

# AGENDA | REGULAR TOWN COUNCIL MEETING

April 26, 2022 at 6:00 PM Council Chambers - Apex Town Hall, 73 Hunter Street The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

#### Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Audra Killingworth Council Members: Brett D. Gantt; Cheryl F. Stallings; Terry Mahaffey; Edward Gray Town Manager: Catherine Crosby | Assistant Town Managers: Shawn Purvis and Marty Stone Interim Town Clerk: Julie Reid | Town Attorney: Laurie L. Hohe

## COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

#### CONSENT AGENDA

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

CN1 Julie Reid, Interim Town Clerk

Motion to approve the minutes of the April 12, 2022 meeting of the Regular Town Council Meeting.

CN2 Julie Reid, Interim Town Clerk

Motion to approve the Apex Tax Report dated March 1, 2022.

<u>CN3</u> Jason Armstrong, Chief of Police

Request motion to amend Article VIII "Parking" of Chapter 20 of the Town of Apex Code of Ordinances

<u>CN4</u> Amanda Bunce, Current Planning Manager

Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding amendments to the Unified Development Ordinance (UDO) related to the creation of the Downtown Festival District and other associated amendments.

- <u>CN5</u> Amanda Bunce, Current Planning Manager Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding various amendments to the Unified Development Ordinance (UDO).
- <u>CN6</u> Shannon Cox, Long Range Planning Manager

Motion to approve, and to authorize the Town Manager to sign and execute, the GoApex Agreement with Town of Cary and MV Transportation.

- <u>CN7</u> Shannon Cox, Long Range Planning Manager Motion to approve, and to authorize the Town Manager to sign and execute, the ADA Paratransit Services Agreement with Wake County.
- CN8 Shelly Mayo, Planner II

Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding Rezoning Application #21CZ29 North Salem Station PUD. The applicant, Ana Wadsworth with The Wooten Company, seeks to rezone approximately 10.39 acres from Planned Commercial (PC) & Neighborhood Business (B1) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 Candun Dr., 0 Laura Duncan Rd., and 0 N. Salem St.

CN9 Russell H. Dalton, PE, Traffic Engineering Manager Motion to approve a Supplemental Agreement with NCDOT for \$10,000,000 in supplemental construction funds toward U-5928, Apex Peakway at South Salem Street and the CSX railroad tracks, and to authorize the Town Manager to execute the agreement on behalf of the Town.

<u>CN10</u> Marty Stone, Assistant Town Manager Motion to approve an encroachment agreement between the Town and property owner Dhiraj

Adhikari to install a concrete patio that will encroach 61 square feet and a fence that will encroach 34 linear feet onto the Public Drainage Easement and authorize the Town Manager to execute the same.

CN11 Lauren Staudenmaier, Planner II

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for May 10, 2022, on the Question of Annexation – Apex Town Council's intent to annex the Jessica and Abel Figueroa property containing 5.88 acres located at 804 and 808 Wimberly Road, Annexation #723 into the Town's corporate limits. Note: This annexation has been re-scheduled.

CN12 Dianne Khin, Director of Planning and Community Development Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for May 10, 2022, on the Question of Annexation - Apex Town Council's intent to annex the WFINV, LLC property containing 1.910 acres located at 1016 N. Salem Street, Annexation #730 into the Town's corporate limits.

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Note: This annexation has been re-scheduled.

CN13 Dianne Khin, Director of Planning and Community Development Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for May 10, 2022, on the Question of Annexation - Apex Town Council's intent to annex the Tony C. Sears and Judy T. Sears property containing 1.6209 acres located at 0 Kelly Road, Annexation #731 into the Town's corporate limits. Note: This annexation has been re-scheduled.

#### PRESENTATIONS

- <u>PR1</u> Apex Town Council and Stephanie Mitchell of the Apex Public School Foundation Presentation of the Peak S.T.A.R. Award
- PR2 Jacques Gilbert, Mayor Presentation of the "Think Apex Day" Proclamation
- <u>PR3</u> Jacques K. Gilbert, Mayor Presentation of Foster Care Awareness Month Proclamation
- <u>PR4</u> Jacques K. Gilbert, MayorPresentation of the Public Service Recognition Week Proclamation
- PR5 Jacques K. Gilbert, Mayor

Presentation of the Civilian Law Enforcement Professionals Week Proclamation

#### **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 Lauren Staudenmaier, Planner II

Public Hearing and possible motion to approve Rezoning Application #21CZ26 Humie Olive Commercial. The applicant, Jeff Roach, Peak Engineering & Design PLLC., seeks to rezone

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approximately 7.69 acres from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 & 7525 Humie Olive Road.

PH2 Amanda Bunce, Current Planning Manager

Public Hearing and possible motion to approve Rezoning Application #22CZ03 Sweetwater PUD Amendment. The applicant, David Schmidt, ExperienceOne Homes, LLC, seeks to rezone approximately 44.76 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 & 3233 US 64 Hwy W, 0 Core Banks St, and 1051 & 1075 Newland Ave.

PH3 Lauren Staudenmaier, Planner II

Public Hearing and possible motion to approve Rezoning Application #22CZ04 804 & 808 Wimberly Road and Ordinance. The applicant, Zak Shipman, Shipman Engineering, PLLC., seeks to rezone approximately 5.84 acres from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 804 & 808 Wimberly Road.

# The staff requests for this to be continued.

## OLD BUSINESS

## UNFINISHED BUSINESS

## NEW BUSINESS

NB1 Christopher "C.J." Valenzuela, Housing Program Manager Possible motion to provide financial support to Evergreen Construction Company for the residential affordable housing senior (55 yrs. +) rental project known as Abbey Spring in the form of a loan from the Affordable Housing Fund for permanent financing contingent upon final project approval, and authorize the Town Manager to execute loan and compliance project documentation.

## UPDATES BY TOWN MANAGER

# CLOSED SESSION

## <u>CS1</u> Steve Adams, Real Estates & Public Utilities

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

WORK SESSION

ADJOURNMENT

Agenda Item   cover sheet			
for consideration by the Apex Town Council			
		Item Turnet	
		Item Type: Meeting Date:	CONSENT AGENDA April 26, 2022
<u>ltem Det</u>	ails		
Presenter(s):	Julie Reid, Interim Town Clerk		
Department(s):	Office of the Town Clerk		
	Requested Motion	<u>l</u>	
Motion to approve	the minutes of the April 12, 2022 meeting o	f the Regular Town	Council Meeting.
X	Approval Recommenc	led?	
Yes	<u>Item Details</u>		
N/A			
Attachments			
Minutes of the April 12, 2022 Regular Town Council Meeting			





#### MINUTES - REGULAR TOWN COUNCIL MEETING

APRIL 12, 2022 AT 6:00 PM

COUNCIL CHAMBERS – APEX TOWN HALL, 73 HUNTER STREET

#### WELCOME AND COMMENCEMENT

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

"The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds the community together. Inviting members from different faith communities to deliver an invocation at the beginning of our council meetings supports this unity, recognizes that not everyone practices the same traditions, we welcome you to have a private moment of silence." He spoke on the unity of the community and on the people within the community. He recognized the members of the community.

The mayor asked those attending to join in the Pledge of Allegiance.

#### Town Council and Administration:

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

#### **CONSENT AGENDA**

The Mayor explained that 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 presented the Consent Agenda to be set prior to taking any action on the following items:

He said item CN17 has been requested to be removed from the consent agenda and moved to new business. A motion was made to approve the amended consent agenda. (Motion: Council Member Gray\Second: Council Member Gantt, Vote: Approved 4-0).

- CN1 Approval of the minutes of the March 8, 2022 and March 22, 2022 meetings of the Regular Town Council Meeting.
- CN2 Approval of Town Co-Sponsored Special Event Requests for 2022.
- **CN3** Approval of revisions to the Town Standard Specifications and Details.

- CN4 Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #21CZ26 Humie Olive Commercial. The applicant, Jeff Roach, Peak Engineering & Design PLLC., seeks to rezone approximately 7.69 acres from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 & 7525 Humie Olive Road.
- CN5 Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #22CZ03 Sweetwater PUD Amendment. The applicant, David Schmidt, ExperienceOne Homes, LLC, seeks to rezone approximately 44.76 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 & 3233 US 64 Hwy W, 0 Core Banks St, and 1051 & 1075 Newland Ave.
- CN6 Approval to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for April 26, 2022, on the Question of Annexation Apex Town Council's intent to annex the Jessica and Abel Figueroa property containing 5.88 acres located at 804 and 808 Wimberly Road, Annexation #723 into the Town's corporate limits.
- CN7 Approval to set a Public Hearing for the April 26, 2022 Town Council meeting regarding Rezoning Application #22CZ04 804 & 808 Wimberly Road and Ordinance. The applicant, Zak Shipman, of Shipman Engineering, PLLC., seeks to rezone approximately 5.84 acres from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 804 & 808 Wimberly Road.
- CN8 Approval of a Statement of the Town Council and Ordinance for Rezoning Case #21CZ32 Chapel Ridge Towns PUD, Toll Bros., Inc., petitioner, for the properties located at 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane; and Barnside Lane right-of-way.
- CN9 Approval to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for April 26, 2022, on the Question of Annexation Apex Town Council's intent to annex the Tony C. Sears and Judy T. Sears property containing 1.6209 acres located at 0 Kelly Road, Annexation #731 into the Town's corporate limits.
- CN10 Approval to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for April 26, 2022, on the Question of Annexation Apex Town Council's intent to annex the WFINV, LLC property containing 1.910 acres located at 1016 N. Salem Street, Annexation #730 into the Town's corporate limits.
- CN11 Approval of a 3-year agreement with Buckhorn Vegetation Control, LLC., and to authorize the Town Manager to execute the agreement on behalf of the Town.
- CN12 Approval of an amendment to Ordinance 20-61, with the addition of part (2) under subsection (a) prohibiting the left turn movement on Knollwood Drive approaching Laura Duncan Road on days that school is in session for Apex High School between the hours of 6:45 a.m. and 7:30 a.m.
- CN13 Approval of the installation of a traffic calming speed hump device on Blackburn Road.

- CN14 Approval of an encroachment agreement between the Town and property owner Lennar Carolinas, LLC to install a driveway that will encroach 334 square feet (SF) onto the Public Utility Easement and a sidewalk that will encroach 14 square feet (SF) onto the Public Drainage Easement and authorize the Town Manager to execute the same.
- CN15 Approval of an encroachment agreement between the Town and property owners Colin John McGinley and spouse Melissa Beth McGinley to install a fence that will encroach 370 square (SF) onto the Town's Public Utility Easement and authorize the Town Manager to execute the same.
- CN16 Approval of the enclosed resolution to apply for an Asset Inventory and Assessment (AIA) grant from the NC Division of Water Infrastructure (DWI).
- CN17 Removed from the Consent Agenda.
- CN18 Approval of a Budget Ordinance Amendment No. 18 which appropriates insurance proceeds to be used for the purchase of a replacement Police vehicle.
- CN19 Approval of a Duke Energy Progress (DEP) easement and authorization for Town Manager to sign easement.
- CN20 Approval to award a sewer rehabilitation contract to Pipeline Utilities, Inc and to authorize the Town Manager to execute the contract on behalf of the Town and approve Budget Ordinance Amendment 17 and Capital Project Ordinance Amendment 2022-03.
- CN21 Approval of an amendment to Section 12-21 of the Apex Town Code.
- CN22 Approval of an Apex Yard Waste Agreement with Greenway Waste Solution of Apex LLC.
- CN23 Approval of the American Rescue Plan Act policies (Nondiscrimination, Cost Principles, Eligible Use, Project Review, ARPA Real Property, Record Retention, Providing Pandemic Recovery Grants to Nonprofit Agencies) Uniform Guidance Procurement and Conflict of Interest Policy.
- CN24 Approval and the authorization of seven (7) full-time positions, increasing the FTE of the Lab Supervisor position from .875 FTE to 1.0 FTE, and corresponding Budget Ordinance Amendment 19.

#### PRESENTATIONS

- PR1 The Mayor and Council read a proclamation declaring April 10<sup>th</sup> through April 16,2022 National Telecommunicator Week. Deputy Chief McKinney expressed the gratitude of the police department and said the Town recognized the large contributions they make every day.
- PR2 The Mayor gave a brief history of the "Think Apex" awards. "The 2022 Think Apex Awards nominees and winners gave back to Apex in multiple ways in 2021, uniquely impacting those around them. On April 12, 2022, town officials recognized them for their dedicated and outstanding service to others and the Apex community." (Town of Apex website) The Mayor and Council along with former Mayor Pro Tem Nicole Dozier presented the "think Apex" awards. The awards were as follows:

#### **Top Thinkers:**

Individual or Group: Tayon Nicole Dancy Individual or Group - Youth: Indya Nivar Non-Profit: Western Wake Alumnae Chapter of Delta Sigma Theta Sorority, Inc. Business: NC Tutors & Educational Services

#### **Honorable Mentions:**

Individual or Group: Dr. Jodi Reed and Jason Lendhart Individual or Group - Youth: Miguel Guerra Non-Profit: Endless Sports

**Business:** Melissa Ragan, Owner of The Ragan Realty Team

- PR3 The Mayor introduced Donald Gintzig, President and CEO of WakeMed Health and Hospitals and Rick Shrum, Vice President and Chief Strategy Officer of WakeMed Health and Hospitals. The gentlemen gave the Town of Apex an update on Behavioral Health in Wake County. They explained the eight mental health truths in Wake County. They reviewed the numbers of patients from Apex, the number of those with behavioral health issues, the number of suicides and homicides and the number of drug overdoses. They described the impacts of COVID on patients, particularly the rise in pediatric cases. They discussed how people are transported into the hospitals and what steps are taken to evaluate and refer patients for care. They outlined the next steps needed to address the rising problem and the associated costs. They are looking to the Cities and Towns to partner with them to address these issues, using ARPA funding available to the communities. Finally, they described how the funds would be used.
- PR4 The Mayor and Council read a National Science Appreciation Day Proclamation and expressed their gratitude for advances in all fields of research and development.
- PR5 The Mayor and Town Council read an Autism Awareness & Acceptance Month Proclamation and encourages the community to join advocacy efforts. They expressed their desire that these citizens receive all the opportunities afforded to other members of the community.

#### **REGULAR MEETING AGENDA**

The Mayor asked if there were any changes to the regular agenda. Hearing none, he asked for a motion to approve the agenda as presented. (Motion: Council Member Stallings\Second: Council Member Gray\Vote 4-0.)

#### PUBLIC FORUM

Mayor Gilbert called for members of the public that wished to address the Town Council. Hearing none, he closed the Public Forum.

#### **PUBLIC HEARINGS**

PH1 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment. Public hearing and possible motion regarding an amendment to the thoroughfare and Collector Street Plan for Pristine Water Drive. It is shown on the map as a minor collector. It is proposed shift to an

alignment to the south. There is an existing pipeline easement in the current alignment and it is not possible to construct the road in the easement. Argos has agreed to the construction of an intersection with Highway 55, Williams Street on the east side of the road along the new alignment. Additionally, future proposed construction across the road would be provided access via this new alignment, which would be constructed by Aqua Line Development. Planning and Community Development, the Planning Board, Public Works and Transportation, Fire and Police all support the proposal. Mr. Dalton indicated this issue has been ongoing with the NCDOT and property owners along this stretch of road. They have encouraged the property owners to work together to develop cross access amongst the adjoining properties. A motion was made to approve the amendment. There was no public comment. (Motion: Council Member Stallings\Second: Council Member Gantt\Vote 4-0.)

- PH2 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment. Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add a proposed greenway connection from the proposed Huxley subdivision to the proposed Reedy Branch Greenway. This was discussed at the time of the Huxley subdivision development, but a final alignment had not been determined. They will construct the greenway and the cost will be removed from their park contribution. There was no public comment. (Motion: Council Member Gantt\Second: Council Member Gray\Vote 4-0.)
- PH3 Ms.Jenna Shouse, Senior Long Range Planner presented the amendment to the Bicycle and Pedestrian System Plan map to remove a segment of proposed greenway from the future Felton Grove High School site, realign and extend a proposed greenway through the future Felton Grove High School site, and add proposed side path along the south side of a proposed extension of Thriftwood Drive. The school will construct the greenway. There was no public comment. (Motion: Council Member Stallings\Second: Council Member Gray\Vote 4-0.)
- PH4 Ms. Jenna Shouse, Senior Long Range Planner presented the amendment to Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add a proposed greenway between Termini Drive and Humie Olive Road. Friendship Village will provide an easement for the greenway and will pay for a portion of the alignment. There was discussion about a different alignment to create a safe bicycle crossing. The development is occurring ahead of the master plan, so staff does not want to miss an opportunity to get an alignment. Staff was focused on connecting the north and south greenway. There was no public comment. **(Motion: Council Member Gray\Second: Council Member Mahaffey\Vote 4-0.)**

#### **OLD BUSINESS**

There was no Old Business.

#### **UNFINISHED BUSINESS**

There was no unfinished business.

#### **NEW BUSINESS**

CN17 Marty Stone, PE, Assistant Town Manager addressed the Council on a proposal to amend the electric / finance policies to remove the solar capacity limit. There is concern that those unable to afford their existing electrical bill would bear part of the cost of those developing solar in their homes. The Council also discussed their desire to continue to encourage development to employ

solar. The cost of purchasing excess power has to be balanced with the cost of maintaining the overall system. Programs are available to assist those having difficulty paying their bill such as utility assistance program and housing rehabilitation assistance. A comparison of initiating home programs improving weatherization and insulation would cost less than the cost to support solar development. The members agreed to monitor the solar program and its cost to determine when it becomes too costly. They also discussed the unintended issue of excessive power reimbursements being used for garbage collection, water and sewer bills. Council Member Stallings said at a recent Sierra club meeting that they would like to work with Apex and its Sustainability Plan and supporting the Apex Solar program. (Motion: Council Member Mahaffey\Second: Council Member Stallings\Vote 4-0.)

