way of Saunders Street the following three (3) calls: N 18°01'23" E 184.23', N 65°08'53" W 31.82', and N 02°37'34" W 87.12' to a point on the southern boundary of the Brittany Trace neighborhood; then along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 47, the following three (3) calls: S 89°48'07" E 14.82', N 89°06'04" E 194.87', and S 88°48'57" E 398.32' to a point; thence N 89°04'55" E 16.80' to a point; thence S 88°02'04" E 272.91' to a point on the western right-of-way of North Salem Street; thence along the North Salem Street western right-of-way the following six (6) calls: N 14°58'41" E 62.09', N 18°22'46" E 40.83', N 18°51'26" E 493.54', N 17°19'26" E 95.95', N 12°19'09" E 53.97', and N 14°51'47" E 151.61' to a point in the centerline of Hunter Street; thence with the Hunter Street centerline S 75°57'32" E 104.78' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline N 02°16'41" E 1282.52' to a point; thence leaving the centerline of the mainline track for CSX Transportation and following the northern property line of the Town of Apex Hunter Street Park property S 87°43'03" E 580.19' to a point in the centerline of Ambergate Station; thence with the Ambergate Station centerline the following five (5) calls: S 02°43'42" W 159.30', S 02°06'51" W 103.90', S 03°09'44" W 15.57', S 05°10'12" W 20.26', and S 07°23'46" W 1.63' to a point; thence leaving the centerline of Ambergate Station S 87°56'20" E 157.12' to a point on the western right-of-way of CSX Transportation; thence along the CSX Transportation western right-of-way S 26°14'00" W 1091.25' to a point on the northern right-of-way of Hunter Street; thence along the Hunter Street northern right-of-way S 76°01'18" E 103.87' and S 75°58'18" E 78.32' to a point also being the western right-of-way of Metro Station; thence leaving the northern right-of-way of Hunter Street and following the Metro Station western right-of-way the next three (3) calls: N 26°17'55" E 139.57', N 29°35'10"

E 20.07', and N 36°09'34" E 20.07' to a point; thence leaving the western right-of-way of Metro Station and following the centerline of Massapequa Station S 63°41'13" E 394.10' to a point; thence leaving the Massapequa Station centerline S 26°15'45" W 14.12' to a point on the eastern right-of-way of Grand Central Station; thence leaving the Grand Central Station eastern right-of-way and following the northern property line of Lot 105 (56 Hunter Street) Villages of Apex South Village – Phase 1A S 63°44'15" E 97.58' to a corner; thence crossing the Villages of Apex South Common Area and following a property line of Lot 1 Villages of Apex South N 75°06'49" E 272.40' to a point; thence continuing with the edge of said property S 79°37'44" E 169.41' to a corner; thence crossing Lot 1 S 57°13'29" E 172.79' to a point in the centerline of Laura Duncan Road (**N.C.S.R. 1308**); thence along the Laura Duncan Road centerline the following seven (7) calls: S 30°28'38" W 15.53', S 36°13'57" W 28.13', S 36°18'01" W 50.25', S 38°00'41" W 69.01', S 40°05'16" W 110.45', S 39°37'43" W 106.22', and S 42°26'17" W 78.36' to the intersection of Laura Duncan Road and Hunter Street; thence leaving the intersection and continuing along the North Mason Street centerline the following twelve (12) calls: S 41°38'01" W 54.75', S 40°12'33" W 85.20', S 41°26'40" W 75.54', S 39°39'03" W 66.30', S 39°31'22" W 29.69', S 35°22'20" W 29.09', S 33°41'24" W 20.46', S 31°48'32" W 25.12', S 27°58'46" W 17.85', S 28°10'00" W 27.49', S 25°34'30" W 29.63', and S 25°01'01" W 26.26' to a point; thence leaving the centerline of North Mason Street and continuing along the northern property line of Town of Apex, also being the southern limit of an abandoned railroad easement, the following three (3) calls: S 57°30'04" E 71.43', S 51°04'36" E 36.87', and S 45°31'56" E 40.38' to a point; thence crossing the aforementioned Town of Apex property S 20°27'19" W 222.17' to its southern property line; thence along the southern property line of Town of Apex N 69°32'41" W 120.00' to a point on the eastern right-of-way of North Mason Street; thence N 22°06'06" E 34.22' to a point on the North Mason Street eastern right-of-way; thence crossing the right-of-way of North Mason Street and continuing along the southern property line of Town of Apex Town Campus N 66°08'18" W 199.31' to a corner; thence along a common line between Town of Apex and Larry Mack Jordan N 22°28'32" E 162.69' and N 77°35'02" W 96.38' to a corner; thence crossing a portion of Larry Mack Jordan, Town of Apex Town Campus, and North Hughes Street, also being collinear with the southern property line of the former Tunstall Life Estate, N 64°48'43" W 716.19' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline S 26°12'58" W 2880.48' **1478.49' to the southern right-of-way of East Chatham Street; thence following the East Chatham Street right-of-way, also being the property line of Apex United Methodist Church, S 64°17'14" E 441.18' to the western right-of-way of South Hughes Street; thence S 25°56'18" W 422.48' along said right-of-way to the northern right-of-way of Olive Street; thence along the northern right-of-way of Olive Street N 63°57'19" W 177.20' to a point on the northern right-of-way and being the vehicle entrance for Apex United Methodist Church; thence crossing Olive Street and following the common line between Apex United Methodist Church and the property of Jon Douglas and Margaret Anne Allen S 25°57'20" W 175.73'; thence along the southern property line of Jon Douglas and Margaret Anne Allen S 64°30'43" E 177.80' to the western right-of-way of South Hughes Street; thence along the South Hughes Street right-of-way S 25°53'38" W 225.36' to the northern right-of-way of East Moore Street; thence following the East Moore Street right-of-way N 64°23'04" W 446.69' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline across East Williams Street (NC Highway 55) and continuing with a clockwise curve for approximately 2074' to the eastern right-of-way of Tingen Road (N.C.S.R. 1153); thence leaving the centerline of the mainline track and following the eastern right-of-way of Tingen Road the following three (3) calls: N 01°33'18" E 229.62', N 00°35'34" W 74.00', and N 00°01'57" W 202.14' to a point; thence leaving the Tingen Road eastern right-of-way and crossing South Salem Street (N.C.S.R. 1011) N 60°23'59" W 67.78' to a point on the western right-of-way; thence following the western South Salem Street right-of-way, also being the property line of Walter J. McClamb (Albright Funeral Home), S 29°36'02" W 42.24'; thence continuing along the western South Salem Street right-of-way and across Justice Heights Street the following three (3) calls: S 30°11'02" W 98.31', S**