#### UPDATES BY TOWN MANAGER

The Town Manager wanted to congratulate the participants in the Think Apex program. She expressed her appreciation of those members giving back to the community, it strengthens the fabric of the community.

She also wanted to recognize and thank the telecommunications personnel. She noted that is how are our emergency responders know where to go to help those in need in the community.

She reminded the group of the upcoming EarthFest to be held on the Town Hall Campus on April 23, 2022.

Ms. Crosby also wanted to remind the group that Town office will be closed on Good Friday and will reopen the following Monday.

#### CLOSED SESSION

A motion was made to move into closed session pursuant to NC General Statutes NCGS 143-318.11(a)(4) and 143-318.11(a)(3). (Motion: Council Member Mahaffey\Second: Council Member Gantt\Vote: 4-0.)

The council reconvened. No action was taken.

#### WORK SESSION

There was no Work Session.

#### ADJOURNMENT

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

Julie A. Reid, Interim Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor



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

TEL 919 856 6180 FAX 919 856 5699

SIG HUTCHINSON, CHAIR Shinica Thomas, Vice-Chair Vickie Adamson Matt Calabria Maria Cervania Susan Evans James West

April 5, 2022

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

Dear Ms. Silver:

The Wake County Board of Commissioners, in regular session on April 4, 2022, approved and accepted the enclosed tax report for the Town of Apex.

The attached adopted actions are submitted for your review; no local board action is required.

Sincerely,

nyal Vor Yvonne Gilvard (

Deputy Clerk to the Board Wake County Board of Commissioners

Enclosure(s)

Boal Date : TO : V RE: C	Board Report Date : 04/04/2022 TO : WAKE COUNTY BOARD OF COMMISSIONERS RE: CONSIDERATION OF REFUND FOR TAXES, INTEREST AND PENALTIES FOR APEX	REST AND PENALTIES FOR APEX	Approved By :	A			Return
No.	Name of Tax Payer	Account Number	Tax and Penalties	ş	Total Rebate	Total Refund	Request Status
<del></del>	CORELOGIC PO BOX 9202 COPPELL TX, 75019 - 9760	0000474010- 2021- 2021- 000000	City County	943.57 1,471.65	2,415.22	2,415.22 Refund	kefund
2	SALADINO, DIANNE B 1402 CHIPPING DR APEX NC, 27502 - 2498	0000474009- 2021- 2021- 000000	City County	1,034.82 1,612.03	2,646.85	2,646.85 Refund	kefund
	Marcus D. Kinrade       Total City       1,978.39         Wake County Tax Administrator       Total County       3,083.68         Wake County Tax Administrator       Total County       3,083.68         Marcus D. Kinator       Total Rebated       3,083.68         CC:       Total Rebated for the contract on the account.       Entit         Print       Lock       Lock	due to released interest or application of	Total City Rebated Total County Rebated Rebate/Refund payment to any balance du	1,978.39 3,083.68	5,062.07 unt.	5,062.07	

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http://lrbillingp02/billing20/SEARCHBOARD\_C.HTM

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* WAKE COUNTY south carefulsion					Wake County Tax Administration Rebate Details 02/01/2022 - 02/28/2022 APEX	County Tax Adminis Rebate Details 02/01/2022 - 02/28/2022 <mark>APEX</mark>	listration		DATE 03/01/2022	TIME PAGE 11:47:43 AM 1
REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR BILLING FOR TYPE	NG OWNER
BUSINESS ACCOUNTS	STN	-								
807708	121.88	0.00	12.19	0.00	134.07	02/09/2022	0006904194	2021	2021 000000	SR ENTERPRISE NC LLC
SUBTOTALS FOR BUSINESS ACCOUNTS	121.88	0.00	12.19	00.0	134.07	-	Properties Rebated	Rebated		
INDIVIDUAL PROPERTY ACCOUNTS	SLND									
808449 808597 808592	116.85 92.96 34.00	30.00 30.00 30.00	0.00 0.00 0.00	0.00 0.00 0.00	146.85 122.96 64.00	02/17/2022 02/18/2022 02/18/2022	0006939231 0006946704 0006950622	2021 2022 2022	202000000020210000002021000000	
807829 808204	3.84	00.00	0.38	0.00	4.22	02/10/2022	0006829416	2021	2021 000000	GERARD MOORE, AUSTIN MARSHALL MAVCAD TAARE DROUNT
809208 809218	123.26	30.00	0.00	0.00	153.26	02/28/2022	0006950103	2022		
808451 808452 808465	00.25 41.25 180.25	30.00 30.00 30.00	0.00 0.00 0.00	0.00 0.00 0.00	71.25 71.25 210.25	02/17/2022 02/17/2022 02/17/2022	0006950163 0006950163 0006947821	2022 2022 2022	2021 000000 2021 000000 2021 000000	WAI IS, JENNIFEK LYNN WATTS, JEREMIAH CHRISTIAN GLOVER, KATIE LEE
SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS	696.07	210.00	0.38	0.00	906.45	6	Properties Rebated	Rebated		
INDIVIDUAL REAL ESTATE ACCOUNTS	SI									
807714	1,034.82	0.00	0.00	0.00	1,034.82	02/10/2022	0000474009	2021	2021 000000	WILSON, STEVEN ALBERT

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* WAKE COUNTY MARTH CARALINA					Wake County Tax Administration Rebate Details 02/01/2022 - 02/28/2022 APEX	County Tax Adminis Rebate Details 02/01/2022 - 02/28/2022 APEX	istration 22	o	DATE 03/01/2022	TIME 11:47:45 AM	PAGE 2
REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX Y YEAR	YEAR BILLING FOR TYPE	OWNER	
INDIVIDUAL REAL ESTATE ACCOUNTS	LS L										
807182	943.57	0.00	0.00	0.00	943.57	943.57 02/07/2022 0000474010 2021 2021 000000	0000474010	2021	2021 000000	MUHAMMED, SHEFEEK CHOTTAPARAMBIL	
SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS	1,978.39	0.00	0.00	0.00	1,978.39	2	Properties Rebated	kebated			
WILDLIFE BOAT ACCOUNTS	٦										
807311	188.07	0.00	18.81	0.00	206.88	206.88 02/04/2022	0004201563	2021	2021 000000	ROSSINI, CHRISTOPHER RAY	R RAY
SUBTOTALS FOR WILDLIFE BOAT ACCOUNTS	188.07	0.00	18.81	0.00	206.88	T	Properties Rebated	kebated			
TOTAL REBATED FOR APEX	2,984.41	210.00	31.38	0.00	3,225.79	13	13 Properties Rebated for City	ebated for	r City		

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for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

# Item Details

Presenter(s):	Julie Reid, Interim Town Clerk
Department(s):	Office of the Town Clerk

Requested Motion

Motion to approve the Apex Tax Report dated March 1, 2022.

Approval Recommended?

Yes

# <u>Item Details</u>

At the regular meeting held on April 4, 2022, the Wake County Board of Commissioners approved the Apex Tax Report dated March 1, 2022.

## <u>Attachments</u>

• Tax Report



for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

# <u>Item Details</u>

Presenter(s): Jason Armstrong, Chief of Police

Department(s): Police Department

# Requested Motion

Request motion to amend Article VIII "Parking" of Chapter 20 of the Town of Apex Code of Ordinances
<u>Approval Recommended?</u>

Yes

# <u>Item Details</u>

This amendment will decriminalize parking violations. Language regarding parking violations being an infraction punishable by NCGS 14-4 will be removed throughout the ordinance and criminal summons will no longer be issued for unpaid violations. Instead, Sec. 20-174. Enforcement will be added, specifying that all offenses to this ordinance will be pursued as civil offenses pursuant to NCGS 160A-175.

## <u>Attachments</u>

• Amended Ordinance Article VIII, Sec. 20-150 through Sec. 20-174



# ORDINANCE NO. 2022-\_\_\_\_

# AN ORDINANCE AMENDING ARTICLE VIII "PARKING" OF CHAPTER 20 OF THE TOWN OF APEX CODE OF ORDINANCES

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Apex as follows:

**Section 1.** That Article VIII of the Town of Apex Code of Ordinances is hereby amended as shown below with additions shown by underlined text and deletions shown as struck-through text:

#### Sec. 20-150. Stopping, standing or parking prohibited in certain places.

No person shall stop, stand or park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:

- (1) On a sidewalk. For the purpose of this subsection the sidewalk will be deemed to continue in front of all businesses and residences from a direct line of the sidewalk on each side of such business or residence.
- (2) Within 15 feet of a residential driveway unless permitted by the owner(s) of the property for which the driveway accesses.
- (3) On a crosswalk or within 15 feet of a crosswalk.
- (4) Within 30 feet of any crossing roadway, flashing beacon, stop sign, yield sign, or traffic control signal.
- (5) On either side of any street approaching an underpass or overhead bridge or within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) On either side of any street approaching a railroad grade crossing within 50 feet of the closest rail; provided, that where existing permanent structures are located along the street which are closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if such parking does not interfere with the view in either direction of an approaching railroad train.
- (7) Within 30 feet of a street excavation or temporary obstruction in such manner that would obstruct the flow of traffic.
- (8) Upon any bridge or other elevated structure or within an underpass, except to repair such place.
- (9) Within 15 feet of a public facility driveway, commercial driveway, or alley.
- (10) Along any portion of a street without marked parking spaces where the clear distance from the side of the parked vehicle to the marked street centerline or to the edge of a left turn lane is less than ten feet.

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- (11) In any area designated as a fire lane including designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. Provided, however, persons actively engaged in loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended.
- (12) Within 15 feet of a fire hydrant.

A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-151. Moving another's vehicle into a prohibited position.

No person shall move a vehicle, not owned by such person or without the consent of the owner of such vehicle, into any prohibited area or sufficiently away from the curb to make such distance unlawful. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-152. Obstructing passage of other vehicles, etc.

No person shall park a vehicle, whether attended or unattended, so as to interrupt or interfere with the passage of public conveyances or other vehicles. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-153. Double parking and parking within traffic lane.

No person shall park a vehicle, whether attended or unattended, on the roadway side of another vehicle parking at the edge of the roadway or curb or on the main traveled portion of any street unless so directed by competent authority or when a special hazard exists. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-154. Prohibited purposes—Generally.

No person shall stand or park a vehicle upon any street or in any parking space along such street for principal purposes of:

- (1) Displaying it for sale.
- (2) Washing, greasing or repairing it, except repairs necessitated by an emergency.
- (3) Storage thereof by garages, dealers or other persons when such storage is not incidental to the bona fide use and operation of such vehicles.
- (4) Storage of any detached trailer or van when the towing unit has been disconnected, or for the purpose of transferring merchandise or freight from one vehicle to another.

A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-155. Parallel parking.

Where not otherwise indicated by this chapter and where the street is not marked to show how vehicles shall park, all vehicles shall park parallel to the curb or edge of pavement when curb is not present and not more than 12 inches therefrom. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-156. Setting brakes and stopping motor.

No person having control or charge of a vehicle shall allow such vehicle to stand on any highway or public street without first effectively setting the brakes thereon and stopping the motor of such vehicle. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-157. Turning wheels on grades.

Any person having control or charge of a vehicle shall, when such vehicle is standing on a grade, turn the front wheels of such vehicle into the curb or shoulder of the road. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-158. Lights.

Lights will not be required for any vehicle legally parked on any public street or highway where there is sufficient light to reveal a person within 200 feet on such street or highway.

#### Sec. 20-159. Backing to curb.

No vehicle shall be parked by backing the vehicle to a curb unless in the actual process of loading or unloading provided such vehicle does not block the flow of traffic. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-160. Side of vehicle to curb.

No vehicle shall be parked either attended or unattended with its left side to the curb except on one-way streets where parking is permitted on the left side. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-161. Alleys.

No person shall park a vehicle within any alley or entrance thereto so as to block the alley from the free movement of other traffic. A violation of this section is punishable as an infraction as provided by G.S. 14 4.

#### Sec. 20-162. Parking within lines of designated parking spaces; duration.

- (a) Where parking spaces are marked with lines indicating parking spaces, vehicles shall be parked within the lines of a parking space. No person shall park a vehicle in a marked parking space on a street for a continuous period of time longer than the time that applies to such street or portion thereof pursuant to this chapter. Parking in two or more parking spaces by moving a vehicle from one marked parking space directly to another marked parking space on a street in the same block shall be deemed one continuous parking event and shall not defeat the application of this section.
- Where parking spaces are marked with lines indicating parking spaces in a parking (b) lot owned or leased by the town, vehicles shall be stopped or parked only within the lines of a single marked parking space. No person shall park a vehicle on or along the entranceway, driveway, or access route to a town owned or leased parking lot at any time except in a designated parking space. Except for town owned vehicles, no person shall park a vehicle in any spot designated for town vehicles or personnel. Except for town owned vehicles and equipment or by direction of the police chief or his designee, no vehicle, trailer, boat, or device by which any person or property may be transported shall be stopped or parked overnight in any parking lot owned or leased by the town, whether parking spaces are marked with lines or not. For the purposes of this subsection, overnight is defined as the hours between 11:00 p.m. and 6:00 a.m. This subsection shall not apply to vehicles and trailers owned by vendors participating in town council approved special events in which the parking lot is closed to general parking or to vehicles used by town employees and officials in the prosecution of town business or in the course of their employment.
- (c) In a town owned or leased parking lot, when necessary to maintain safe access, movement, ingress or egress for emergency vehicles, the chief of police, or his designee, is authorized to prohibit on a temporary basis the parking of any vehicle, trailer, boat, or device by which any person or property may be transported.
- (d) A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-163. Reserved parking zones.

(a) No person except authorized personnel shall park a vehicle in a zone or parking space designated by a sign or signs indicating such areas to be for reserved parking only. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

- (b) For the purpose of this section the following area is designated as "reserved parking":
  - (1) Two parking spaces in the parking lot of the Apex Chamber of Commerce southwesterly from Center Street are reserved for staff members of the chamber of commerce.

### Sec. 20-164. No parking zones.

No person shall park a vehicle, whether attended or unattended, within a zone designated as no parking by signs or yellow markings. A violation of this section is punishable as an infraction as provided by G.S. 14-4. Signs or yellow markings shall be erected or applied designated "no parking at any time" in the following areas:

- (1) Purple Glory Drive, on the south side beginning at the intersection with White Dogwood Road and continuing along the inside edge of Purple Glory Drive as it curves back to the intersection with Silky Dogwood Drive.
- (2) Saunders Street, north side, from the westernmost Apex Police Station driveway to West Chatham Street.
- (3) Saunders Street, south side, from North Salem Street to West Chatham Street except as designated public parking within marked spaces.
- (4) Silky Dogwood Trail, on the west side beginning at the intersection with Purple Glory Drive to the intersection with Xanthacarpa Lane.
- (5) On the west side of Salem Street in front of the fire station from Saunders Street northwardly to a point 65 feet north of the center of the driveway located at 201 N. Salem Street.
- (6) Along the west side of Mason Street between East Williams and Moore Streets; provided, however, such no parking areas along side section of Mason Street shall be appropriately marked for no parking, which will also provide for no parking within 10 feet of the entrance of any private drive on to Moore Street between said East Williams and Mason Street.
- (7) Along the east or left side of Seaboard Street beginning at the curbline of North Salem Street and extending easterly as the street curves to the right for a distance of 225 feet.
- (8) Along both sides of Laura Village Drive and along both sides of Merchant Drive.
- (9) Along that portion of the west side of Lake Pine Drive that has been widened and borders the property located at 1900 Lake Pine Drive.
- (10) Along the south side of Holleman Street.
- (11) Along the north side of Investment Boulevard for its entire length.

- (12) Along that portion of the south side of Haywards Heath Lane beginning at the intersection with Blackburn Road and extending westerly for a distance of 500 feet.
- (13) Along both sides of Commerce Street for its entire length except as allowed in designated parking spaces.
- (14) Along the east side of Town Side Drive from Magdala Place to Oak Pine Drive.
- (15) Along the south side of East Moore Street from South Ellington Street to South Tunstall Avenue.
- (16) Along the east side of Windy Road from Caboose Trail to US 64 except as allowed in designated parking spaces.
- (17) On the north side of Center Street from Parkfield Drive to Investment Boulevard overnight, between the hours of 6:00 p.m. and 6:00 a.m. Monday through Saturday, and at all times on Sunday.
- (18) On the south side of Center Street for a distance of 200 feet east and 200 feet west of Investment Boulevard.
- (19) Reserved.
- (20) On both sides of Pine Plaza Drive, from Shepherds Vineyard Drive to Laura Duncan Road.
- (21) On the west side of Hinton Street, from Saunders Street to Pearson Street.
- (22) On the west side of Jones Street.
- (23) On the west side of N. Elm Street, from E. Chatham Street to Center Street.
- (24) On the west side of Grove Street, from Hunter Street to Thompson Street.
- (25) On the north side of Thompson Street, from N. Salem Street to Grove Street.
- (26) On the east side of that portion of Scotts Ridge Trail which is directly opposite of the Scotts Ridge Elementary School driveway, from Apex Barbecue Road to the western entrance of Scotts Mill recreation center driveway.
- (27) On the south side of Reedybrook Crossing from Creekside Landing Drive to a point 300 feet west.
- (28) On the west side of Lake Pine Drive from Town of Cary Corporate Limits to a point 350 feet south of the Apex Community Park driveway, and on the east side of Lake Pine Drive from a point 650 feet south of the Apex Community Park driveway to a point 300 feet south of Versailles Drive.
- (29) Along both sides of Evans Road, from Apex Barbecue Road to Marazzi Trail.
- (30) At the intersection of E. Chatham Street and N. Hughes Street: on both sides of E. Chatham Street for a distance of 80 feet west of N. Hughes Street and 80 feet east of N. Hughes Street, both sides of N. Hughes Street for a distance of 100 feet north of E. Chatham Street, on the east side of N. Hughes Street for a distance of

80 feet south of E. Chatham Street, and on the west side of N. Hughes Street for a distance of 50 feet south of E. Chatham Street.

- (31) Along both sides of North Hughes Street from Center Street extending north to the end of North Hughes Street.
- (32) On the east side of Blazing Trail Drive from Humie Olive Road to Masonboro Ferry Drive.
- (33) Along the east side of Glaston Court from Sparta Lane northward to the corner, and along the south side of Glaston Court east of the corner for a distance of 70 feet.
- (34) Along the north side of Rapp Land from a point 460 feet south of Red Barn Way westward to Kellerhis Drive.
- (35) Along both sides of Marco Drive from East Williams Street to a point 600 feet east.
- (36) Along the south side of Olive Street and S. Elm Street to S. Hughes Street.
- (37) Along both sides of both directions of Great Lawn Road and along both sides of Sunflower Road.
- (38) Along both sides of Sunny Creek Lane and Windy Creek Lane, north and south of Evening Star Drive.
- (39) Along both sides of Perry Road from Apex Peakway to American Way.

#### Sec. 20-165. No parking in school zones and time designated zones.

- It shall be unlawful to park any motor vehicle between the hours of 10:00 a.m. and 2:00 p.m. on school days upon those streets or sections of streets within Knollwood and Brookfield Subdivisions as follows:
  - (1) Knollwood Drive.
  - (2) Cone Avenue.
  - (3) Greenleaf Street.
  - (4) Maple Avenue (but only east of its intersection with Knollwood Drive).
  - (5) Boxwood Lane.
  - (6) Eastham Drive.
  - (7) Pinewood Drive (in Brookfield Subdivision only).
  - (8) Fair Oaks Lane.
  - (9) Fallen Oak Drive.
  - (10) Charred Oak Circle.
  - (11) Black Oak Court.
  - (12) Autumn Wood Court.
  - (13) East Beechmont Court.
  - (14) West Beechmont Court.

(b) In order to inform motorists of subsection (a), signs shall be erected and maintained on each side of the streets above-named on each block containing language substantially as follows:

"NO PARKING SCHOOL DAYS between 10:00 a.m. and 2:00 p.m."

- (c) Along the north side of Moore Street between Ellington and Mason Streets on school days between the hours of 7:00 a.m. and 8:00 a.m. and 2:00 p.m. and 3:00 p.m.; provided, however, signs are placed on said section of Moore Street reading substantially as follows: "No Parking, School Days, 7:00—8:00 a.m. and 2:00— 3:00 p.m."
- (d) The chief of police or designee may in his discretion, temporarily suspend the "no parking" requirement on any of the above-named streets, or on any combination of the same, if he finds that a need exists for parking on same on account of an emergency involving fire or other hazard, illness or death of a resident of the area affected by this section.
- (e) A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-166. Loading zones.

- (a) No person shall park a vehicle in a loading zone designated by a sign or signs indicating such area to be a loading zone, except for the express purpose of loading and unloading only of such vehicle. A violation of this section is punishable as an infraction as provided by G.S. 14-4.
- (b) The following areas are designated as "loading zones":
  - (1) The first parking space on the north side of East Chatham Street adjacent to Salem Street.
  - (2) Both parking spaces on the north side of West Chatham Street between Salem Street and Commerce Street.
  - (3) The first four parking spaces on the north side of Saunders Street west of North Salem Street, large trucks or vehicle-trailer combination may occupy multiple spaces.
  - (4) The first parking space on the west side of North Salem Street south of Center Street.
  - (5) The first three parking spaces on the west side of North Salem Street south of the intersection with Saunders Street, large trucks or vehicle-trailer combination may occupy multiple spaces.

(c) Loading zones shall limit loading and unloading activities to 15 minutes and be in effect from 6:00 a.m. to 5:00 p.m. Monday through Friday. Vehicles shall be required to display 4-way flashers in operation while parked in a loading zone during those hours. Outside of the time when the loading zone is in effect there shall be no restriction on the duration of parking.

#### Sec. 20-167. Time-limited areas during certain hours.

- (a) When official signs are placed, erected or installed giving notice thereof, no person shall park a vehicle for longer than the limits stated on the signs, as set out in the following subsections at any time between the hours of 8:00 a.m. and 6:00 p.m., on any day, except Sunday and public holidays, upon any of the areas so posted. The changing of the position of a vehicle from one point directly to another point within the same block shall be deemed one continuous parking period, and shall not defeat the application of this section. A violation of this section is punishable as an infraction as provided by G.S. 14-4.
- (b) Official signs shall be erected designating one-hour parking zones in the following areas:
  - (1) In the first four marked parking spaces not designated as handicap accessible spaces on the west side of Town Side Drive north of its intersection with Heritage Village Lane, which are the two spaces to the south of the handicap accessible spaces and two spaces to the north of the handicap accessible spaces.
- (c) Official signs shall be erected designating three-hour parking zones in the following areas:
  - (1) In all areas of Salem Street designated for parking from Center Street southwardly on both sides of said street to E. Williams Street; and
  - (2) In all areas of Chatham Street designated for parking from Salem Street easterly on both sides of said street to Seaboard Street, and from Salem Street westerly on both sides of said street to Commerce Street, and including the two existing parking spaces located at 104 W. Chatham Street.

#### Sec. 20-168. Designation of parking for persons with disabilities.

It shall be unlawful to park or leave standing any vehicle in a space designated with a sign displaying "Reserved Parking" for handicapped persons in conformance with G.S. 20-37.6(d), when the vehicle does not display the distinguishing license plate or placard as required by state statute. A violation of this section is punishable as an infraction as provided by G.S. 14-4.

#### Sec. 20-169. Registered owner prima facie liable for parking violation.

Whenever evidence shall be presented to any court of the fact that any automobile, truck or other vehicle was found upon any street, alley or other public place, contrary to and in violation of the provisions of any statute or municipal ordinance limiting the time during which any such vehicle may be parked or prohibiting or otherwise regulating the parking of any such vehicle, it shall be prima facie evidence in any court in the state that such vehicle was parked and left upon such place by the person in whose name such vehicle is then registered and licensed according to the records of the department or agency of the state, by whatever name designated, which is empowered to register such vehicles and issue licenses for their operation upon the streets and highways of this state; provided, that no evidence tendered or presented under the authorization in this section shall be admissible or competent in any respect in any court or tribunal, except in cases concerned solely with violations of statutes or ordinances limiting, prohibiting or otherwise regulating the parking of automobiles or other vehicles upon public streets, highways or other public places.

# Sec. 20-170. Processing of parking violation citations; fines and penalties for parking violations.

- (a) All citations received for the violation of a parking offense shall be presented at the Apex Finance Department at 73 Hunter Street during normal business hours for payment processing or mail the citation and payment to the Apex Finance Department - Parking Violations, PO Box 250, Apex, NC 27502, within five days from the time of the offense, except when the time limit expires on a holiday or weekend, and then the time limit will be extended to the next working day. A criminal summons shall be issued for the registered owner of the vehicle in question following the expiration of this time period.
- (b) The following parking violations shall be subject to fines as indicated:
  - (1) No parking zones .....\$30.00
  - (2) Spaces reserved for handicapped parking .....\$100.00
  - (3) Too close to an intersection .....\$30.00
  - (4) Too far from curb or street edge .....\$30.00
  - (5) Double parked .....\$30.00
  - (6) Fire lane .....\$50.00
  - (7) Restricted time zones .....\$30.00
  - (8) Wrong side of the street  $\dots$  \$30.00
  - (9) Blocking fire hydrant .....\$50.00
  - (10) All other .....\$30.00

All violations of the requirements of this section shall be prosecuted as violations of a town ordinance, pursuant to G.S. 160A-175, but violations shall not be subject to civil penalties in the nature of a debt, as allowed in G.S. 160A-175(c). Violations shall be infractions pursuant to G.S. 14-4.

(c) Towing of illegally parked vehicles. Nothing herein is intended to provide that vehicles parked in violation of a law or ordinance may not be towed away as provided by law. Failure to pay parking fines as indicated above may be cause for vehicle towing or immobilization.

#### Sec. 20-171. Removal of certain illegally parked vehicles.

- (a) Any vehicle found parked in a time limiting area, loading zone or other prohibited zone for a period of 24 hours shall be removed to a place of storage and safety, except in the case of publicly sanctioned events or emergencies a police officer may order immediate removal of such vehicle.
- (b) Any vehicle parked in a position or location so as to cause a danger to other users of the public streets shall be removed to a place of storage and safety.
- (c) Removal of vehicles for any of the above-listed reasons shall be at the registered owner's expense as well as whatever storage fee there might be incurred.

#### Sec. 20-172. Construction related vehicles.

In the event that it is necessary for a construction related vehicle to park in a manner that would otherwise violate town parking ordinances in order to obtain direct access to a construction site, a police officer may direct parking of such construction-related vehicle temporarily as the conditions there require, notwithstanding other provisions of chapter 20 of this Code; provided that the same can be done in a manner which is safe and reasonable in light of all relevant traffic considerations, and further provided that a police officer shall direct the manner and place of parking and the use of traffic safety devices or personnel to insure the public safety. Nothing in this section relieves the owner or operator of a construction-related vehicle from the duty to operate or park the vehicle in a safe and reasonable manner with due regard for the safety of others.

#### Sec. 20-173. Electric vehicle charging stations

- (A) Electric vehicle charging stations are reserved for parking and charging by electric vehicles only. When a space has been so marked no person shall park or stand any non-electric vehicle in that space.
- (B) No person shall park or stand an electric vehicle in an electric vehicle charging station without being plugged in and charging. The electric vehicle must be moved within 30 minutes after charging is complete.

(C) A violation of this section is punishable as an infraction as provided by G.S. 14-4.

### Sec. 20-174. Enforcement.

<u>All offenses set out in Article VIII of this Chapter shall be punished as civil offenses</u> pursuant to G.S. 160A-175. Violations shall not be misdemeanors or infractions pursuant to G.S. 14-4.

#### Secs. 20-174<u>5</u>—20-189. Reserved.

- **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.** The Town Clerk 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 4. 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 5. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member:

Seconded by Council Member:

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

Jacques K. Gilbert Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe Town Attorney

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

# <u>Item Details</u>

Presenter(s):Amanda Bunce, Current Planning ManagerDepartment(s):Planning and Community Development

# Requested Motion

Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding amendments to the Unified Development Ordinance (UDO) related to the creation of the Downtown Festival District and other associated amendments.

# Approval Recommended?

The Planning and Community Development Department recommends approval.

# <u>Item Details</u>

# Summary of UDO Amendments

Requested by Planning Staff:

Amendments to various sections of the UDO in order to create the Downtown Festival District, clarify standards for outside storage and sales within the Central Business District; amend standards for Promotional Events, revise how uses that serve alcohol are permitted, provide a definition for "outdoor operations", create standards for the outdoor operations aspect of certain uses, create the uses "Parking garage, public" and "Parking lot, public", and prohibit "Parking lot, commercial" as a permitted use in the Downtown Festival District.

Sections affected are 4.1.2 Outside Storage and Sales; 4.2.2 Use Table; 4.3.5 Use Classifications, Commercial Uses; 4.3.6 Use Classifications, Industrial Uses; 4.4.4 Supplemental Standards, Recreational Uses; 4.4.5 Supplemental Standards, Commercial Uses; 4.4.6 Supplemental Standards, Industrial Uses; 4.6 Temporary Uses and Structures; and 12.2 Terms Defined.

## <u>Attachments</u>

• N/A



for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:April 26, 2022

# <u>Item Details</u>

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

# Requested Motion

Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding various amendments to the Unified Development Ordinance (UDO).

# Approval Recommended?

The Planning and Community Development Department recommends approval.

## <u>Item Details</u>

Summary of UDO Amendments

Requested by the Planning Committee of Town Council:

1. Amendments to Sec. 4.4.5.G.13 *Supplemental Standards, Commercial Uses, Retail Sales* and *Service, Retail sales, general* to require that vape and tobacco stores be located at least 1,000 feet from any public or private school.

Requested by Planning Staff:

- 2. Amendments to Secs. 6.1.12.B Stormwater Control Measures (SCMs), Design, Location, and Landscaping of SCMs and 8.2.7 Fences, Walls, and Berms in order to allow fences to completely enclose a Stormwater Control Measure (SCM) even if some or all of the SCM is dedicated or proposed to be dedicated as Resource Conservation Area (RCA).
- 3. Amendments to Sec. 7.5.14 *Defects Guarantee* in order to set a different guarantee periods for residential and non-residential subdivisions.
- 4. Amendments to Sec. 5.1.5 *Small Town Character Overlay District* in order to clarify the maximum height allowed for buildings in the Central Business District that don't qualify for additional height according to footnote 1 of that section.

<u>Attachments</u>

• N/A



for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:April 26, 2022

# Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager Department(s): Planning and Community Development

# Requested Motion

Motion to approve, and to authorize the Town Manager to sign and execute, the GoApex Agreement with Town of Cary and MV Transportation.

# Approval Recommended?

Yes.

# <u>Item Details</u>

This agreement between Town of Apex, Town of Cary, and MV Transportation, establishes the terms and responsibilities for the operation of the GoApex Route 1 fixed route service. The Town of Apex's adopted FY22 budget and proposed FY23 budget include funding for operating GoApex Route 1. The Town of Apex was awarded matching funding through the Community Funding Area Program to reimburse 50 percent of the operating costs for GoApex Route 1. This funding was included in the adopted FY 22 Wake Transit Plan and is included in the proposed FY23 Wake Transit Plan.

# <u>Attachments</u>

GoApex Agreement



#### **GOAPEX AGREEMENT**

This Agreement ("Agreement") is made by and between **Town of Cary** (hereinafter "Cary"), a North Carolina municipal corporation having its office at 316 North Academy St., Cary, NC 27513, **Town of Apex** (hereinafter, "Apex"), a North Carolina municipal corporation having its office at 73 Hunter St., Apex, NC 27502, and Cary's bus services contractor **MV Transportation, Inc.** ("MV Transportation"), 2711 N. Haskell Ave., Suite 1500-LB2, Dallas, TX 75204. The foregoing may be individually referred to herein as "Party" and collectively referred to as "Parties."

Cary provides a transit service called GoCary. Pursuant to an agreement between Cary and MV Transportation ("GoCary Agreement"), MV Transportation is GoCary's service provider. MV Transportation will extend transit service to Apex pursuant to the terms of this Agreement.

Apex is utilizing the services of MV Transportation pursuant to this Agreement to provide a public bus service called "GoApex Route 1" (hereinafter "Route 1" or "Service") with the respective responsibilities and duties of the Parties as listed below.

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

#### 1. <u>Term</u>

The Agreement shall become effective upon execution by all Parties ("Effective Date") and shall expire June 30, 2023. The Route 1 initial date of service will begin at a date agreed upon via email by the Town of Cary Transit Administrator, Town of Apex Long Range Planning Manager, and MV's General Manager. The Parties may extend the term in one-year increments for a period up to three (3) additional years. In January of each year of this Term, Cary and Apex will begin to confer and to review MV Transportation's performance and projected cost for the coming contract year. The option for extending the term of the Agreement must be agreed upon by the Parties in writing at least ninety (90) days before the end of the current term.

#### 2. **Operations**

The purpose of this Agreement is to set forth the duties and responsibilities of each Party in the provision of Route 1 service. GoApex Route 1 will be a fixed-route transit service open to the general public. Operational characteristics of the Service may be changed for the benefit of any party upon written approval by all Parties.

A. Cary shall have the following responsibilities:

1. Finalize the alignment for Route 1, including the schedule, the span of revenue service (the time when a vehicle is available to the general public and there is an expectation of carrying passengers), and the timing of

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revenue service, after collaboration with Apex. Cary agrees to consult with Apex on these elements to maximize regional coordination. Any material change in the route alignment, stop locations, schedule, span of service, timing of service, or overall operation of Route 1 must be agreed to in writing by both parties. Cary will respond to all communications and requests by Apex within ten (10) business days unless such communication or request is specifically identified by Apex as an "Urgent Operational Concern" Cary will respond within two (2) business days. Cary will provide feedback to Apex on the operation of the service.