32°41'15" W 42.11', and S 29°27'41" W 81.33' to the southeast corner of St. Mary's African Methodist Episcopal (A.M.E.) Church; the along the southern property line of St. Mary's A.M.E. Church N 62°22'04" W 139.32'; thence along the western property line of said church and continuing across Justice Heights Street to a point in the northern right-of-way N 23°57'20" E 116.56'; thence with the Justice Heights Street right-of-way N 67°18'07" W 117.88' to the southwest corner of Walter J. McLamb; thence leaving said right-of-way, following the western property line of Walter J. McClamb and crossing West Street N 28°07'02" E 334.67'; thence along the northern West Street right-of-way to the eastern right-of-way for First Street, also being the southwest corner of Town of Apex (West Street Park) N 60°49'18" W 57.97'; thence along the eastern First Street right-of-way N 29°33'54" E 413.62' to the northwest corner of Town of Apex; thence leaving said right-of-way S 64°02'10" E 105.35' to a point in the common line of Town of Apex and Kyler L. Zadell; thence crossing Kyler L. Zadell N 29°16'02" E 49.73' to a point on the northern property line; thence along the northern property line of Kyler L. Zadell S 63°55'11" E 45.52' to a corner with KC2 Holdings, LLC; thence S 65°13'20" E 50.56' to a corner of KC2 Holdings, LLC; thence N 32°29'05" E 144.34' along the western property line of KC2 Holdings, LLC to the southern right-of-way for Harwood Street; thence across Harwood Street N 27°42'28" E 36.66' to a property corner for Sauls Investment Properties, LLC; thence along the Harwood Street northern right-of-way the following four (4) calls: N 64°00'51" W 58.43', N 64°01'22" W 48.92', N 63°54'08" W 77.36', and a curve to the right having a radius of 21.41' feet and a chord bearing and distance of N 21°34'11" W 28.85' to a point in the eastern right-of-way of First Street; thence along said right-of-way N 29°27'20" E 21.97' to the southern right-of-way of West Williams Street; thence along the southern West Williams Street right-of-way S 64°26'19" E 100.86' and S 66°54'43" E 45.16' to a property corner of Sauls Investment Properties, LLC; thence crossing West Williams Street N 25°38'03" E 100.09' to the northern right-of-way and being a common corner of A.T. Seymour Heirs and K2 Holdings, LLC; to a point on the eastern right-of-way of East Williams Street (NC Highway 55); thence with the NC Highway 55 eastern right-of-way N 66°53'40" W 628.99' to a point on the eastern right-of-way of West Williams Street, also being the southeast corner of A.T. Seymour Heirs; thence along the eastern property line of A.T. Seymour Heirs the following three (3) calls: N 26°16'51" E 166.66', S 64°40'27" E 3.99', and N 27°36'14" E 109.53' to a point on the southern property line of Thomas E. Seymour; thence along the property lines of Thomas E. Seymour the following three (3) calls: N 64°44'27" W 209.92', N 29°11'13" E 116.32', and S 63°52'04" E 170.02' to the southeast corner of Eric D. and Patricia Pollock Creta; thence along the eastern property line of Eric D. and Patricia Pollock Creta N 26°07'32" E 184.96' to a point on the southern right-of-way of West Moore Street; thence along the West Moore Street southern right-of-way S 63°57'53" E 10.10' to a point; thence leaving the southern right-of-way of West Moore Street and following the eastern right-of-way of Hudson Avenue N 28°53'12" E 130.24' to a point; thence leaving the Hudson Avenue eastern right-of-way S 61°06'48" E 109.23' to a point; thence N 28°09'08" E 80.92' to a point; thence N 60°52'34" W 33.18' to a point; thence N 30°30'46" E 85.93' to a point; thence N 62°41'01" W 76.03' to a point; thence N 28°25'56" E 128.57' to a point being on the eastern right-of-way of Hudson Avenue and the southern right-of-way of Holleman Street; thence crossing Hudson Avenue N 56°56'16" W 20.07' to the northeast corner of William J. Evans, Jr.; thence along the Holleman Street southern right-of-way, also being the northern property line of William J. Evans, Jr., N 60°00'00" W 192.72' to the northeast corner of Carey C. Jones Memorial Park; thence leaving the southern right-of-way of Holleman Road and following the eastern edge of Carey C. Jones Memorial Park the following six (6) calls: S 29°51'00" W 150.00', N 60°03'08" W 5.20', S 26°14'24" W 99.23', N 63°24'21" W 11.54', N 65°03'26" W 89.86', and S 29°57'39" W 162.25' to a point on the northern right-of-way of West Moore Street; thence with the West Moore Street northern right-of-way N 71°38'54" W 546.63' to a point on the eastern right-of-way of Upchurch Street; thence along the Upchurch Street eastern right-of-way N 30°10'39" E 558.38' to a point on the northern right-of-way of Holleman Street; thence along the Holleman Street northern right-of-way S 61°48'47" E 284.70' and S 59°01'13" E 289.14' to a corner of Apex Baptist Church; thence leaving the northern right-of-way of Holleman Street and following



along the western edge of Apex Baptist Church the next four (4) calls: N 28°31'39" E 174.53', S 65°08'57" E 67.87', S 65°34'53" E 64.94', and N 29°20'38" E 256.34' to a point on the northern right-of-way of West Chatham Street; thence along the West Chatham Street northern right-of-way S 64°49'33" E 156.08' to a point; thence leaving the northern right-of-way of West Chatham Street N 27°15'51" E 159.33' to a point on the southern property line of the Town of Apex Police Department; thence along the southern property line of the Town of Apex Police Department the following four (4) calls: N 64°05'39" W 289.37', N 64°18'46" W 80.73', N 64°41'58" W 94.64', and N 64°14'26" W 103.74' to the point and place of beginning.