- 2. Assist Apex where reasonably possible (in Cary's sole discretion) in the provision of information about and marketing of Route 1. This may include reviewing and providing comments on marketing materials, participating in outreach events, and assisting with coordination with other regional transit providers.
- 3. Provide Apex a minimum of 15 days written notice of potential service disruption, except in the case of service disruption due to inclement weather, safety concerns, or other emergency situations in which case notice will be provided as soon as reasonably possible. Cary has final authority on all changes to service level. Cary will attempt to maintain service on all scheduled routes dependent on available resources. Action plans for service disruptions will be communicated by email to the MV Transportation General Manager and Town of Apex Long Range Planning Manager, or designee.
- 4. Cary shall report Route 1 operating statistics to comply with deliverables outlined in the General Operating Agreement for Bus Operations Community Funding Area Program executed between the Town of Apex, GoTriangle, and Capital Area Metropolitan Planning Organization (Wake Transit Operating Agreement), including ridership by date, revenue and deadhead hours, revenue and deadhead miles, missed trips, and a log of customer complaints and resolutions, all in an editable format, to Apex by the 15<sup>th</sup> of the month following the month of service.
- B. MV Transportation shall have the following responsibilities:
  - 1. Operate Route 1 on all weekdays and Saturdays according to the operating schedule set forth in Section 2.A.1, except for the holidays listed in Exhibit A, attached and incorporated by reference, or as otherwise agreed to in writing by the Parties. By February 15<sup>th</sup> of the preceding fiscal year, Cary agrees to provide a revised list of holidays during which time GoCary and Route 1 will not be operated during the subsequent fiscal year. Apex agrees to provide annually a revised list of holidays, if any, during which time Route 1 will or will not be operated by March 1<sup>st</sup>.
  - 2. Ensure appropriate usage and placement of any identifying Route 1



materials on vehicles, including bus wraps, or other appropriate industry accepted signage as agreed upon, and paper schedules.

- 3. Use Americans with Disabilities Act (ADA) accessible light transit vehicles (LTVs) with a seated capacity of no less than 16 persons, equipped with automated vehicle locators (AVL) and which comply with all applicable federal and state laws and regulations.
- 4. Agree that if any vehicle intended for, or normally used for Route 1 service is inoperable for any reason, MV Transportation will immediately deploy another vehicle of equal or greater seating capacity which is compliant as required in subsection 2.B.3. MV Transportation will ensure that any vehicle deployed will have either a bus wrap or other industry-accepted signage identifying it as a GoApex vehicle.
- 5. MV Transportation shall operate Route 1 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 as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina. MV Transportation is responsible for the maintenance, cleaning, and safe operation of all vehicles used in providing the Service as well as any claims, demands, suits or losses, including all costs connected therewith, for any damages which may be asserted, claimed or recovered for personal injury, including bodily injury or death and/or property damage, including loss of use thereof, resulting from the negligence of MV Transportation.
- 6. Maintain, throughout the term of the Agreement and any extensions of the term, commercial general liability, auto and umbrella/excess insurance policies at its expense, covering personal injury and property damage on and in the vehicles and inside and outside the park and ride lots. The policies shall have at least the coverage amounts specified in Section 20 of this Agreement and at no time during the term of this Agreement shall coverage amounts be less than the coverage amounts required of MV Transportation by the GoCary Agreement. Cary and Apex shall be named as an additional insured on the general liability, business auto liability, and umbrella/excess policies and the policies will be primary and noncontributory. At Apex or Cary's written request, MV Transportation shall provide certificates of insurance referencing that the coverage is primary and non-contributory with copies of the Additional Insured Endorsement attached. Apex or Cary may request complete, certified copies of the policies. Notwithstanding the foregoing, neither the requirement of MV Transportation to have sufficient insurance nor the requirement that Cary and Apex are named as additional insureds, shall constitute waiver of either Town's governmental immunity in any respect, under North Carolina law.
- 7. Prepare and maintain on a form developed by Cary or MV Transportation on-going statistical, operational, and service data related to Route 1 separately from regular GoCary data. This includes but is not limited to

the following: Vehicle Pre-Trip Inspection Checklist sheets, monthly reports that include total road calls, passenger trips, vehicle miles and vehicle hours, and any other daily, monthly, and/or annual data as required by FTA under the National Transit Database (NTD) program requirements. This information shall be provided to Apex upon request.

- 8. Report all passenger or vehicle accidents to Cary within one (1) hour of occurrence and follow-up with a detailed written accident report within twenty-four (24) hours. Cary will provide this information to Apex's Planning Director and/or designee by email as soon as is reasonably practical, but no more than 48 hours after the accident.
- C. Apex shall have the following responsibilities:
  - 1. Apex shall build or provide ADA accessible bus stops as identified in Exhibit C, or additional future bus stops proposed by Apex with Cary's written approval. Apex shall maintain the bus stops used for the Service as identified in Exhibit C. Exceptions are stops that are either: (1) shared by a regional provider or (2) located on private property. Maintenance includes maintaining and upkeeping all associated transit amenities, including cutting or trimming of any vegetation; routine cleaning of the transit amenities, including the removal of litter and trash from trash receptacles; snow and ice removal; and maintaining ADA accessible conditions.
  - 2. Provide employees of MV Transportation with access to restroom facilities during all periods of revenue service, including any keys or other methods of entry needed to access such a facility. These locations will be agreed to in writing by all parties.
  - 3. Obtain National Transit Database (NTD) ID and complete annual NTD reporting.
  - 4. Determine the fare, if any, to be charged for the Service. The initial service will be implemented fare-free. If Apex decides to charge a fare, Apex is solely responsible for determining and procuring technology, developing policies and procedures, conducting public involvement and marketing, and paying any associated implementation and operating costs.
  - 5. Respond to all communications and requests by Cary within ten (10) business days, unless such communication or request is specifically identified by Cary as an "Urgent Operational Concern," in which case Apex will respond within two (2) business days.
  - 6. Establish and implement a plan for marketing Route 1, including: designing and printing schedule brochures or other informational literature; providing such literature to Cary for distribution on vehicles; and following, at a minimum, engagement standards outlined in the Wake Transit Public Engagement Policy ("Engagement Policy"). Materials must be consistent with the service provided. Materials with a GoCary logo,

image of a vehicle or person covered by the GoCary Agreement, or any other reference to GoCary, are subject to Cary review and approval to ensure accuracy of information. Images of vehicles or person(s) covered by the GoCary Agreement may be pre-approved for general use in public materials, eliminating the need for review and approval for each use.

7. Report all Route 1 operating statistics in compliance with the deliverables associated with the Wake Transit Operating Agreement.

# 3. Funding and Billing

- A. Apex will pay for the cost of installing GoApex branding on the bus operating the Service. MV Transportation shall provide a quote for the installation of the images subject to Town of Apex approval. Following completion and inspection of the installation by the Town of Apex, Town of Cary shall invoice the Town of Apex. The invoice shall be paid by the Town of Apex within 30 days of receipt. Apex is responsible for any costs associated with the removal of branding and other identifying characteristics from vehicles and the cost to fabricate and install replacement GoCary wraps on the vehicles at the conclusion of the service agreement.
- B. Apex will pay Cary the annual operating cost for the Route 1. Costs may be reduced based on any grants, fare revenue collected, or other monetary contributions received from Cary from any other party, if applicable. The annual operating cost as agreed by the Parties is determined by the following formula: operating cost per hour (\$97.50) x number of platform hours per day x number of operating days per year. Platform hours are the revenue plus deadhead hours (deadhead hours are times when the bus is away from the maintenance facility but not in revenue service, including travel to and from the facility to the service start/end location). Cary will inform Apex of any changes to its operating cost per hour and the justification therefore, no later than February 15th of each year. Operating cost is a fully allocated rate which includes the full cost of the service provided by MV Transportation, fuel, capital expenses and overhead for Cary. It is expected that, at a minimum, the operating cost per hour will be adjusted based on the Municipal Cost Index (MCI), as calculated by Cary.

All service information will be reported to the National Transit Database (NTD). Apex must obtain an NTD ID and submit all Route 1 data. Cary and MV Transportation will assist Apex in this reporting. As a result, Cary and Apex agree that the provision of Route 1 service may increase the amount of Federal Transit Administration (FTA) formula grant funding that can be acquired by Cary. If Cary secures FTA Section 5307 and Section 5339 formula grant funds that are attributable to Route 1, Cary will deduct from its billing of Apex for the operation of Route 1 an amount equal to the share of FTA Section 5307 and Section 5339 funds allocated to Cary for the preceding federal fiscal year (October 1 – September 30) that is attributable to Route 1, starting with the fourth fiscal year following the first fiscal year of annual

reporting. This deduction may be applied on a prorated monthly basis.

- C. Cary will provide a monthly invoice to Apex within 15 days after the end of each month of Service. Apex shall reimburse Cary within thirty (30) days of receipt of an invoice. In the event Apex finds any part of an invoice inconsistent with this Agreement, Apex shall clearly identify and provide evidence to Cary of any inconsistent or erroneous expenses within 10 days of receipt of an invoice and Cary will work in good faith to determine if there is an error in the invoice.
- D. MV Transportation will be compensated by Cary pursuant to the terms of the GoCary Agreement.

# 4. ADA and Paratransit Requirements

- A. MV Transportation agrees to provide Route 1 service in a manner that meets all applicable ADA public transit requirements, including the policies, regulations and training of all operators in the safe use of all ADA equipment. Requirements may include, as appropriate, providing ADA accessible vehicles on fixed route service, knowledge of mobility device tie-down procedures, operation of bus kneeling feature (if available), appropriate use of the public address and talking bus technologies, and knowledge of service animal regulations.
- B. Apex will be responsible for providing all complementary ADA paratransit service to Route 1. Cary and MV Transportation will not be required to provide complementary ADA paratransit service as part of this Agreement.

# 5. <u>Technology</u>

MV Transportation agrees to install and utilize the standard technology platform agreed to between Cary and MV Transportation, including Computer-Aided Dispatch/Automated Vehicle Locator systems (CAD/AVL), equipment for counting passenger totals, camera systems, Automated Passenger Counters (APCs), head signs, announcement systems, wi-fi routers, real-time passenger information, and communication systems between drivers and dispatch. Costs of these platforms will be included in the hourly rate.

# 6. <u>Termination for Failure to Perform ("Breach")</u>

The Parties agree that in the event that a Party breaches any provision of this Agreement, within sixty (60) days of receipt of written notice from a non-breaching Party, the breaching Party will cure the breach to the reasonable satisfaction of the non-breaching Party if the breach can be cured. Any breach of this Agreement materially impacting operation of GoApex service ("Operation Breach") shall require immediate response and a plan of action to cure the breach within fifteen (15) days of

receipt of written notice from a non-breaching party which clearly states that such breach is considered an Operation Breach. If the breach is not timely cured, or cannot be cured, then, the non-breaching Party may, at its election, terminate the Agreement. The Parties will cooperate on a winding down of the Service, including reasonable notice to the public. Apex shall pay Cary for Service provided prior to date of termination.

# 7. <u>Termination for Convenience</u>

Any Party may terminate this Agreement at any time for any reason, provided the terminating Party provides a minimum of 180 days advance written notice to the other Parties. In this event, the Parties will cooperate on a winding down of the service, including reasonable notice to the public. Apex shall pay Cary for the Service provided prior to the date of termination.

# 8. Customer Information and Complaint Handling

- A. Apex agrees to receive and respond to customer complaints regarding stop-related issues applicable to Route 1.
- B. MV Transportation will utilize existing customer service and dispatch staff during all hours of operation to respond to inquiries about immediate operational concerns. MV Transportation will work to resolve complaints within 48 hours of receipt, with follow-up to the complainant within one week after receipt. MV Transportation will maintain a separate complaint log that will include both the nature of the complaint and the resolution thereof and share with Cary and Apex on a monthly basis.
- C. The GoTransit Regional Information Center, operated by GoTriangle, is the call center responsible for most transit-related inquiries in the Triangle region. Cary contracts with GoTriangle for usage of this call center. Apex, in coordination with Cary, agrees to provide current schedule and stop location information to the Regional Information Center, which the Parties agree will serve as the primary point of contact for customer information about Route 1.

# 9. <u>Further Agreements</u>

The Parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of this Agreement. The Parties agree to work together in good faith and with due diligence to provide for and carry out the purpose of this Agreement.

# 10. <u>Amendment</u>

Any modification of this Agreement shall be made by Written Agreement.

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#### 11. Notices

Any notice given pursuant to this Agreement shall be deemed given if delivered by hand or if deposited in the United States Mail, postage paid, certified mail, return receipt requested and addressed as follows:

If to Cary:

Transit Administrator Town of Cary 316 N. Academy St. Cary, NC 27513

With a copy to:

Senior Transit Planner (Service) Town of Cary 316 N. Academy St. Cary, NC 27513

#### If to Apex:

Town Manager Town of Apex Physical - 73 Hunter Street Mail - PO Box 250 Apex, NC 27502

And with copy to:

Senior Long Range Transit Planner Town of Apex Physical - 73 Hunter Street Mail - PO Box 250 Apex, NC 27502

If to MV Transportation:

Regional Vice President for Division 178 MV Transportation, Inc. 2711 N. Haskell Av., Suite 1500-LB2 Dallas, TX 75204

With a copy to: contractsreview@mvtransit.com

#### 12. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the Parties and their



agents, grantees, successors, and assigns.

# 13. **Dispute Resolution**

In the event a dispute arises between the Parties to this Agreement concerning a question of fact in connection with the requirements of this Agreement or compensation therefore, the Parties agree to bargain in good faith towards a mutual resolution. If the Parties, after honest good faith negotiations, cannot reach an agreement, then either Party may adjudicate their dispute as allowed by North Carolina State Law.

# 14. Force Majeure

Cary shall not be liable to Apex for any failure, delay or interruption of service or for any failure or delay in the performance of any obligation under this contract due to strikes, walkouts, acts of God, governmental restriction, enemy action, civil commotion, unavoidable casualty, unavailability of fuel or parts, epidemic, pandemic, or other similar acts beyond the reasonable control of Cary.

# 15. Verification of Work Authorization

All Parties, and any permitted subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.

# 16. <u>Compliance with Federal Laws and Regulations</u>

The following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable), unless a more stringent state or local law or regulation is applicable: Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324); and any other federal provisions required by law.

# 17. Cary Branding

Apex and MV Transportation shall not use the seal, logo, or any other branding identifiers of GoCary or the Town of Cary.

# 18. <u>Representations and Warranties</u>

The individuals signing the Agreement have the right and power to do so and bind their respective parties to the obligations set forth herein, and such individuals do so personally warrant that they have such authority.

# 19. Insurance

MV Transportation and MV Transportation's permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense during the term and for three years after the termination of this Agreement insurance or self-insurance for the following: protection from claims under Worker's or Workmen's Compensation Acts covering claims arising out of or related to bodily injury, including bodily injury, sickness, disease or death of any of MV Transportation's employees or subcontractors; Commercial General Liability Insurance, including contractual liability and covering bodily injury, property damage, products and completed operations and personal injury; Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, covering bodily injury and property damage; Cyber Liability covering infringement, information theft, release of private information, damage, destruction and alteration of electronic information, extortion, network security, breach response costs, and regulatory fines; and Professional Liability/Errors & Omissions Insurance (if applicable) covering claims arising out of or related to MV Transportation's performance under this Agreement.

Minimum limits of insurance coverage are:

General Liability\$2,000,000 per occurrence/\$2,000,000 aggregateCommercial Automobile Liability\$2,000,000 CSLCommercial Excess Liability / Umbrella Policy\$5,000,000 per occurrenceWorkers CompensationStatutory Limits

Employer's Liability\$500,000 each accidentProfessional Liability\$1,000,000 per claimCyber Liability\$2,000,000 per claim and aggregate

MV Transportation may satisfy the insurance limits above with a combination of primary and umbrella/excess liability insurance policies or self-insurance. Umbrella/Excess liability shall follow form as to each of the underlying policies. Any available insurance proceeds in excess of or broader than the specified minimum limits of insurance and coverage shall be available to Cary and Apex, as applicable based on loss.

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### Insurers

The minimum insurance ratings for any company insuring MV Transportation shall be Best's A- or a qualified self-insurance program approved by the state of North Carolina. Should the ratings of any insurance carrier fall below the minimum rating, Cary or Apex, may, at their option, require MV Transportation to purchase insurance from a company whose rating meets the minimum standard. MV Transportation's insurance carrier(s) shall be authorized to do business in the state of North Carolina. If MV Transportation is unable to find an authorized carrier for any line of insurance coverage, MV Transportation shall notify Cary in writing. Cary shall then notify Apex.

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#### Additional Insured Status

All insurance policies (except Workers Compensation and Professional Liability) shall name Cary and Apex, and each Town's elected officials, officers, employees, and volunteers as additional insureds.

#### Notice of Cancellation

Each policy shall provide that Cary and Apex shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. Upon notice of such cancellation, non-renewal or if a policy's limits are exhausted, MV Transportation shall procure substitute insurance so as to assure Cary and Apex that the minimum limits of coverage are maintained continuously throughout the periods specified herein.

#### Primary

MV Transportation's insurance coverage shall be primary for any claims related to this Agreement.

#### Waiver of Subrogation

The insurer shall have no right of recovery or subrogation against Cary or Apex, or either Town's agents or agencies, it being the intention of the parties that the insurance policies shall protect Cary and Apex and be primary coverage for any and all losses covered by the policies.

#### Verification of Coverage

A certificate of insurance and all endorsements required shall be provided at, or prior to, execution of this Agreement. Cary's or Apex's review or acceptance of certificates of insurance shall neither relieve MV Transportation of any requirement to provide the specific insurance coverage set forth herein nor shall it constitute a waiver or acknowledgement of satisfaction of the specific insurance requirements set forth in this Agreement.

Certificate Holder addresses should read:

Town of Cary PO Box 8005 Cary, NC 27512-8005

Town of Apex PO Box 250 Apex, NC 27502

Special Risks or Circumstances

Cary, with prior written consent from the Town of Apex, reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Written consent from Apex may be provided by electronic communication.