2. **Amendments to Sec. 7.5.4.E *Public Access Requirements* in order to remove standards related to the required number of points of access for new residential developments in order to generally rely on Appendix D of the North Carolina International Fire Code.**

Background: In September 2023, State law changed to no longer allow local governments to require access roads in excess of the Fire Code of the North Carolina Residential Code for One- and Two-Family Dwellings. Planning staff met with Fire Department and Transportation & Infrastructure Development staff to review the standards in the UDO for all residential developments and agreed that it is appropriate to rely on the Fire Code for multifamily developments as well.

7.5.4 Required Improvements, Streets

...

E) Public Access Requirements

All residential development or any portion thereof shall **meet and may exceed the minimum public access requirements established by Appendix D of the North Carolina International Fire Code.** ~~(either by itself or in combination with another existing development through which it accesses the public street system) propose no more than 50 single family units, 100 multi-family units, or 50 units of single family and multi-family combined unless it is served by at least two (2) points of access to the public street system. When more than one (1) point is required, one (1) of those two (2) points must be a full-movement intersection and both points of access must be constructed to Town of Apex standards. A stub street allowing for future connectivity but not being extended to the public street system in conjunction with the proposed development cannot be considered a point of access. The points of access serving the development shall be separated by a minimum distance of 500 feet. The spacing between points of access is subject to approval by the North Carolina Department of Transportation if the access is proposed along a state maintained roadway. Any residential development exceeding 300 residential units shall provide at least three (3) points of access to the public street system. Construction of a Major Collector or Thoroughfare on the Advance Apex: The 2045 Transportation Plan can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities. **For multi-family development, at least one (1) point of access shall be full-movement.** See also Sec. 7.2.1.A.2 *Points of ingress/egress.*~~

...

3. **Amendments to Sec. 6.1.11.G *Uses Permitted Within the Riparian Buffer*** in order to clarify that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos based on interpretation from the North Carolina Department of Environmental Quality.

Table 6.1.11.G.1

Use	Exempt*	Allowable*	Allowable with Mitigation*
...			
Recreational and accessory structures in Zones 2 and 3: <ul style="list-style-type: none"> <li>• Sheds <del>and</del> gazebos, <b>and screened porches</b> in Zones 2 and 3, except along perennial waters in Neuse River Basin where high-density development option is utilized               <ul style="list-style-type: none"> <li>o Total footprint less than or equal to 150 square feet per lot</li> <li>o Total footprint greater than 150 square feet per lot</li> </ul> </li> <li>• Slatted uncovered decks and associated steps, provided the use meets the requirements of Sec. 6.1.11.E and F of this Ordinance:               <ul style="list-style-type: none"> <li>o Deck at least eight (8) feet in height in Zone 2 and no vegetation removed from Zone 1</li> <li>o Deck less than eight (8) feet in height in Zone 2 or vegetation removed from Zone 1</li> <li>o Deck in Zone 3</li> </ul> </li> </ul>		X	X
...		X	X

**PLANNING STAFF RECOMMENDATION:**

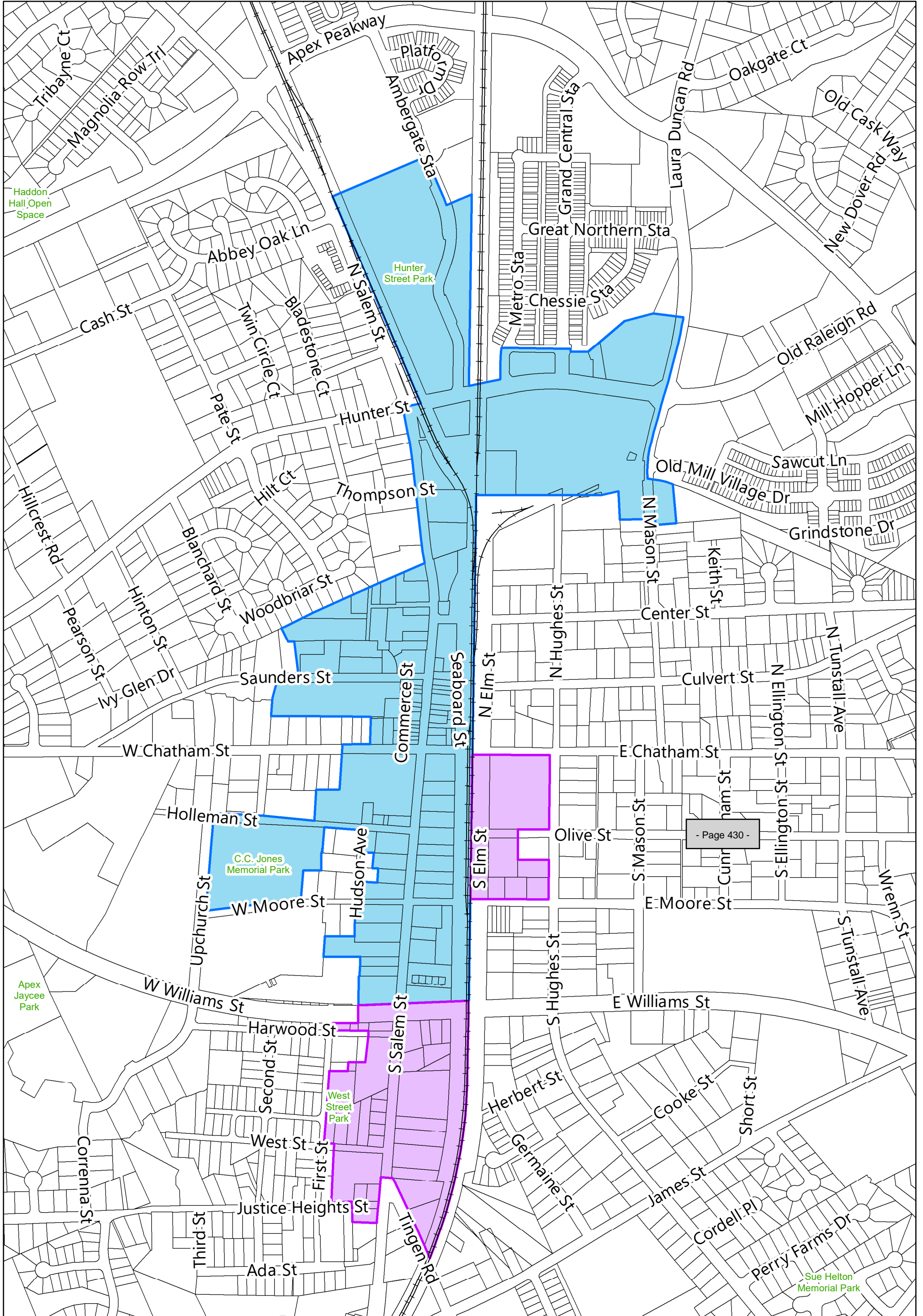
Planning staff recommends approval of the proposed amendments.

**PLANNING BOARD RECOMMENDATION:**

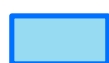

The Planning Board heard these amendments at their December 11, 2023 meeting and unanimously recommended approval.

# Downtown Festival District

# DRAFT



Last Printed: December 4, 2023  
Town of Apex Planning Department

-  Existing District Boundary
-  Proposed District Expansion



0 250 500 1,000 Feet

1 Inch = 500 Feet

- Page 430 -

**PLANNING BOARD REPORT TO TOWN COUNCIL**  
**Unified Development Ordinance Amendments**

Planning Board Meeting Date: December 11, 2023



**Report Requirements:**

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

**Planning Board Recommendation:**

Motion: To recommend approval as presented.

Introduced by Planning Board member: Sarah Soh

Seconded by Planning Board member: Daniel Khodaparast

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

- Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 11th day of December 2023.

Attest:

  
Regina Skinner, Planning Board Chair

**Dianne Khin**  
Digitally signed by Dianne Khin  
Date: 2023.12.11 16:42:37  
-05'00'  
Dianne Khin, Planning Director





## TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARING AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) CONTINUED

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance that are applicable Town-wide:

### Requested by Planning Staff:

1. Amendments to Sec. 12.2 *Terms Defined* in order to expand the boundaries of the Downtown Festival District.
2. Amendments to Sec. 7.5.4.E *Public Access Requirements* in order to remove standards related to the required number of points of access for new residential developments in order to generally rely on Appendix D of the North Carolina International Fire Code.
3. Amendments to Sec. 6.1.11 *Uses Permitted Within the Riparian Buffer* in order to clarify that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos based on interpretation from the North Carolina Department of Environmental Quality.

**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

### **Town Council Public Hearing Date and Time:** ~~January 9~~ **February 13, 2024 6:00 PM**

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP  
Planning Director

Published Dates: December 18, 2023-~~January 9~~ **February 13, 2024**



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Dianne F. Khin, AICP  
Planning Director



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## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza  
de Desarrollo Unificado (UDO)

**CONTINUADO**

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

### A solicitud del personal de Planificación:

1. Enmiendas a la sección 12.2 *Términos definidos* para ampliar los límites del distrito de festivales del centro de la ciudad.
2. Enmiendas a la sección 7.5.4.E *Requisitos de acceso público* para eliminar las normas relacionadas con el número requerido de puntos de acceso para los nuevos desarrollos residenciales con el fin de confiar generalmente en el apéndice D del Código Internacional de Protección contra Incendios de Carolina del Norte.
3. Enmiendas a la sección 6.1.11 *Usos permitidos dentro de la franja de amortiguación ribereña* para aclarar que los porches protegidos pueden invadir una franja de amortiguación ribereña del mismo modo que los cobertizos y cenadores, según la interpretación del Departamento de Calidad Ambiental de Carolina del Norte.

**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2º piso  
73 Hunter Street, Apex, Carolina del Norte

**Fecha y hora de la audiencia pública del Consejo Municipal:** ~~9 de enero~~ **13 de febrero de 2024 6:00 PM**

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP  
Directora de Planificación

Fechas de publicación: 18 de diciembre de 2023 – ~~9 de enero~~ **13 de febrero de 2024**



**TOWN OF APEX**  
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APEX, NORTH CAROLINA 27502  
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## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza  
de Desarrollo Unificado (UDO)

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2. Enmiendas a la sección 7.5.4.E *Requisitos de acceso público* para eliminar las normas relacionadas con el número requerido de puntos de acceso para los nuevos desarrollos residenciales con el fin de confiar generalmente en el apéndice D del Código Internacional de Protección contra Incendios de Carolina del Norte.
3. Enmiendas a la sección 6.1.11 *Usos permitidos dentro de la franja de amortiguación ribereña* para aclarar que los porches protegidos pueden invadir una franja de amortiguación ribereña del mismo modo que los cobertizos y cenadores, según la interpretación del Departamento de Calidad Ambiental de Carolina del Norte.

**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2º piso  
73 Hunter Street, Apex, Carolina del Norte

**Fecha y hora de la audiencia pública del Consejo Municipal:** **9 de enero 13 de febrero de 2024 6:00 PM**

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

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Dianne F. Khin, AICP  
Directora de Planificación



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: February 13, 2024

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

### Requested Motion

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance (UDO). This item was continued from the January 9, 2024 Town Council meeting that was cancelled.

### Approval Recommended?

The Planning Department recommends approval.

The Planning Board heard these amendments at their December 11, 2023 meeting and unanimously recommended approval.

### Item Details

Requested by Planning Staff:

1. Amendments to Sec. 12.2 *Terms Defined* in order to expand the boundaries of the Downtown Festival District.
2. Amendments to Sec. 7.5.4.E *Public Access Requirements* in order to remove standards related to the required number of points of access for new residential developments in order to generally rely on Appendix D of the North Carolina International Fire Code.
3. Amendments to Sec. 6.1.11 *Uses Permitted Within the Riparian Buffer* in order to clarify that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos based on interpretation from the North Carolina Department of Environmental Quality.