#### 20. Indemnification

To the fullest extent permitted by law, MV Transportation shall indemnify and hold harmless Cary and Apex, their elected officials, officers, and employees, from and against any and all claims, costs, civil penalties, fines, losses, and damages (including but not limited to professionals' fees and charges and all court or other dispute resolution costs) (collectively "Claims"), by whomsoever brought or alleged, arising out of, resulting from, or in connection with (a) any breach by MV Transportation of any term or condition of Agreement, (b) any breach or violation by MV Transportation of any applicable law or regulation, or (c) any other cause resulting from any act or failure to act by MV Transportation under this Agreement, but only to the extent caused by any negligence, act, or omission of MV Transportation. This indemnification shall survive the termination of Agreement.

# 21. <u>Independent Contractor</u>

MV Transportation is an independent contractor and is solely responsible for its Services and the supervision of its employees and permitted subcontractors. All persons assigned by MV Transportation to provide Services pursuant to this Agreement shall, for all purposes of this Agreement, be considered employees of MV Transportation only. MV Transportation shall assume the sole and exclusive responsibility for the payment of wages to individuals for services performed under this Agreement and the withholding of all applicable Federal, State, and local taxes, unemployment insurance, and maintaining workers compensation coverage in an amount and under such terms as required by law. If Cary notifies MV Transportation in writing that any person providing Services appears to be incompetent, disorderly, or otherwise unsatisfactory to Cary or Apex, such person shall be removed from the project and shall not again be employed on it except with the prior written consent of Cary. No extension to any "Milestone Date" or completion date will be granted for replacement of such personnel or subcontractors.

# 22. Public Records

All parties acknowledge that records in the custody of Cary or Apex may be public records and subject to public records requests. Cary or Apex may provide copies of such records, including copyrighted records, in response to public record requests, except that, upon request of and indemnification by MV Transportation, the Town will not disclose records that meet all of the requirements of a trade secret as set forth in N.C.G.S. 66-152, that are specifically designated as "trade secret" or "confidential" at the time of initial disclosure by the Contractor, and that are otherwise entitled to protection under N.C.G.S. 132-1.2(1).

# 23. Entire Agreement; Amendments to Agreement

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

# 24. Dissemination of Information.

Cary takes efforts to assure that accurate information about Cary is disseminated such that neither the public trust nor the public's perception of Cary impartiality is compromised. MV Transportation and Apex, mindful of those efforts, agrees that they shall not publicly disseminate any information concerning Cary or GoCary, to include images of vehicles or people covered by the GoCary Agreement, without prior approval from Cary. Images of vehicles or person(s) covered by the GoCary Agreement may be pre-approved for general use in public materials, eliminating the need for review and approval for each use. Any approval given by Cary may be given with certain stipulations, such as Cary participation in the creation of the public product or Cary review and the option to refuse ultimate release of the final product should it fail to meet "Publicly disseminate" means but is not limited to Cary's standards and goals. electronic, video, audio, photographic or hard copy materials serving as, in whole or part, advertising, sales promotion, professional papers or presentations, news releases, articles, or other media products, and/or business collateral pieces. Notwithstanding the foregoing, the parties agree that MV Transportation may list Cary as a reference in response to requests for proposal and may identify Cary as a customer in presentations to potential customers.

# 25. <u>Non-Exclusive Remedies/No Waiver</u>

The selection of one or more remedies for breach shall not limit a party's right to invoke any other remedy available under Agreement or by law. No delay, omission or forbearance to exercise any right, power or remedy accruing to a party shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default. Every right, power or remedy may be exercised from time-to-time and as often as deemed expedient.

# 26. <u>Survival</u>

All representations, indemnifications and other terms and conditions of Agreement which by their nature should survive Agreement termination shall survive its expiration or termination.

# 27. No Waiver of Immunity

Nothing in this Agreement shall be construed to mandate purchase of insurance by Cary pursuant to N.C.G.S. 160A-485 or to in any way waive Cary's defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent or employee of either Cary or Apex shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

# 28. Gifts and Favors

MV Transportation shall become aware of and comply with laws related to gifts and favors, conflicts of interest and the like, including N.C.G.S. §14-234, N.C.G.S. §133-1, and N.C.G.S. §133-32.

# 29. Nondiscrimination

No party shall discriminate in violation of any federal, state, or local law. MV Transportation and Apex shall comply with the Americans with Disabilities Act of 1990 ("ADA").

# **30.** <u>Electronic Version of Agreement</u>

Cary may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

# 31. No Third Party Beneficiaries

Unless otherwise explicitly stated, there are no third-party beneficiaries to Agreement.

# 32. <u>Electronic Signatures</u>

Apex and MV Transportation acknowledge and agree that the electronic signature application DocuSign may be used, at the sole election of Cary, to execute this Agreement and any associated documents. By selecting "I Agree," "I Accept," or other similar item, button, or icon via use of a keypad, mouse, or other device, as part of the DocuSign application, Apex and MV Transportation consents to be legally bound by the terms and conditions of this Agreement and that such act constitutes Apex and MV Transportation's signature as if actually signed by Apex and MV Transportation in writing. Apex and MV Transportation also agree that no certification authority or other third-party verification is necessary to validate its electronic signature and that the lack of such certification or third-party verification will not in any way affect the enforceability of its electronic signature. Apex and MV Transportation acknowledge and agree that delivery of a copy of this Agreement or any other document contemplated hereby, through the DocuSign application, will have the same effect as physical delivery of the paper document bearing an original written signature.

#### 33. <u>Recitals</u>

The Recitals are incorporated into this Agreement.

(SIGNATURE PAGE FOLLOWS)



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officials

APEX, Town of Apex

Town Manager	Date
This instrument has been pre-audited in the manner required Budget and Fiscal Control Act:	by the Local Government
Finance Director	Date
MV TRANSPORTATION, MV Transportation, Inc.	
Chief Financial Officer	Date
CARY, Town of Cary	
Assistant Town Manager	Date
This instrument has been pre-audited in the manner required by t	he Local Government Budget

Deputy Finance Officer

and Fiscal Control Act:

Date

# <u>Exhibit A</u>

# **Initial Span of Revenue Service**

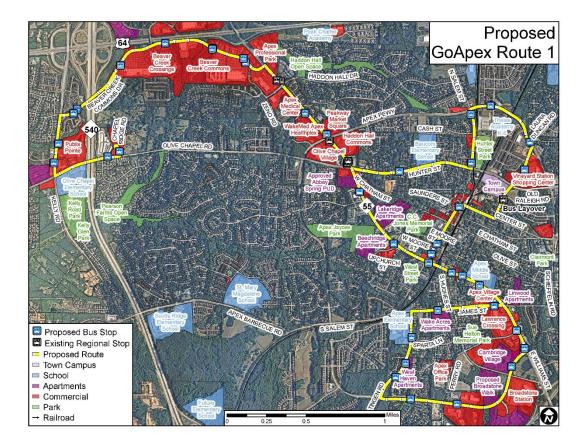
Monday – Saturday 6:00 AM to 10:00 PM

# **GoApex Route 1 does not operate on the following holidays:**

New Year's Day Martin Luther King Jr.'s Birthday Memorial Day Independence Day Labor Day Thanksgiving Day Christmas Eve Christmas Day

# <u>Exhibit B</u>

# Initial GoApex Route 1 Map



# <u>Exhibit C</u>

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# **GoApex Route 1 Initial Bus Stops and Commitments**

Route Order	Bus Stop ID	Bus Stop Name	Direction	Latitude	Longitude	Built by Town of Apex?	Maintained by Town of Apex?	Shared by a regional provider?	Amenities on private property?
1	1452	N Mason St at Old Mill Village Dr (Town Hall (NB))	NB	35.732839	-78.845471	No	Trash removal only	Yes (GoTriangle 305)	
2	1165	Laura Duncan Rd at Vineyard Station (NB)	NB	35.735576	-78.843081	Yes	Yes	Yes (GoTriangle 305)	
3	16005	Apex Peakway at Laura Duncan Rd	WB	35.738116	-78.842433	Yes	Yes		
4	16007	Apex Peakway at Ambergate Station	WB	35.741476	-78.846851	Yes	Yes		
5	16009	N Salem St at Apex Peakway	SB	35.740682	-78.849079	Yes	Yes		
6	11371	N Salem St at Hunter St (Liberty Station (SB))	SB	35.73621	-78.849066	Yes	Yes	Yes (GoCary ACX)	
7	16013	Hunter St at Hillcrest Rd	WB	35.735441	-78.857171	Yes	Yes		
8	1593	W Williams St at Hunter St (NB)	NB	35.736411	-78.862941	No	No	Yes (GoTriangle 311)	
9	16017	W Williams St at Apex Peakway (NB)	NB	35.738837	-78.865363	Yes	Yes		
10	1725	W Williams St at Haddon Hall Dr (NB)	NB	35.743772	-78.870595	No	No	Yes (GoTriangle 311)	
11	16021	Beaver Creek Commons Dr at Chick-fil-A (WB)	WB	35.745855	-78.874754	Yes	Yes		
12	16023	Beaver Creek Commons Dr at Beaver Creek Greenway (WB)	WB	35.7468	-78.878228	Yes	Yes		
13	16027	Beaver Creek Commons Dr at Diamond Dove Ln (WB)	WB	35.741207	-78.893545	Yes	Yes		
14	16029	Kelly Rd at Evening Star Dr (SB)	SB	35.736275	-78.896151	Yes	Yes		
15	16031	Chapel Ridge Rd at Olive Chapel Professional Park	SB	35.737313	-78.888764	Yes	Yes		

Route Order	Bus Stop ID	Bus Stop Name	Direction	Latitude	Longitude	Built by Town of Apex?	Maintained by Town of Apex?	Shared by a regional provider?	Amenities on private property?
16	16033	Olive Chapel Rd at Western Wake Crisis Ministry	WB	35.736819	-78.890092	Yes	Yes		
17	16035	Kelly Rd at Publix Pointe (NB)	NB	35.738028	-78.895671	Yes	Yes		
18	16037	Beaver Creek Commons Dr at Diamond Dove Ln (EB)	EB	35.740821	-78.893927	Yes	Yes		
19	16039	Beaver Creek Commons Dr at Beaver Creek Crossings West	EB	35.745216	-78.888646	Improved	No		Yes
20	16041	Beaver Creek Commons Dr at Regal Cinemas	EB	35.747255	-78.883581	Yes	Yes		
21	16043	Beaver Creek Commons Dr at Beaver Creek Greenway (EB)	EB	35.746706	-78.878278	Yes	Yes		
22	16045	Beaver Creek Commons Dr at Lowe's (EB)	EB	35.745468	-78.874547	Improved	Yes		Yes
23	1731	W Williams St at Haddon Hall Dr (SB)	SB	35.743802	-78.871002	No	No	Yes (GoTriangle 311)	
24	16049	W Williams St at Healthplex Way (SB)	SB	35.740806	-78.867814	Yes	Yes		
25	1723	W Williams St at Apex Peakway (SB)	SB	35.738247	-78.865063	No	No	Yes (GoTriangle 311)	
26	1447	W Williams St at Olive Chapel Rd (SB)	SB	35.736155	-78.863075	No	No	Yes (GoTriangle 311)	
27	16055	W Williams St at Bryan Dr (Post Office)	SB	35.733557	-78.861665	Yes	Yes		
28	16057	W Williams St at Upchurch St	SB	35.728802	-78.85782	Yes	Yes		
29	16059	E Williams St at Salem St	SB	35.727015	-78.8539	Yes	Yes		
30	16061	E Williams St at S Hughes St (Park and Ride (SB))	SB	35.726105	-78.851297	Yes	Yes		
31	16063	E Williams St at Apex Village Center (SB)	SB	35.724946	-78.848173	Yes	Yes		

Route Order	Bus Stop ID	Bus Stop Name	Direction	Latitude	Longitude	Built by Town of Apex?	Maintained by Town of Apex?	Shared by a regional provider?	Amenities on private property?
32	16065	E Williams St at Perry Rd	SB	35.720795	-78.843994	Yes	Yes		
33	16067	E Williams St at Apex Peakway	SB	35.71916	-78.843082	Yes	Yes		
34	1183	Apex Peakway at S Hughes St (Cambridge Village)	SB	35.717491	-78.844572	Yes	Yes	Yes (GoTriangle 305)	
35	16071	Apex Peakway at Norris Park	WB	35.714045	-78.850733	Yes	Yes		
36	16073	Apex Peakway at Shackleton Rd	WB	35.714521	-78.855948	Yes	Yes		
37	16075	Tingen Rd at Baberton Dr	NB	35.716528	-78.857636	Yes	Yes		
38	16077	Tingen Rd at Peace Haven Pl	NB	35.717794	-78.856513	Yes	Yes		
39	16079	Tingen Rd at Sparta Ln	NB	35.720186	-78.855802	Yes	Yes		
40	16081	James St at Germaine St	EB	35.72266	-78.852845	Yes	Yes		
41	16083	James St at E Williams St	EB	35.723031	-78.846483	Yes	Yes		
42	16085	E Williams St at S Mason St (Apex Middle School (NB))	NB	35.725827	-78.8501	Yes	Yes		
43	16087	S Salem St at Williams St	NB	35.727836	-78.853603	Yes	Yes		
44	16089	S Salem St at Moore St	NB	35.728765	-78.852957	Yes	Yes		
45	16091	N Salem St at The Depot	NB	35.732186	-78.85045	Yes	Yes		

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:April 26, 2022

# Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager

Department(s): Planning and Community Development

# Requested Motion

Motion to approve, and to authorize the Town Manager to sign and execute, the ADA Paratransit Services Agreement with Wake County.

# Approval Recommended?

Yes.

# <u>Item Details</u>

This agreement between Town of Apex and Wake County, establishes the terms and responsibilities for the operation of the GoApex Route 1 complementary paratransit services. The Town of Apex's adopted FY22 budget and proposed FY23 budget include funding for operating these services. The Town of Apex was awarded matching funding through the Community Funding Area Program to reimburse 50 percent of the operating costs for these services. This funding was included in the adopted FY 22 Wake Transit Plan and is included in the proposed FY23 Wake Transit Plan.

# <u>Attachments</u>

• ADA Paratransit Services Agreement



#### ADA PARATRANSIT SERVICES AGREEMENT

This Agreement ("Agreement") is made by and between **Wake County** (hereinafter "County"), a political subdivision of the State of North Carolina, and the **Town of Apex** (hereinafter "Town"), a political subdivision of the State of North Carolina. The foregoing may be individually referred to herein as "Party" and collectively referred to as "Parties."

#### **RECITALS**

WHEREAS, the Town will be providing a transit service operation throughout the Town of Apex hereinafter referred to as "GoApex"; and

WHEREAS, federal requirements mandate that as part of providing such a transit service, paratransit services must also be made available; and

WHEREAS, the County provides a transit service called "GoWake Access" which provides said paratransit services and is willing to extend this service to the Town pursuant to the terms of this Agreement; and

WHEREAS, the Town is interested in utilizing the services of the County to provide complementary paratransit service (hereinafter the "Service") for the fixed route public bus service "GoApex."

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

#### AGREEMENT ·

#### 1. Services to be Provided.

The County agrees to serve as the general Americans with Disabilities Act ("ADA") paratransit operator for the Town and shall assume full responsibility and liability associated with ADA compliance as to such service. Paratransit services shall be provided in accordance with the GoApex Paratransit Policy (hereinafter "Policy") which is attached and incorporated herein ("Attachment A"). Paratransit services provided pursuant to this Agreement will include door-to-door demand-responsive paratransit services to ADA-eligible clients. The County will operate a van/bus on demand to obtain maximum operational efficiencies and effectiveness. The County may contract with one or more service providers to provide the services contemplated by this Agreement. The County shall have the following responsibilities pursuant to this Agreement:

- a) Operate the Service in accordance with the service area, schedule, and fleet specifications described in Attachment A.
- b) Coordinate and carry out eligibility screening and determine service provisions as described in Attachment A.
- c) Manage and take trip reservations in accordance with the procedures described in Attachment A.
- d) Manage passenger no-shows and late cancellations in accordance with the policies described in Attachment A.
- e) Monitor and report Service performance in accordance with Appendix C of Attachment A.



- f) Respond to inquiries from Town of Apex staff within 10 business days.
- g) Operate the Service in accordance with all governing agency regulations. The County shall be held to the same standard and shall exercise the same degree of care, skill, and judgment in the performance of services as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina. The County is responsible for the maintenance, cleaning, and safe operation of all vehicles used in providing the Service as well as any claims, demands, suits or losses, including all costs connected therewith, for any damages which may be asserted, claimed or recovered for personal injury, including bodily injury or death and/or property damage, including loss of use thereof, resulting from the negligence of the County or its service provider.
- h) County will provide drivers with appropriate training to provide safe, courteous, and ADA-compliant transportation.
- i) County will ensure all drivers possess a valid driver's license as required by North Carolina law for the operation of the paratransit vehicles.
- j) Maintain insurance as described in Section 21 of this agreement.
- k) Prepare and maintain records as described in Section 3 of this Agreement.
- 1) Coordinate with the Town, as necessary, to update the Policy.

#### 2. Town Responsibilities.

The Town shall have the following responsibilities pursuant to this Agreement:

- a) Update as necessary, in coordination with the County, the Policy.
- b) Provide, annually by March 1<sup>st</sup>, as applicable, an updated list of holidays during which the Service will not operate.
- c) Establish and implement an administrative appeal process for eligibility determinations as described in Appendix C of Attachment A.
- d) Determine the fare, if any, to be charged for the Service. The initial service will be implemented fare-free. If, in its sole discretion, the Town decides to charge a fare, the Town is responsible for determining and procuring technology, developing policies and procedures, conducting public involvement and marketing, and paying any associated implementation and operating costs necessary to implement the fare.
- e) Respond to all communications and requests from the County within ten (10) business days.
- f) Establish and implement a plan for marketing the Service, including designing and printing an informational brochure.
- g) Make payment in a timely manner as defined in this Agreement for all amounts due under this Agreement.