### Attachments

- PH1-A1 - Staff Report - Unified Development Ordinance (UDO) Amendments - January 2024
- PH1-A2 - Planning Board Report to Town Council - Unified Development Ordinance (UDO) Amendments - January 2024
- PH1-A3 - Public Notice - Unified Development Ordinance (UDO) Amendments - January 2024
- PH1-A4 - Ordinance - Unified Development Ordinance (UDO) Amendments - January 2024



**PLANNING BOARD REPORT TO TOWN COUNCIL**  
**Unified Development Ordinance Amendments**

Planning Board Meeting Date: December 11, 2023



**Report Requirements:**

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

**Planning Board Recommendation:**

Motion: To recommend approval as presented.

Introduced by Planning Board member: Sarah Soh

Seconded by Planning Board member: Daniel Khodaparast

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 11th day of December 2023.

Attest:

  
Reginald Skinner, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2023.12.11 16:42:37 -05'00'  
Dianne Khin, Planning Director



## TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARING AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) CONTINUED

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance that are applicable Town-wide:

### Requested by Planning Staff:

1. Amendments to Sec. 12.2 *Terms Defined* in order to expand the boundaries of the Downtown Festival District.
2. Amendments to Sec. 7.5.4.E *Public Access Requirements* in order to remove standards related to the required number of points of access for new residential developments in order to generally rely on Appendix D of the North Carolina International Fire Code.
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**Public Hearing Location:** Apex Town Hall  
Council Chamber, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

### **Town Council Public Hearing Date and Time:** ~~January 9~~ **February 13, 2024 6:00 PM**

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide a written statement by email to [public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP  
Planning Director

Published Dates: December 18, 2023-~~January 9~~ **February 13, 2024**



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Dianne F. Khin, AICP  
Planning Director





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## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza  
de Desarrollo Unificado (UDO)

**CONTINUADO**

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

### A solicitud del personal de Planificación:

1. Enmiendas a la sección 12.2 *Términos definidos* para ampliar los límites del distrito de festivales del centro de la ciudad.
2. Enmiendas a la sección 7.5.4.E *Requisitos de acceso público* para eliminar las normas relacionadas con el número requerido de puntos de acceso para los nuevos desarrollos residenciales con el fin de confiar generalmente en el apéndice D del Código Internacional de Protección contra Incendios de Carolina del Norte.
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**Lugar de la audiencia pública:** Ayuntamiento de Apex  
Cámara del Consejo, 2º piso  
73 Hunter Street, Apex, Carolina del Norte

**Fecha y hora de la audiencia pública del Consejo Municipal:** ~~9 de enero 13 de febrero de 2024~~ **6:00 PM**

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Dianne F. Khin, AICP  
Directora de Planificación

Fechas de publicación: 18 de diciembre de 2023 – ~~9 de enero 13 de febrero~~ de 2024



## TOWN OF APEX

POST OFFICE BOX 250  
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TEL. 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

### Modificación de la Ordenanza de Desarrollo Unificado (UDO)

**CONTINUADO**

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

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Dianne F. Khin, AICP  
Directora de Planificación

## AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

**Section 1. Section 12.2 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

### 12.2 Terms Defined

...

#### Downtown Festival District

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of the surrounding residential neighborhoods. Legal description of boundaries: Beginning at an iron pipe being the southwest property corner of the Town of Apex Police Department and being the northwest corner of the Kenneth E. and Cheryl H. Koch, Jr. property; thence along the western property line of the Town of Apex Police Department N 29°37'50" E 91.05' to a point; thence continuing along said property line N 30°23'22" E 13.01' to a point; thence along the same property line N 40°38'29" E 142.69' to a point on the northern right-of-way of Saunders Street; thence along the Saunders Street northern right-of-way S 64°28'48" E 19.44' to a point; thence S 64°15'35" E 89.31' to a point on the aforementioned right-of-way; thence leaving the northern right-of-way of Saunders Street the following three (3) calls: N 18°01'23" E 184.23', N 65°08'53" W 31.82', and N 02°37'34" W 87.12' to a point on the southern boundary of the Brittany Trace neighborhood; then along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 47, the following three (3) calls: S 89°48'07" E 14.82', N 89°06'04" E 194.87', and S 88°48'57" E 398.32' to a point; thence N 89°04'55" E 16.80' to a point; thence S 88°02'04" E 272.91' to a point on the western right-of-way of North Salem Street; thence along the North Salem Street western right-of-way the following six (6) calls: N 14°58'41" E 62.09', N 18°22'46" E 40.83', N 18°51'26" E 493.54', N 17°19'26" E 95.95', N 12°19'09" E 53.97', and N 14°51'47" E 151.61' to a point in the centerline of Hunter Street; thence with the Hunter Street centerline S 75°57'32" E 104.78' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline N 02°16'41" E 1282.52' to a point; thence leaving the centerline of the mainline track for CSX Transportation and following the northern property line of the Town of Apex Hunter Street Park property S 87°43'03" E 580.19' to a point in the centerline of Ambergate Station; thence with the Ambergate Station centerline the following five (5) calls: S 02°43'42" W 159.30', S 02°06'51" W 103.90', S 03°09'44" W 15.57', S 05°10'12" W 20.26', and S 07°23'46" W 1.63' to a point; thence leaving the centerline of Ambergate Station S 87°56'20" E 157.12' to a point on the western right-of-way of CSX Transportation; thence along the CSX Transportation western right-of-way S 26°14'00" W 1091.25' to a point on the northern right-of-way of Hunter Street; thence along the Hunter Street northern right-of-way S 76°01'18" E 103.87' and S 75°58'18" E 78.32' to a point also being the western right-of-way of Metro Station; thence leaving the northern right-of-way of Hunter Street and following the Metro Station western right-of-way the next three (3) calls: N 26°17'55" E 139.57', N 29°35'10" E 20.07', and N 36°09'34" E 20.07' to a point; thence leaving the western right-of-way of Metro Station and following the centerline of Massapequa Station S 63°41'13" E 394.10' to a point; thence leaving the Massapequa Station centerline S 26°15'45" W 14.12' to a point on the eastern right-of-way of Grand Central Station; thence leaving the Grand Central Station eastern right-of-way and following the northern property line of Lot 105 (56 Hunter Street) Villages of Apex South Village – Phase 1A S 63°44'15" E 97.58' to a corner; thence crossing the Villages of Apex South Common Area and following a property line of Lot 1 Villages of Apex South N 75°06'49" E 272.40' to a point; thence continuing with the edge of said property