#### 3. <u>Record Keeping, Reporting, and Reimbursements</u>.

A. The County shall keep proper program records, including any required or requested by any funding or regulatory agency, and make them available for inspection. Records shall include costs and ridership revenues reports and a description of actual services and results obtained. The County will provide the Town with monthly reports accompanied by an invoice within 15 days of the end of each month of the Service. The reports will contain the following information: total number of trips, total number of no-shows, total number of late cancellations, total number of late trips, total number of trip denials, all customer service complaints and follow-up actions, and average cost

per trip. The following details would be provided for each trip: trip cost, trip origin, trip destination, scheduled pickup time, actual pickup time, scheduled drop-off time, and actual drop-time. Additional information may need to be reported to the Federal Transit Administration to meet ADA and CFR requirements. The Town retains the right to monitor and audit County records related to the Service.

- B. The invoice will include the actual cost of each trip plus the portion of the annual fee prorated for each month. The cost of each paratransit trip will be adjusted to account for the number of passengers and the number of funding sources contributing to the cost of the entire trip, as this is a shared ride service. In no event shall the cost attributed to the Town exceed \$47.21 per hour per trip. The County would include trip cost details in the monthly invoice. The annual overhead fee shall include:
  - \$5,000 for annual overhead to Wake County.
  - \$10,400 annual overhead to GoWake Access for the processing of applications.
  - \$3,660 for the cost of a part-time employee to accept trip reservations on Sunday and holidays.
  - \$1,200 for the first year of service only for training.

The total annual overhead cost for the first year of Service shall be \$20,260 or \$1,688.33 per month. The total annual overhead cost for subsequent years of Service shall be \$19,060, or \$1,588.33 per month.

C. The Town shall reimburse the County within thirty (30) days of receipt of an invoice. Invoices will not be sent until services are in operation. In the event the Town finds any part of an invoice inconsistent with this Agreement, the Town shall clearly identify and provide evidence to the County of any inconsistent or erroneous expenses within 10 days of receipt of an invoice and the County will work in good faith to determine if there is an error in the invoice.

#### 4. <u>Compliance with ADA and Paratransit Requirements.</u>

The County will provide the Service in a manner that complies with all applicable federal, state, and local laws, including ADA public transit requirements. The County shall follow all applicable laws, rules, policies, and regulations in the training of operators in the safe use of all ADA equipment.

#### 5. Termination for Failure to Perform ("Breach").

The Parties agree that in the event that a Party substantially fails to perform in accordance with the terms of this Agreement, the non-performing Party will cure the failure to perform to the reasonable satisfaction of the complaining Party within thirty (30) days of receipt of written notice from the complaining Party. If the failure to perform is not timely cured, or cannot be cured, the Agreement will terminate at the election of the performing Party. The parties will cooperate on a winding down of the service, including reasonable notice to the public. Invoices to the Town of Apex will be prorated based on the date of termination and the County will only be paid for services performed in the manner set forth in this Agreement, and subject to the rates and amounts stated herein.

#### 6. Nonwaiver for Breach.

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

#### 7. <u>Termination Without Cause.</u>

Any Party may terminate this Agreement at any time for any reason, provided the terminating Party provides a minimum of 90 days advance written notice to the other Parties. In this event, the Parties will cooperate on a winding down of the service, including reasonable notice to the public. Apex shall pay the County for the Service provided prior to the date of termination.

#### 8. Customer Information and Complaint Handling.

All customer service complaints will be directed to the County and managed in accordance with the Wake County Transportation Complaint Policy, attached hereto as Attachment B. The monthly report described in Section 3 of this Agreement will include documentation of all customer service complaints and any follow-up actions that were taken. The Service shall be incorporated into the GoWake Access customer satisfaction surveys with a separate report of findings which shall be shared with the Town upon request.

#### 9. Further Agreements.

The Parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of this Agreement. The Parties agree to work together in good faith and with due diligence to provide for and carry out the purpose of this Agreement.

#### 10. Amendment.

This Agreement and its attachments contain the full understanding of the Parties. Any extension, modification, or addendum to this Agreement must be in writing and executed with the same formality as this Agreement.

#### 11. Notices.

Any notice given pursuant to this Agreement shall be deemed given if delivered by hand or if deposited in the United States Mail, postage paid, certified mail, return receipt requested and addressed as follows:

If to the County:

GoWake Access Transportation Manager Wake County Government 220 Swinburne Street

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#### Raleigh, NC 27602

With a copy to:

Transit Analyst Wake County Government GoWake Access 4401 Bland Road Raleigh, NC 27609

#### If to Apex:

Town Manager Town of Apex 73 Hunter Street Apex, NC 27502

#### And with copy to:

Planning Director Town of Apex 73 Hunter Street Apex, NC 27502

#### 12. Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the Parties and their agents, grantees, successors, and assigns.

#### 13. Dispute Resolution.

In the event a dispute arises between the Parties to this Agreement concerning a question of fact in connection with the requirements of this Agreement or compensation therefore, the Parties agree to bargain in good faith towards a mutual resolution. If the Parties, after honest good faith negotiations, cannot reach an agreement, then either Party may adjudicate their dispute as allowed by North Carolina State Laws.

#### 14. <u>Performance During Dispute.</u>

Unless otherwise requested by the Town, County shall continue performance under this Agreement while matters in dispute are being resolved. County acknowledges that the Town, in executing this Agreement, is relying on the County as part of its compliance with applicable ADA standards and requirements.

#### 15. Force Majeure.

Neither the County nor the Town shall be liable to the other for any failure, delay or interruption of service or for any failure or delay in the performance of any obligation under this contract due to strikes, walkouts, governmental restriction, enemy action, civil commotion, unavoidable casualty, unavailability of fuel or parts, epidemic, pandemic, or other similar acts beyond the reasonable control of the Parties.

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#### 16. Verification of Work Authorization.

All Parties, and any permitted subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.

#### 17. Compliance with Federal Laws and Regulations.

The County shall comply with all Federal Laws and Regulations regarding the use of any grants to fund its service, operations, purchase, or maintenance of service vehicles.

#### 18. Emergencies.

Notwithstanding anything else in this Agreement, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been declared, the County shall comply with all guidance and recommendations of the Centers for Disease Control, the State of North Carolina, and Wake County, unless mutually agreed to by all Parties. In the event of a North Carolina State of Emergency Declaration the County shall comply with all applicable Executive Orders issued by the Governor of the State of North Carolina and the conditions of any Town of Apex State of Emergency Declaration.

#### 19. Representations and Warranties.

The individuals signing the Agreement have the right and power to do so and bind their respective parties to the obligations set forth herein, and such individuals do so personally warrant that they have such authority.

#### 20. <u>Term.</u>

This Agreement shall become effective upon execution by the last of the Parties to sign ("Effective Date") and shall terminate on June 30, 2023. The Parties may renew this Agreement for four (4) additional one-year terms, or may otherwise amend this Agreement, in a writing made in accordance with Section 10, unless terminated earlier pursuant to the provisions of Sections 5 or 7. The parties may renew this agreement at any time prior to the expiration of the current term.

#### 21. Insurance.

The County's transportation vendor(s) shall purchase and maintain on a primary basis and at its sole expense during the term and for three years after the termination of this Agreement insurance or self-insurance for the following: protection from claims under Worker's or Workmen's Compensation Acts covering claims arising out of or related to bodily injury, including bodily injury, sickness, disease or death of any of the County's vendor(s) employees or subcontractors; Commercial General Liability Insurance, including contractual liability and covering bodily injury, property damage, products and completed operations and personal injury; Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, covering bodily injury and property damage; Cyber Liability covering infringement, information theft, release of private information, damage, destruction and alteration of electronic information, extortion, network security, breach response costs, and regulatory fines; and Professional Liability/Errors & Omissions Insurance (if applicable) covering claims arising out of or related to the County's vendors performance under this Agreement. Minimum limits of insurance coverage are:

General Liability:	\$2,000,000 per occurrence/\$2,000,000 aggregate
Commercial Automobile Liability:	\$2,000,000 CSL
Commercial Excess Liability/Umbrella	Policy: \$5,000,000 per occurrence
Workers Compensation	Statutory Limits
Employer's Liability:	\$500,000 each accident
Professional Liability:	\$1,000,000 per claim
Cyber Liability:	\$2,000,000 per claim and aggregate

The County vendor(s) may satisfy the insurance limits above with a combination of primary and umbrella/excess liability insurance policies or self-insurance. Umbrella/Excess liability shall follow form as to each of the underlying policies. Any available insurance proceeds in excess of or broader than the specified minimum limits of insurance and coverage shall be available to the Town, as applicable based on loss.

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### Insurers

The minimum insurance ratings for any company insuring the County vendor(s) shall be Best's A- or a qualified self-insurance program approved by the state of North Carolina. Should the ratings of any insurance carrier fall below the minimum rating, the Town, may, at its option, require the County's vendor(s) to purchase insurance from a company whose rating meets the minimum standard. The County's vendor's insurance carrier(s) shall be authorized to do business in the state of North Carolina. If the County's vendor(s) is unable to find an authorized carrier for any line of insurance coverage, the County's vendor(s) shall notify the Town in writing.

#### Additional Insured Status

All insurance policies (except Workers Compensation and Professional Liability) shall name the Town, and the Town's elected officials, officers, employees, and volunteers as additional insureds.

#### Notice of Cancellation

Each policy shall provide that the Town shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. Upon notice of such cancellation, non-renewal or if a policy's limits are exhausted, the County's vendor(s) shall procure substitute insurance so as to assure the Town that the minimum limits of coverage are maintained continuously throughout the periods specified herein.

#### Primary

The County's vendor's insurance coverage shall be primary for any claims related to this Agreement.

#### Waiver of Subrogation

The insurer shall have no right of recovery or subrogation against the Town, or the Town's agents or agencies, it being the intention of the parties that the insurance policies shall protect the Town and be primary coverage for any and all losses covered by the policies.

#### Verification of Coverage

A certificate of insurance and all endorsements required shall be provided at, or prior to, execution of this Agreement. The Town's acceptance of certificates of insurance shall neither relieve the County's vendor(s) of any requirement to provide the specific insurance coverage set forth herein nor shall it constitute a waiver or acknowledgement of satisfaction of the specific insurance requirements set forth in this Agreement.

Certificate Holder addresses should read: Town of Apex PO Box 250 Apex, NC 27502

Special Risks or Circumstances

The County's vendor, with prior written consent from the Town which shall not be unreasonably withheld, reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Written consent from the Town may be provided by electronic communication.

#### 22. Mutual Indemnification.

To the fullest extent permitted by law, each Party shall indemnify, defend, protect, hold harmless, and release the other, its officers, elected officials, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees) arising from or in connection with, or caused by any act, omission, or negligence of, such indemnifying Party.

#### 23. Independent Employer.

The County is solely responsible for its services and the supervision of its employees and permitted subcontractors. All persons assigned by the County to provide the Services contemplated by this Agreement shall, for all purposes of this Agreement, be considered employees or subcontractors of the County only. The County's subcontractors shall assume the sole and exclusive responsibility for the payment of wages to individuals for services performed under this Agreement and the withholding of all applicable Federal, State, and local taxes, unemployment insurance, and maintaining workers compensation coverage in an amount and under such terms as required by law. If the Town identifies any person providing Services that appears to be incompetent, disorderly, or otherwise unsatisfactory, the Town shall notify the County in writing (including through electronic mail) for the County to address according to its policies and procedures.

#### 24. Public Records.

All parties acknowledge that records in the custody of the County or the Town may be public records and subject to public records requests. The County or the Town may provide copies of such records, including copyrighted records, in response to public record requests.

#### 25. Non-Exclusive Remedies/No Waiver.

The selection of one or more remedies for breach shall not limit a party's right to invoke any other remedy available under Agreement or by law. No delay, omission or forbearance to exercise any right, power or remedy accruing to a party shall impair any such right, power

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or remedy or shall be construed to be a waiver of any breach hereof or default. Every right, power or remedy may be exercised from time-to-time and as often as deemed expedient.

#### 26. Survival.

All representations, indemnifications and other terms and conditions of Agreement which by their nature should survive Agreement termination shall survive its expiration or termination.

#### 27. No Waiver of Immunity.

Nothing in this Agreement shall be construed to waive either Party's defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent or employee of either Party shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

#### 28. Nondiscrimination.

No party shall discriminate in violation of any federal, state, or local law. The County and the Town shall comply with the Americans with Disabilities Act of 1990 ("ADA") and any nondiscrimination policy that may be in effect for either Party.

#### 29. Electronic Version of Agreement.

The County or the Town may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

#### 30. No Third Party Beneficiaries.

Unless otherwise explicitly stated, there are no third-party beneficiaries to Agreement.

#### **31. Electronic Signatures.**

The Parties acknowledge and agree that pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement and all documents related hereto containing a digitized or scanned signature are legally binding in the same manner as are hard copy documents executed by hand signature. If digitized or scanned signatures are used the Agreement shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

#### 32. Attachments.

The following attachments are attached separately and are hereby incorporated by reference:

- 1. GoApex Paratransit Policy (Attachment A)
- 2. Wake County Complaints and Appeals Policy (Attachment B)

(SIGNATURE PAGE FOLLOWS



In witness whereof the Parties hereto have caused this Agreement to be executed by their duly authorized officials, this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_.

**Town of Apex** 

Catherine Crosby, Town Manager

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

Vance Holloman, Finance Director

Wake County

Wake County, County Manager or Designee

Annemarie Maiorano Deputy Director, Wake County Health and Human Services

Nannette M. Bowler, JD Director, Wake County Health and Human Services

The person responsible for monitoring the contract performance requirements is

Anita Davis

Department Head Initials

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

Chief Financial Officer



# Americans with Disabilities Act Paratransit Policy

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# Introduction

The Americans with Disabilities Act of 1990 (ADA) requires that public entities that operate noncommuter fixed route transportation services also provide complementary Paratransit service for individuals whose disabilities make them unable to use the fixed route system. In addition, public entities subject to the ADA regulations must develop and administer a process for determining if individuals who request service meet the regulatory requirements for eligibility.

Essentially, the ADA requires that Paratransit service be "comparable" to the fixed route service in terms of service levels and availability. There are six (6) service criteria that are used to evaluate ADA Paratransit service comparability to the fixed route. These criteria only represent the minimum service standards and can be exceeded if the local governing body so chooses. The six (6) basic criteria for determining ADA comparability to fixed route service are as follows:

- Availability in the same area served by the fixed route. Specifically, service must be made available to all origins and destinations within a width of ¾ of a mile on each side of each fixed route. This includes an area within ¾ miles radius at the end of each fixed route as well;
- 2. Available to any ADA Paratransit eligible persons at any requested time on any particular day in response to a request for service made the previous day;
- 3. ADA Paratransit fares that are no more than twice the fare that would be charged to an individual paying full fare for a trip of similar length, at a similar time of day on the fixed route system;
- 4. There can be no trip restrictions or priorities based on trip purpose;
- 5. Service must be made available to eligible persons on a next day basis; and
- There can be no constraints on the amount of service that is provided to any eligible person. Specifically, there can be no operating practice that significantly limits the availability of service to ADA Paratransit eligible individuals.

ADA Paratransit service must be provided to all individuals who are unable, because of their disability, to use the fixed route system, some of the time or all of the time. The criteria for determining eligibility are also regulated by the ADA and the Town of Apex must have a documented process in place to determine if an individual qualifies for ADA paratransit service.

The purpose of this ADA Plan is to document how the Town of Apex intends to meet the requirements for providing paratransit service for the GoApex fixed route system.

# **Transit Service Providers**

GoApex will initially consist of one fixed route that will operate from 6:00am to 10:00pm, Monday through Saturday. The fixed route service will be operated by the Town of Cary. The GoApex paratransit service will be operated by Wake County and will meet all requirements of the ADA, the Code of Federal Regulations (CFR) Title 49 (Transportation), Part 37 - Transportation Services for Individuals with Disabilities and Part 38 - Accessibility Specifications for Transportation Vehicles, and the Federal Transit Administration Circular 4710.1 – Americans with Disabilities Act Guidance.

# Transit Service Area, Trip Type, Trip Purpose, Schedule

# Service Area

A map of GoApex Route 1 is attached as Appendix A. This route is accessible to persons with disabilities and persons who use wheelchairs. GoWake Access will provide ADA paratransit service to origins and destinations within the paratransit service area of GoApex Route 1, which is the area within <sup>3</sup>/<sub>4</sub>-mile of

GoApex ADA Paratransit Policy



the fixed-route service. All trip origins and destinations will be within the designated service area. A map of the paratransit service area is provided as Appendix B.

# Service Type and Trip Purpose

GoApex complementary paratransit service for ADA-eligible users will be origin-to destination service. This includes:

- Paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for part of the trip;
- Service from a person's origin to their requested destination.
- Providing transportation services only to authorized passengers.
- Providing door-to-door transportation service for clients as long as it is safe to do so, and while the vehicle remains in full view of the driver. Drivers are not permitted to enter passengers' home or other facilities for any reason. Drivers are not permitted to sign passengers in or out of service buildings.
- Passengers in wheelchairs will be given assistance up and down suitable ramps; however, drivers are not permitted to push wheelchairs up or down any number of steps.
- Requiring all passengers, including those in wheelchairs, to wear seatbelts for their safety. Vendor reserves the right to refuse service to passengers who refuse to comply with this request.
- Children under the age of twelve (12) must be transported with adult supervision.
- Children requiring child restraint seats will be properly secured, using an appropriate child restraint seat provided by the adult, prior to departure.

Wake County will accept and handle all disability trip requests on an equal basis and will not prioritize or restrict trip purposes for paratransit riders. Paratransit service will be provided during the same time period as the GoApex fixed route system.

Since paratransit is a shared-ride service, paratransit rides between Point A and Point B will usually take longer, and involve more intermediate stops, than a taxi ride between the same two points. However, trips would be scheduled to avoid a substantial number of intermediate stops and an excessive total trip time to prevent the service from becoming prohibitively inconvenient. GoWake Access would implement the GoApex Route 1: ADA Paratransit Capacity Constraints Policy and Procedures to monitor ADA paratransit service performance to ensure that operational patterns and practices that may indicate capacity constraints are identified in a timely way. The referenced policy and procedures document is provided as Appendix C.

The Town of Apex plans to operate GoApex Route 1 as a fare-free service; therefore, a fare will not be collected from GoApex ADA paratransit passengers.

# <u>Schedule</u>

GoApex Route 1 paratransit service is anticipated to operate Monday through Saturday from 6:00am – 10:00pm. To ensure that complementary paratransit drivers can complete their drop-offs no later than the latest fixed route drop-off, GoWake Access may establish a latest-available return-trip pickup time that reflects the likely travel times for requested trips. GoApex Route 1 paratransit service will not operate on the following holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving, Christmas



Eve, and Christmas Day.

# Fleet Inventory, Vehicle Requirements, and Lift Securement and Use

As required by the ADA, per agreements with the Town of Cary and Wake County, the transit fleet serving GoApex Route 1 and the complementary paratransit service will be 100% wheelchair accessible to ensure that persons needing a wheelchair have equivalent access to the transportation services as ambulatory persons.

Vehicles providing the GoApex paratransit service will have the GoWake Access brand. Each vehicle will have capacity for 8 to 10 passengers. Each vehicle will be equipped with a wheelchair lift and will be maintained consistent with the GoWake Access policies. GoWake Access will comply with accessibility specifications for transportation vehicles found in 49 CFR Part 38.

When a lift is discovered to be inoperative, GoWake Access will take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service. If there is no spare vehicle to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service would reduce the transportation service GoWake Access is able to provide, GoWake Access will keep the vehicle in service with an inoperable lift for no more than five days.

In accordance with ADA regulations, GoWake Access will provide service to all individuals using mobility devices that fit within the capacity of the lift being operated. Use of the securement system on GoWake Access vehicles will be a required condition of service. All wheelchairs and mobility devices must be secured to the passenger's satisfaction before transport. When transporting passengers using mobility devices, GoWake Access can suggest but not require passengers transfer to a van/bus seat. The passenger, in this case, has the final decision as to whether a transfer is appropriate given the passengers' particular disability.

As the regulations require, a passenger who cannot enter the vehicle using the stairs or ramp, but who does not use a wheelchair, will be allowed to enter the vehicle using the lift. GoWake Access does not provide wheelchairs or other mobility devices.

#### **Eligibility Requirements, Application Process, and Appeals**

Paratransit service is available only to individuals with a disability that prevents them from using the fixed route service. The process to initiate eligibility to use paratransit service associated with GoApex Route 1 is consistent with the ADA and the CFR.

GoWake Access will coordinate eligibility screening and determine service provision using an approved Door to Door Application (see Appendix D). According to the CFR, GoWake Access will make an application determination no more than 21 days following the submission of a complete application. If, by a date 21 days following the submission of a complete application, GoWake Access has not made a determination of eligibility, the applicant will be treated as eligible and provided service until and unless GoWake Access denies the application. GoWake Access' determination concerning eligibility will be made in writing. If the determination is that the individual is ineligible, the determination will state the reasons for the finding.



The Town of Apex, in coordination with Wake County, has established an administrative appeal process for denied applicants in the Town of Apex ADA Plan in accordance with the ADA and CFR, this is outlined in Appendix E. For people granted eligibility, the documentation of eligibility will include at least the following information: the individual's name, the name of the transit provider, the telephone number of the GoWake Access paratransit coordinator, an expiration date for eligibility (if applicable), and any conditions or limitations on the individual's eligibility, including the use of a Personal Care Attendant.

Persons denied ADA paratransit eligibility or suspended from service for no-shows or other reasons will have the ability to submit an appeal following the process outlined in Appendix E.

GoWake Access will provide paratransit service for visitors in the GoApex paratransit service area in accordance with the ADA and the CFR. Individuals that other transit agencies have determined to be ADA paratransit eligible can present documentation of eligibility received from these other agencies. GoWake Access will give 'full faith and credit' to the ID card or other documentation from the other transit agency. Visitors with disabilities may not have documentation of ADA paratransit eligibility from another transit agency. For visitors whose disability is apparent, no additional documentation is required. For visitors whose disability is not apparent, requiring documentation of disability, such as a letter from a medical professional will be permitted. GoWake Access will make paratransit service available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service.

# Reservations

# Making Reservations and Waiting Lists

Requirements regarding trip reservation will align with the ADA, CFR, and GoWake Access Policy. Every effort will be made to not deny paratransit trips in the GoApex Route 1 paratransit service area during fixed-route operations per the ADA. If a trip is denied, then it will be reported. Waiting lists may not be used to access the ADA paratransit service. Transportation services will be provided on a coordinated, shared ride service design. Disability service will not be limited because of capacity constraints. The number of trips provided to an individual will not be restricted. System capacity will be continually monitored and evaluated to determine the need for modification of resources, such as number of drivers, number of support staff, and number of vehicles. System capacity is considered to be 1 passengers/hour. System performance is measured by the number of passengers/hour the system is carrying, the number of trip denials, and the number of late pickups the system is experiencing.

All transportation reservations must be made through the GoWake Access Call Center. All pickup and drop-off times must be established during the time of trip reservation. GoWake Access will have the option to make trip reservations up to 14 days in advance of an eligible individual's desired trips. Riders must call at least the day before the trip to schedule a ride. GoWake Access will make next-day trip reservation service available during all normal business hours of its administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day. The reservation service on any day does not have to be provided directly by a "real person". An answering machine or other technology will suffice. An individual will be able to reserve service for any time during the next day of service. If an eligible rider leaves a voicemail on a day when GoWake Access will provide the trip at the time requested. GoWake Access may negotiate pickup times with the passenger, but GoWake Access will not require an eligible rider to schedule a trip to begin more than one hour before or after the individual's desired departure time. The negotiation

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window of one hour before or after the individual's desired departure time can be used unless the trip has constraints with respect to when they can begin (e.g., not before the end of the individual's workday or not until after an appointment is over). When scheduling by appointment time, a rider may request either a pickup time or a drop-off time for a given trip, but not both.

## Pickup Times

Pickup windows will be consistent with the FTA Circular. Pickup windows will be no longer than 30 minutes in total. GoWake Access will establish a pickup window policy for GoApex Route 1 paratransit service to "bracket" the 30-minute window around the negotiated pickup time (-15/+15 window). If GoWake Access needs to adjust the pickup window, the agency will renegotiate the pickup time with the rider. Such renegotiations with the rider will occur no later than a day before the scheduled travel day. Any negotiations are subject to rider acceptance; if the rider refuses, GoWake Access will provide the trip as previously negotiated. If GoWake Access is unable to reach the rider, the agency will provide the trip as previously negotiated. A driver is considered late if he/she arrives outside of the pickup window.

## Drop-off Times

Drop-off times will be consistent under the GoWake Access policy. If the eligible individual gives a time by which they must arrive at their destination, the paratransit trip drop-off must be on time or early. If the passenger arrives at their destination past the designated drop-off time, this would be considered a late trip. If the eligible individual makes a trip reservation for a specific pickup time then a drop-off time does not apply, other than it cannot be an excessively long trip.

## No Show Definition and Policy

The Town of Apex maintains a paratransit no-show policy and is included as Appendix F. This policy requests that passengers be ready to be transported within the scheduled 30-minute pick-up window. A No-Show occurs when all of the following criteria are met:

- There has been no call by the rider to cancel the scheduled trip at least 1 hour prior to the start of the pickup window.
  - AND
- The vehicle arrives at the scheduled pickup location within the 30-minute pickup window. **AND**
- The driver has waited 5 minutes after arriving during the pickup window.

After waiting for 5 minutes, the driver is instructed to leave a No-Show tag, and proceed to the next destination.

## Accompanying Passengers, Attendants and Companions

The CFR requires that paratransit service be provided to one person accompanying the eligible individual in addition to the eligible individual's Personal Care Attendant (PCA). Other accompanying passengers will be served on a space-available basis. In order to be considered "accompanying" the eligible individual, the other individual(s) must have the same origin and destination as the eligible individual. GoWake Access will require that the eligible individual reserve space for the companion(s) when the individual reserves his or her own ride.



#### Assistance

Drivers are trained to provide minimal assistance only. Drivers are not trained to provide medical assistance. Passengers are advised that drivers are not permitted to operate a scooter or electric wheelchair onto the lift. The passenger is responsible for getting onto the lift with minimal driver assistance for these devices.

#### Packages

Passengers will be transported with up to two packages, so long as they can carry them on their own. Packages must fit under seats or be secured to the satisfaction of the driver'.

#### Accommodating Other Mobility Devices, Life Support Equipment or Service Animals

GoWake Access will permit the use of a lift for personal transportation devices when used as a mobility device by eligible customers as long as it does not exceed the capacity of the lift utilized including the user, per 49 CFR §38. All paratransit passengers will be permitted to travel with service animals trained to assist them.

## Use of Portable Oxygen/Respirator Equipment

As required by the ADA, persons using GoWake Access may bring respirator, portable oxygen, and/or other life support equipment on board our vehicles, as long as they do not violate the law or rules relating to the transportation of hazardous materials. All equipment must be small enough to fit into the vehicle safely without obstructing the aisle and/or blocking emergency exits.

## Other Assistance

All material made available to applicants and passengers of GoApex complementary paratransit service will be provided in accessible formats upon request. For visually-impaired customers, phone calls will be made in addition to letters referenced in this document. Mobility training will be made available upon request.

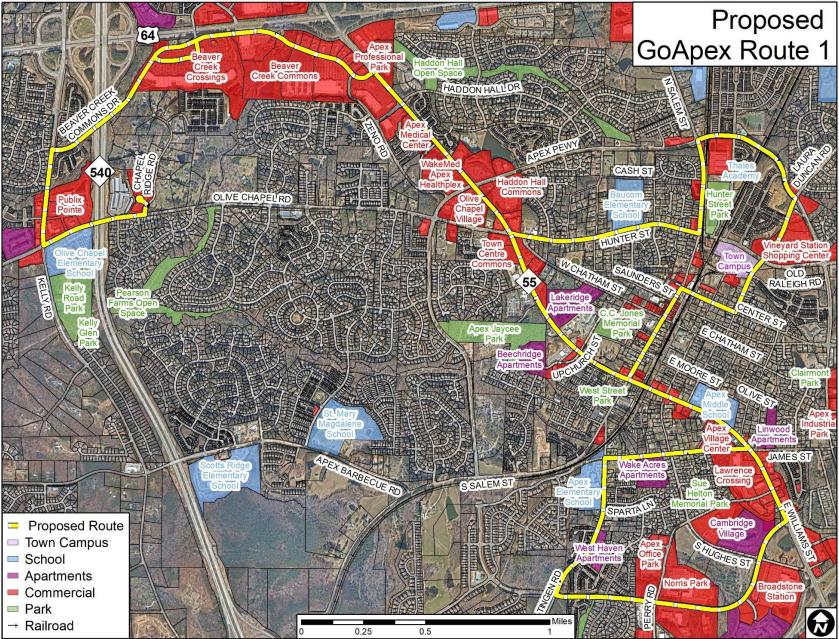
## Appeals Process

If you have been denied ADA paratransit eligibility or suspended from service for no-shows or other reasons you have the ability to submit an appeal. The appeal process is outlined in Appendix E.

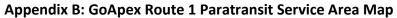
## Attachments:

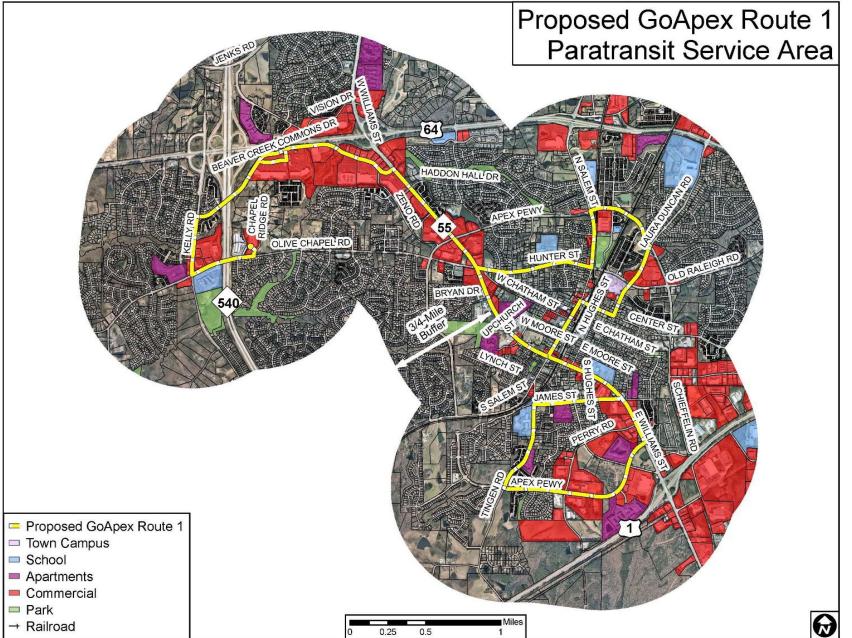
Appendix A:	GoApex Route 1 Fixed Route Map
Appendix B:	GoApex Route 1 Paratransit Service Area Map
Appendix C:	GoApex Route 1 ADA Paratransit Capacity Constraints Policy and Procedures
Appendix D:	Town of Apex Door to Door Application
Appendix E:	Town of Apex Appeal Process
Appendix F:	Town of Apex No-Show Policy

## Appendix A: GoApex Route 1 Fixed Route Map



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## Appendix C: GoApex Route 1 ADA Paratransit Capacity Constraints Policy and Procedures

### GoApex Route 1: ADA Paratransit Capacity Constraints Policy and Procedures

It is important for GoWake Access and the Town of Apex to monitor ADA paratransit service performance to ensure that operational patterns and practices that may indicate capacity constraints are identified in a timely way.

#### Excessive Trip Length Policy and Standard

The length of a GoApex paratransit client's ride should be comparable to a ride on the fixed-route service. This includes walk time at both ends of a trip, wait time for a bus, onboard ride time, and transfer time, if applicable. After a year of paratransit operations, The Town of Apex will set a standard for the percentage of ADA paratransit trips with travel times equal to or less than a similar fixed route trip.

#### Data Analysis Procedures

- GoWake Access will identify the average paratransit travel time for all GoApex Route 1
  paratransit trips. Average travel time can be calculated by reservations/schedulingsoftware.
  Average travel time over a year's period, which would take into account seasonable variations, will
  be collected during the first year of service operations.
- 2. GoWake Access will use scheduling software to generate a list of trips with travel times exceeding that average based on an analysis of the trips taken that month.
- 3. The Town of Apex will compare travel times for those trips to fixed route itineraries for the same origin and destination and day of week/time of day. Fixed route itineraries should include an estimate of walk, travel, and transfer time for the fixed routes a client would use to make a comparable fixed route trip.

Travel times of comparable fixed route trips will be generated by Google Transit or some other online trip planner, as long as all the elements of the trip (walk, wait, travel, transfer) are included in the itinerary.

Depending on how many trips are on the long trips list, all trips or a sample (every Xth trip, for example) will be analyzed. A sample of 20-30 trips is sufficient.

- 4. The Town of Apex will calculate the percentage of paratransit trips with travel times that exceed their fixed route equivalents, based on the month's sample. This percentage will be compared against the Town of Apex's standard. The Town of Apex will share these results with GoWake Access.
- 5. Regardless of the percentage of trips with excessive trip length is within the standard, GoWake Access will also take a closer look at the long trips to see if there is a pattern that should be addressed. For example, clients who are the first on and the last off the vehicle on a regular run to a human service program may experience long travel times every day that could be alleviated by splitting that run in two.



Appendix D: GoApex Paratransit Service Application

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## **Application for Paratransit Service**

GoApex Paratransit is a shared ride service for persons with disabilities that prevent them from using the GoApex fixed route system. This service will be provided by GoWake Access.

Interested individuals must complete an eligibility application and receive approval from GoWake Access before reservations will be accepted.

## Instructions

- Complete the eligibility application, including Section II.
- Mail Application to Attn: Kennard Coleman GoWake Access 4401 Bland Road, Raleigh, NC 27609 or email application to kennard.coleman@wakegov.com
- Once your completed application is received it will be reviewed for eligibility. You will be notified in writing of the determination of eligibility within 21 days by GoWake Access. If eligibility is not determined within 21 days of receipt of a completed application, the applicant will be treated as eligible and provided service until a final eligibility determination is made.