S 79°37'44" E 169.41' to a corner; thence crossing Lot 1 S 57°13'29" E 172.79' to a point in the centerline of Laura Duncan Road (**N.C.S.R. 1308**); thence along the Laura Duncan Road centerline the following seven (7) calls: S 30°28'38" W 15.53', S 36°13'57" W 28.13', S 36°18'01" W 50.25', S 38°00'41" W 69.01', S 40°05'16" W 110.45', S 39°37'43" W 106.22', and S 42°26'17" W 78.36' to the intersection of Laura Duncan Road and Hunter Street; thence leaving the intersection and continuing along the North Mason Street centerline the following twelve (12) calls: S 41°38'01" W 54.75', S 40°12'33" W 85.20', S 41°26'40" W 75.54', S 39°39'03" W 66.30', S 39°31'22" W 29.69', S 35°22'20" W 29.09', S 33°41'24" W 20.46', S 31°48'32" W 25.12', S 27°58'46" W 17.85', S 28°10'00" W 27.49', S 25°34'30" W 29.63', and S 25°01'01" W 26.26' to a point; thence leaving the centerline of North Mason Street and continuing along the northern property line of Town of Apex, also being the southern limit of an abandoned railroad easement, the following three (3) calls: S 57°30'04" E 71.43', S 51°04'36" E 36.87', and S 45°31'56" E 40.38' to a point; thence crossing the aforementioned Town of Apex property S 20°27'19" W 222.17' to its southern property line; thence along the southern property line of Town of Apex N 69°32'41" W 120.00' to a point on the eastern right-of-way of North Mason Street; thence N 22°06'06" E 34.22' to a point on the North Mason Street eastern right-of-way; thence crossing the right-of-way of North Mason Street and continuing along the southern property line of Town of Apex Town Campus N 66°08'18" W 199.31' to a corner; thence along a common line between Town of Apex and Larry Mack Jordan N 22°28'32" E 162.69' and N 77°35'02" W 96.38' to a corner; thence crossing a portion of Larry Mack Jordan, Town of Apex Town Campus, and North Hughes Street, also being collinear with the southern property line of the former Tunstall Life Estate, N 64°48'43" W 716.19' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline S 26°12'58" W ~~2880.48'~~ **1478.49'** to the southern right-of-way of East Chatham Street; thence following the East Chatham Street right-of-way, also being the property line of Apex United Methodist Church, S 64°17'14" E 441.18' to the western right-of-way of South Hughes Street; thence S 25°56'18" W 422.48' along said right-of-way to the northern right-of-way of Olive Street; thence along the northern right-of-way of Olive Street N 63°57'19" W 177.20' to a point on the northern right-of-way and being the vehicle entrance for Apex United Methodist Church; thence crossing Olive Street and following the common line between Apex United Methodist Church and the property of Jon Douglas and Margaret Anne Allen S 25°57'20" W 175.73'; thence along the southern property line of Jon Douglas and Margaret Anne Allen S 64°30'43" E 177.80' to the western right-of-way of South Hughes Street; thence along the South Hughes Street right-of-way S 25°53'38" W 225.36' to the northern right-of-way of East Moore Street; thence following the East Moore Street right-of-way N 64°23'04" W 446.69' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline across East Williams Street (NC Highway 55) and continuing with a clockwise curve for approximately 2074' to the eastern right-of-way of Tingen Road (N.C.S.R. 1153); thence leaving the centerline of the mainline track and following the eastern right-of-way of Tingen Road the following three (3) calls: N 01°33'18" E 229.62', N 00°35'34" W 74.00', and N 00°01'57" W 202.14' to a point; thence leaving the Tingen Road eastern right-of-way and crossing South Salem Street (N.C.S.R. 1011) N 60°23'59" W 67.78' to a point on the western right-of-way; thence following the western South Salem Street right-of-way, also being the property line of Walter J. McClamb (Albright Funeral Home), S 29°36'02" W 42.24'; thence continuing along the western South Salem Street right-of-way and across Justice Heights Street the following three (3) calls: S 30°11'02" W 98.31', S 32°41'15" W 42.11', and S 29°27'41" W 81.33' to the southeast corner of St. Mary's African Methodist Episcopal (A.M.E.) Church; thence along the southern property line of St. Mary's A.M.E. Church N 62°22'04" W 139.32'; thence along the western property line of said church and continuing across Justice Heights Street to a point in the northern right-of-way N 23°57'20" E 116.56'; thence with the Justice Heights Street right-of-way N 67°18'07" W 117.88' to the southwest corner of Walter J. McClamb; thence leaving said right-of-way, following the western property line of Walter J.



McClamb and crossing West Street N 28°07'02" E 334.67'; thence along the northern West Street right-of-way to the eastern right-of-way for First Street, also being the southwest corner of Town of Apex (West Street Park) N 60°49'18" W 57.97'; thence along the eastern First Street right-of-way N 29°33'54" E 413.62' to the northwest corner of Town of Apex; thence leaving said right-of-way S 64°02'10" E 105.35' to a point in the common line of Town of Apex and Kyler L. Zadell; thence crossing Kyler L. Zadell N 29°16'02" E 49.73' to a point on the northern property line; thence along the northern property line of Kyler L. Zadell S 63°55'11" E 45.52' to a corner with KC2 Holdings, LLC; thence S 65°13'20" E 50.56' to a corner of KC2 Holdings, LLC; thence N 32°29'05" E 144.34' along the western property line of KC2 Holdings, LLC to the southern right-of-way for Harwood Street; thence across Harwood Street N 27°42'28" E 36.66' to a property corner for Sauls Investment Properties, LLC; thence along the Harwood Street northern right-of-way the following four (4) calls: N 64°00'51" W 58.43', N 64°01'22" W 48.92', N 63°54'08" W 77.36', and a curve to the right having a radius of 21.41' feet and a chord bearing and distance of N 21°34'11" W 28.85' to a point in the eastern right-of-way of First Street; thence along said right-of-way N 29°27'20" E 21.97' to the southern right-of-way of West Williams Street; thence along the southern West Williams Street right-of-way S 64°26'19" E 100.86' and S 66°54'43" E 45.16' to a property corner of Sauls Investment Properties, LLC; thence crossing West Williams Street N 25°38'03" E 100.09' to the northern right-of-way and being a common corner of A.T. Seymour Heirs and K2 Holdings, LLC; to a point on the eastern right-of-way of East Williams Street (NC Highway 55); thence with the NC Highway 55 eastern right-of-way N 66°53'40" W 628.99' to a point on the eastern right-of-way of West Williams Street, also being the southeast corner of A.T. Seymour Heirs; thence along the eastern property line of A.T. Seymour Heirs the following three (3) calls: N 26°16'51" E 166.66', S 64°40'27" E 3.99', and N 27°36'14" E 109.53' to a point on the southern property line of Thomas E. Seymour; thence along the property lines of Thomas E. Seymour the following three (3) calls: N 64°44'27" W 209.92', N 29°11'13" E 116.32', and S 63°52'04" E 170.02' to the southeast corner of Eric D. and Patricia Pollock Creta; thence along the eastern property line of Eric D. and Patricia Pollock Creta N 26°07'32" E 184.96' to a point on the southern right-of-way of West Moore Street; thence along the West Moore Street southern right-of-way S 63°57'53" E 10.10' to a point; thence leaving the southern right-of-way of West Moore Street and following the eastern right-of-way of Hudson Avenue N 28°53'12" E 130.24' to a point; thence leaving the Hudson Avenue eastern right-of-way S 61°06'48" E 109.23' to a point; thence N 28°09'08" E 80.92' to a point; thence N 60°52'34" W 33.18' to a point; thence N 30°30'46" E 85.93' to a point; thence N 62°41'01" W 76.03' to a point; thence N 28°25'56" E 128.57' to a point being on the eastern right-of-way of Hudson Avenue and the southern right-of-way of Holleman Street; thence crossing Hudson Avenue N 56°56'16" W 20.07' to the northeast corner of William J. Evans, Jr.; thence along the Holleman Street southern right-of-way, also being the northern property line of William J. Evans, Jr., N 60°00'00" W 192.72' to the northeast corner of Carey C. Jones Memorial Park; thence leaving the southern right-of-way of Holleman Road and following the eastern edge of Carey C. Jones Memorial Park the following six (6) calls: S 29°51'00" W 150.00', N 60°03'08" W 5.20', S 26°14'24" W 99.23', N 63°24'21" W 11.54', N 65°03'26" W 89.86', and S 29°57'39" W 162.25' to a point on the northern right-of-way of West Moore Street; thence with the West Moore Street northern right-of-way N 71°38'54" W 546.63' to a point on the eastern right-of-way of Upchurch Street; thence along the Upchurch Street eastern right-of-way N 30°10'39" E 558.38' to a point on the northern right-of-way of Holleman Street; thence along the Holleman Street northern right-of-way S 61°48'47" E 284.70' and S 59°01'13" E 289.14' to a corner of Apex Baptist Church; thence leaving the northern right-of-way of Holleman Street and following along the western edge of Apex Baptist Church the next four (4) calls: N 28°31'39" E 174.53', S 65°08'57" E 67.87', S 65°34'53" E 64.94', and N 29°20'38" E 256.34' to a point on the northern right-of-way of West Chatham Street; thence along the West Chatham Street northern right-of-way S 64°49'33" E 156.08' to a point; thence leaving the northern right-of-way of West Chatham Street N 27°15'51" E 159.33' to a point on the southern property line of the Town of

Apex Police Department; thence along the southern property line of the Town of Apex Police Department the following four (4) calls: N 64°05'39" W 289.37', N 64°18'46" W 80.73', N 64°41'58" W 94.64', and N 64°14'26" W 103.74' to the point and place of beginning.

...

**Section 2. Section 7.5.4.E of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

7.5.4 Required Improvements, Streets

...

E) Public Access Requirements

All residential development or any portion thereof shall **meet and may exceed the minimum public access requirements established by Appendix D of the North Carolina International Fire Code.** ~~(either by itself or in combination with another existing development through which it accesses the public street system) propose no more than 50 single-family units, 100 multi-family units, or 50 units of single-family and multi-family combined unless it is served by at least two (2) points of access to the public street system. When more than one (1) point is required, one (1) of those two (2) points must be a full-movement intersection and both points of access must be constructed to Town of Apex standards. A stub street allowing for future connectivity but not being extended to the public street system in conjunction with the proposed development cannot be considered a point of access. The points of access serving the development shall be separated by a minimum distance of 500 feet. The spacing between points of access is subject to approval by the North Carolina Department of Transportation if the access is proposed along a state-maintained roadway. Any residential development exceeding 300 residential units shall provide at least three (3) points of access to the public street system. Construction of a Major Collector or Thoroughfare on the Advance Apex: The 2045 Transportation Plan can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities. **For multi-family development, at least one (1) point of access shall be full-movement.** See also Sec. 7.2.1.A.2 *Points of ingress/egress.*~~

...

**Section 3. Section 6.1.11.G of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

Table 6.1.11.G.1

Use	Exempt*	Allowable*	Allowable with Mitigation*
...			
Recreational and accessory structures in Zones 2 and 3: <ul style="list-style-type: none"> <li>• <del>Sheds and</del> <b><u>gazebos, and screened porches</u></b> in Zones 2 and 3, except along perennial waters in Neuse River Basin where high-density development option is utilized               <ul style="list-style-type: none"> <li>o Total footprint less than or equal to 150 square feet per lot</li> <li>o Total footprint greater than 150 square feet per lot</li> </ul> </li> </ul>		X	X

Use	Exempt*	Allowable*	Allowable with Mitigation*
<ul style="list-style-type: none"> <li>• Slatted uncovered decks and associated steps, provided the use meets the requirements of Sec. 6.1.11.E and F of this Ordinance:               <ul style="list-style-type: none"> <li>o Deck at least eight (8) feet in height in Zone 2 and no vegetation removed from Zone 1</li> <li>o Deck less than eight (8) feet in height in Zone 2 or vegetation removed from Zone 1</li> <li>o Deck in Zone 3</li> </ul> </li> </ul>		X	X
...			

**Section 4.** The Planning Director and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this ordinance.

**Section 5.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**Section 6.** The ordinance shall be effective upon enactment on the \_\_\_\_ day of \_\_\_\_\_ 2024.

Introduced by Council Member \_\_\_\_\_

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

Attest: TOWN OF APEX

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

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

Approved As To Form:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: OLD BUSINESS

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Councilmember Terry Mahaffey, Sponsor

Department(s): Governing Body

### Requested Motion

Discuss, provide staff with direction, and schedule next steps as appropriate.

### Approval Recommended?

N/A

### Item Details

The Apex Town Council considered the proposed ordinance amendment during the October 24, 2023, regular meeting and the ordinance passed by a simple majority (3-2 with Councilmember Gantt and Councilmember Gray dissenting). For the Town to pass an ordinance on the date of introduction (first vote by council), the ordinance must receive an affirmative vote by 2/3s of its members. For Apex, this "supermajority" vote requires an affirmative vote of 4 members. Because the ordinance passed by a simple majority, it is being presented again for a second vote. **Council is not expected to vote on this item during the February 13, 2024, Regular Town Council Meeting.**

Council is expected to discuss the proposed amendment and provide clear direction to staff on additional information that is needed and/or would be helpful to them in considering this item on second reading. Additionally, Council will consider outlining the next steps in the process.

The North Carolina Building Code Council and/or Residential Building Code Council (new) will have to approve of the change before fire sprinkler systems can be required in Apex. It is anticipated that review and approval of the proposed ordinance will take several months.

The next North Carolina Building Code Council Meetings are March 18, 2024 and June 10, 2024. The deadline for agenda submission is the first day of the month, one month prior.

## Attachments



- OB1-A1: **REFERENCE ONLY** - Ordinance Amendment - Chapter 5 - Article 1 - Section 5 - Automatic Fire Sprinkler System



**ORDINANCE NO. 2023-1024-\_\_**

**AN ORDINANCE TO AMEND SECTION 5-9 OF THE CODE OF ORDINANCES OF  
THE TOWN OF APEX**

WHEREAS, North Carolina General Statutes (“NCGS”) § 143-138 provides that the fire prevention code provisions of the North Carolina State Building Code: Fire Prevention Code are considered the minimum standards necessary to preserve and protect health and safety, and that municipalities and counties may submit more stringent provisions for approval by the North Carolina Building Code Council;

WHEREAS, NCGS § 143-138 further provides that fire prevention standards exceeding the state minimum standards require official approval from the Building Code Council and that they provide adequate minimum standards to preserve and protect health and safety; and

WHEREAS, the Town Council of the Town of Apex finds it in the best interest of its citizens to provide fire prevention standards that exceed the standards mandated by the State of North Carolina.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Apex as follows:

**Section 1. Section 5-9 of the Code of Ordinances of the Town of Apex is hereby amended to read as follows, with additions shown as bold, underlined text and deletions as struck through text:**

**Sec. 5-9. – State building code, fire code.**

**(a)** The North Carolina State Building Code, Fire Code, as adopted by the North Carolina Building Code Council as amended from time to time, is hereby incorporated by reference into this Code as if fully set forth herein, and Appendices B, C, D, E, F, G, and H are specifically adopted and incorporated herein by reference.

**(b) Notwithstanding the exception to applicability for occupancy of one- and two-family dwellings in Section 102.13 of the North Carolina State Building Code: Fire Prevention Code, Section 903.2.8 and Section 903.2.8.1 of the North Carolina State Building Code: Fire Prevention Code, as amended, shall be amended and apply within the Town of Apex, as follows:**

**903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.**

**Exceptions:**

- 1. An automatic sprinkler system is not required in new adult and child day care facilities located in existing Group R-3 and R-4 occupancies.**
- 2. An automatic sprinkler system is not required in temporary overflow shelters.**
- 3. An automatic sprinkler system is not required in camping units located within a campground where all of the following conditions exist.**
  - 3.1 The camping unit is limited to one story in height.**
  - 3.2 The camping unit is less than 400 square feet (37 m<sup>2</sup>) in area.**
  - 3.3 The camping unit does not have a kitchen.**
- 4. An automatic sprinkler system is not required in an open air camp cabin that complies with the following:**
  - 4.1 The open air camp cabin shall have at least two remote unimpeded exits. Lighted exit signs shall not be required.**
  - 4.2 The open air camp cabin shall not be required to have plumbing or electrical systems, but if the cabin has these systems, then the provisions of the code otherwise applicable to those systems shall apply.**
  - 4.3 Smoke detectors and portable fire extinguishers shall be installed as required by other sections of this code.**
- 5. Temporary sleeping units for disaster relief workers as allowed by Section 321.4.5.**

**903.2.8.1 Group R-3.**

**An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be required in Group R-3 occupancies and townhouses.**

**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 six months after approval by the North Carolina Building Code Council.

Introduced by Council Member: \_\_\_\_\_

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

This the \_\_\_\_ day of \_\_\_\_\_, 2024.

Attest:

TOWN OF APEX, NORTH CAROLINA

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

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

Approved As To Form:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: February 13, 2023

## Item Details

Presenter(s): Demetria John, Assistant Town Manager  
Steve Adams, Utilities Acquisition / Real Estate Specialist

Department(s): Town Manager's Office  
Transportation and Infrastructure Development

### Requested Motion

Possible motion to go into closed session pursuant to NCGS § 143-318.11(a)(5) to discuss matters related to acquisition of real property.

### Approval Recommended?

N/A

### Item Details

#### **NCGS § 143-318.11(a)(5)**

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

### Attachments

- N/A



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Services

### Requested Motion

Possible motion to go into closed session pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney concerning the handling of the matter: Town of Apex v. Briartac Family, LLC.

### 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



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: February 13, 2024

## Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Services

### Requested Motion

Motion to go into closed session pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney in order to preserve attorney-client privilege.

### Approval Recommended?

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