## **Application:**

Date of Application:					
Section I. General Information					
Name					
Street Address					
City	State	Zip Code			
Home Phone	Cell Phone				
Email Address:					
Preferred Contact Method Home Ph	one Cell Phone	Email			

## **IMPORTANT NOTE:**

By providing your email address, you agree to receive email communication from GoWake Access and the Town of Apex. If you subscribe to the email service option, your email address will not be given to third parties in accordance with state law. We will only use the email to: (1) communicate with you about GoApex matters; (2) share emergency information with you; and/or (3) contact you regarding any email subscriber administrative issues that may arise. For questions, please call (919) 249-1240.

## **Emergency Contact Information**

Name	Relationship
Address	
Home Phone	Cell Phone

٦

Do you require any of the following? (check all that apply)

Manual Wheelchair	Yes	No
Power Wheelchair	Yes	No
Motorized Scooter	Yes	No
Cane	Yes	No
Walker	Yes	No
Crutches	Yes	No
Braces	Yes	No
Service Animal	Yes	No
Oxygen	Yes	No

## **IMPORTANT NOTE**

Other (please explain): \_\_\_\_\_

Passengers who use wheelchairs/scooters must have a ramp if steps are present. Driver's will not "bump" passengers up/down stairs or in/out of houses/buildings. Lastly, please be aware that the lift capacity is **750lbs**.

P a - Page 81 - **1 1** 

## Applicant Name \_\_\_\_\_

I understand that the purpose of the application is to determine if I am eligible for GoApex's Door to Door transportation service. I certify that the information I gave in this application is true and correct to the best of my knowledge and that the application will be returned to me if it is not complete, which delays processing. I understand that falsification or misrepresentation of facts, or changes in my medical condition, may result in changes to my certification status. I further understand that additional information from my healthcare professional related to my disability or medical condition is required for ADA complementary paratransit service and will be used to help determine my eligibility. I agree to notify GoApex if I no longer need to use the Door to Door service.

Signature of Applicant:	Date:
-------------------------	-------

(Applicants must be 18 years of age to sign independently. Otherwise, the signature of a guardian is required.)

Applicant's Representative If someone other than the applicant has completed this application, the following information must be provided.

Printed Name:	
---------------	--

<b>Daytime Telephone Number:</b>	

Relationship to Applicant:	D	Date:	
----------------------------	---	-------	--

## Authorization for Release of Information

I authorize the professional who has completed Section II of this application to release to GoWake Access, information about my disability or health condition and its effect on my ability to travel on the GoApex transit system. I understand that I may revoke this authorization at any time.

I, the applicant, understand that the purpose of this application is to determine my eligibility to use the GoApex Door to Door services. I agree to release the information requested to GoWake Access and any eligibility review panel and understand that the information contained herein will be treated confidentially, unless otherwise required by law. I understand further that GoWake Access reserves the right to request additional information at its discretion. I agree to notify GoWake Access of any changes in the status of my disability that affects my ability to use the GoApex Door to Door services. I also understand that this may affect my eligibility as a rider.

Applicant's Name:		
Date of Birth:		
Applicant's <b>Physical</b> Address:		
City	_ State	Zip:
Applicant's <b>Mailing</b> Address:		
City	_ State	Zip:
Applicant's Telephone Number:		
Applicant's Signature		Date:

## Section II: Health Care Provider Verification

Dear Verifying Professional:

You are being asked by the applicant named in this application to provide information regarding their ability to use the public transportation services of GoApex. GoApex provides transportation services to eligible persons with disabilities who cannot use regular fixed route bus services. The information you provide will allow us to evaluate the request and determine the individual's specific needs. Thank you for your cooperation in this matter.

**PLEASE NOTE**: GoApex fixed route bus services available within the Town of Apex are currently accessible to persons with disabilities.

The individual applying for service under the Americans with Disabilities Act (ADA) **MUST <u>BE UNABLE TO ACCESS THESE SERVICES</u>** due to:

- Conditions which prevent them from getting to or from a GoApex fixed route bus stop, or transferring between vehicles **and/or**
- Conditions which prevent them from being able to get on, ride, or get off an ADA accessible vehicle

The completed application must be submitted to GoApex within thirty (30) days of completion by selected professional and can be returned to the applicant or sent to the following:

By Mail: ATTN: Kennard Coleman, GoWake Access 4401 Bland Road Raleigh, NC 27609 By Email: kennard.coleman@wakegov.com

## (PLEASE PRINT)

Name of Client:
1. Capacity in which you know the applicant:
2. When was the applicant last treated or seen by you?
3. On average, how frequently is the applicant seen by you?
4. Has the applicant been diagnosed with a physical, cognitive, psychological, or other
disability that would prevent them from using GoApex's fixed route bus service? Yes No
5. Does the applicant's disability or condition prevent the use of regular fixed route bus
service? Yes, Sometimes Yes, Always No
If Sometimes, please explain:

6. Could the applicant use regular fixed route buses with travel training? Travel training is an instructional process where seniors, persons with disabilities and individuals learn how to navigate and ride public transit safely and independently. It can be offered through one-on-one training or group training.

Yes, Sometimes	Y	es, Always	[	No
If Sometimes, please explain:				
. How far can the applicant walk/t mobility aid? (choose one of the o	-			
Feet Bl	ocks	N	Ailes	
What is the expected duration of	this indivi	dual's conditio	n?	
Temporary: Approximate	e expected	duration unti	I/,	/
Long-term: Potential for	improvem	ent or periods	of remiss	ion
Permanent: No expectat	ion of fund	ctional improv	ement	

Please choose the statement below which best represents your professional opinion regarding the applicant's use of public transportation:

	The applicant should be able to access fixed route public transportation successfully.				
	The applicant can use fixed route public transportation successfully but may need to utilize Door to Door service <b>under certain conditions</b> due to a disabling condition or functional limitation.				
	Please explain conditions	S:			
	••	•	portation due to a disabling por to Door service <b>without</b>		
Printed Nam	ie				
Title					
	nsed physician, please ind		1)		
Organizatio	n/Practice				
Address:					
City:		State:	_Zip Code:		
Phone #:					
Fax #:					
	55:				

FOR Town of Apex/GoApex USE ONLY						
APPROVED	DENIED					
UNCONDITIONAL	CONDITIONAL	TEMPORARY				
ISSUED BY		TITLE				
DATE		FILE NUMBER				

## **Appendix E: GoApex Appeal Process**

## Denial of Paratransit Service

GoWake Access will carefully review each application to ensure that only qualified persons are approved. Upon completion of review, a letter of certification or denial will be mailed. If your application for paratransit service was denied, you have the right to appeal this decision.

**ADA Application Appeals** 

To appeal the decision, you will need to submit your request in writing, sixty (60) days within receipt of the denial letter.

Appeals may be mailed to:

## ATTN: Kennard Coleman, GoWake Access 4401 Bland Road Raleigh, NC 27609

Your appeal will be heard by an ADA Appeals Board. The ADA Appeals Board consists of individuals who are not involved in the initial certification process. Their decision is made independently of the ADA Certification Process.

Upon receipt of your letter, GoApex will set up a meeting with the ADA Appeals Board. You will be notified by mail of the date and time of this meeting. You will have the opportunity to submit any additional information and written evidence and/or arguments to support your qualifications for service. You may bring a representative with you to this meeting.

You will be notified of the Appeals Board's decision in writing within thirty (30) days of the hearing. The Board's decision is final.

## Denial of Paratransit Service Due to No-Show:

If a rider has a pattern and practice of No-Shows/Late Cancellations as provided above, GoWake Access will send them a suspension letter or email, proposing to suspend service with instructions on the appeals process (with an option for an in-person appeal). The notice will specify the basis of the proposed action and set forth the proposed suspension. The notice will advise the individual of the right to appeal the assessment of any no-shows/late cancellations and/or suspensions of service by submitting a letter of appeal to GoWake Access. Individuals will have 60 days (or 90 days if the individual has a good reason for delay) from the date of the written notice to submit their request for an appeal. GoWake Access will not require such requests to include the basis or reasons for the appeal. The choice to submit written information in advance of or instead of an appeal hearing would be for the appellant to make. GoWake Access will provide the individual with a hearing to present information and arguments and review the situation and provide the individual with transportation services if the decision to suspend transportation services was wrong. A local hearing will be held within five (5) days of the individual's request unless the individual asks for it to be postponed. The hearing can be postponed (for a good reason), for as much as 10 calendar days. To the extent practicable, the individuals deciding appeals will not be those involved with the initial decision to suspend service. GoWake Access will provide written



notification of the decision and the reasons for it. GoWake Access will not be required to provide paratransit service to the individual pending the determination on appeal. However, if a decision has not been made within 30 days of the completion of the appeal process, GoWake Access will provide paratransit service from that time until and unless a decision to deny the appeal is issued. Critical needs clients such as, dialysis and chemotherapy patients will not have their paratransit services suspended. All appeals must be submitted in writing within 30 days. Please include the time, date and pickup address of the no-showed ride you are appealing.

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## Appendix F: GoApex No Show Policy

## No-Shows and Late Cancellations

No-Show and Late Cancellation policies will be in compliance with the ADA and CFR. To avoid a No-Show or late cancellation, the client must be ready at the designated place for pickup within the pickup window given by the Customer Service Representative.

## <u>No-Show</u>

A No-Show occurs when all of the following criteria are met:

- There has been no call by the rider to cancel the scheduled trip at least 1 hour prior to the start of the pickup window.
   AND
- The vehicle arrives at the scheduled pickup location within the 30-minute pickup window. **AND**
- The driver has waited 5 minutes after arriving during the pickup window.

After waiting for 5 minutes, the driver is instructed to leave a No-Show tag, and proceed to the next destination.

## Late Cancellation

A late cancellation occurs when the rider does not call to cancel a specific scheduled trip at least 1 hour prior to start of the pickup window. Late cancellations will be treated as "No-Shows".

## No-Shows Beyond Passenger's Control

Trips cancelled for reasons that are beyond the rider's control will not be considered "No-Shows". This includes missed trips resulting due to sudden illness, family or personal emergency, transit connection delay, appointment delay, extreme weather conditions, operator error, paratransit lateness, or other unforeseen reasons for which it is not possible to call to cancel in time or to take trips as scheduled.

## Subsequent Trips

If a rider has a No-Show for the outgoing portion of a round trip, they will still keep return trips and subsequent trips on schedules unless there was an indication from a rider or other reliable source that they will not need the return trips. GoWake Access will attempt to contact the client to see if they need the return trip to avoid another No-Show.

## No-Show Notifications

GoWake Access will send a written warning after five (5) No-Shows. The written correspondence will list the total number of No-Shows and the percent of No-Shows in reference to the total number of trips booked in the calendar month. Specific dates, times, and locations of each No-Show in the calendar month will be provided in writing upon rider request.

## Pattern and Practice of No-Shows

Riders may be suspended from paratransit service when they show a "pattern and practice" of No-Shows, which occurs when:



- A rider has five (5) or more No-Shows in a calendar month; AND
- The number of No-Shows represents more than 15% of the trips booked by the rider in a calendar month.

## Suspension Periods

The following suspension periods shall apply:

- 1<sup>st</sup> violation: Warning Letter/Email
- 2<sup>nd</sup> violation: 7-day suspension
- 3<sup>rd</sup> violation: 14-day suspension
- 4<sup>th</sup> violation: 30-day suspension

## Notification of No-Show Policy

ADA Patron Address

Dear

It is the policy of GoApex to inform our patrons of factors that may affect their transit services. Noshows are one of those factors.

No-Shows, as well as late cancellations, result in wasted trips which could have been used by other passengers. It is the policy of GoApex to record each customer's no-shows and apply appropriate sanctions when customers establish a pattern of excessive No-Shows.

For your information, attached is the policy that provides what defines a No-Show and what actions may be taken.

Thank you for your patronage



#### Attachment B – Wake County Complaints and Appeals Policy

#### COMPLAINTS

#### Was there a problem with your transportation?

For a commendation or a complaint to be filed, the customer must call the GoWake Access Call Center at (919) 212-7005 press option 4 or contact the Consumer Experience Management Team at 919-212-7155. Complaints may also be filed online: http://www.wakegov.com/humanservices/administration/Pages/HSComplaintForm.aspx

Complaints must be reported within 24-48 hours after the incidence. The representative will enter the information into a database and distribute to the appropriate person. We appreciate any and all timely feedback, with as much detail as possible.

The GoWake Access staff will follow up with the appropriate persons to correct and resolve the issue. The customer will receive a phone call/letter verifying that the complaint was filed and what the corrective measures are.

If dissatisfied with the resolution, then clients may appeal actions taken on complaint resolutions within 7 days of the date of the resolution notification by addressing the Transportation Manager in writing at the address below. The appeal should include all relevant information.

## GoWake Access Services 220 Swinburne Street PO Box 46833 Raleigh, NC 27620-6833 Attn: Anita Davis, Transportation Manager

#### APPEALS

Complainant may appeal actions taken on complaint resolution within seven (7) days of date of resolution notification by addressing the Transportation Manager in writing at the address below. The appeal should include all relevant information.

Wake County Human Services Transportation Manager 220 Swinburne St P O Box 46833 Raleigh, NC 27620-6833

The Transportation Manager will attempt to resolve the appeal by contacting the complainant and other relevant parties. If the Transportation Manager cannot resolve the complaint in three (3) business days, then the appeal will be forwarded and considered by the WCHS Deputy Director. The WCHS Deputy Director will respond to the complainant in writing within five (5) working days. The decision of the WCHS Director is final. Appeals and their final resolution will be entered into the Lotus Notes database

- Page 94 -

and will be reported as part of the GoWake Access vendor's monthly management report, which is provided to GoWake Access staff and Sponsor Agencies.

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## <u>Item Details</u>

Presenter(s):Shelly Mayo, Planner IIDepartment(s):Planning and Community Development

## Requested Motion

Motion to set the Public Hearing for the May 10, 2022 Town Council meeting regarding Rezoning Application #21CZ29 North Salem Station PUD. The applicant, Ana Wadsworth with The Wooten Company, seeks to rezone approximately 10.39 acres from Planned Commercial (PC) & Neighborhood Business (B1) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 Candun Dr., 0 Laura Duncan Rd., and 0 N. Salem St.

Approval Recommended?

The Planning and Community Development Department recommends approval.

## <u>Item Details</u>

The properties to be rezoned are identified as PINs 0753024120, 0753026029, 0753028181, 0753019925, 0753019769, 0753016795, 0753015606, 0753013228, & 0743908968 Attachments

- \<u>/: : :</u> . . .
  - Vicinity Map
  - Application





PLANNED	UNIT DEVELOPMENT APPLICATION				
This docume third parties.	nt is a public record under the North Carolina Public	Records Ac	t and may be published on	the Town's websit	e or disclosed to
Application		_	Submittal Date:	12/1/21	
Fee Paid	<u></u> \$ <b>1,703.90</b>	_	Check #	058825	
PETITION	TO AMEND THE OFFICIAL ZONING DISTRIC	Τ ΜΑΡ			
Project Na	me: North Salem Station				
Address(es	): 0 Candun Dr., 0 Laura D	)uncar	n Rd., 0 N. Sale	em St.	
PIN(s)	753024120, 0753026029, 07530	28181,	, 0753019925, 07	753019769,	0753016795
	0753015606, 0753013228, 0	74390	8968	Acreage: 1	0.39 Acres
Current Zo	ning: PC (7 Parcels) & B1 (2 Parce	ls) <sub>Propo</sub>	osed Zoning: PUD	) - CZ	
Current 20	45 LUM Designation: High-Density Res	idential &	Commercial; High-Densi	ty Residential & C	Office Employment
Is the prop	osed rezoning consistent with the 2045 LUM	Classificat	tion(s)? Yes 🔳	No	
If any port	ion of the project is shown as mixed use (3 or	r more str	ines on the 2045 Land I	llse Man) provid	e the following:
		indic 5ti		N/A	e the following.
	ea classified as mixed use:		Acreage:	N/A	
	ea proposed as non-residential development		Acreage:	N/A	
Pe	ercent of mixed use area proposed as non-res	idential:	Percent:		
Applicant I	Information				
Name:	Ana Wadsorth				
Address:	120 N. Boylan Avenue				
City:	Raleigh	State:	NC	Zip:	27603
Phone:	919-828-0531	E-mail:	awadsworth@t	hewootenco	ompany.com
Owner Info	ormation				
Name:	David J & Marilyn B Martin	Irrevo	cable Trust		
Address:	1201 Buck Jones Rd.				
City:	Raleigh	State:	NC	Zip:	27606
, Phone:	919-420-1568	E-mail:	blake.thomas		oung.com
Agent Info	rmation				
Name:	Jeff Shifflett				
Address:	230 Court Square, Suite 20	)2			
City:	Charlottesville	State:	VA	Zip:	22902
Phone:	434-531-6301	E-mail:	jshifflett@cas		
Other cont	laas Askarkask issk	•		•	

## PLANNED UNIT DEVELOPMENT APPLICATION

Application #:

## PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS:

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments. The PD text and plan should demonstrate how the standards of Sec. 2.3.4.F are met be the proposed rezoning.

## **LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING**

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) Consistency with 2045 Land Use Map. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map. North Salem Station PUD-CZ is consistent with the High-Density Residential Overlays that were adopted into the 2045 LUM in February 2020 and the proposed design is compatible with the uses and character of the surrounding properties.

2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The proposed zoning district PUD-CZ is allowed within the High-Density Residential Use per

the 2045 Town of Apex's Land Use Map. The development proposes a density of 23 units per acre.

The proposed location of the development is compatible with the character of the surrounding land uses.

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

Supplemental standards pertaining to multi-family development, as well as, the future use of the non-residential parcels will be incorporated into the final design.

12/1/21

Submittal Date:

21CZ29

#### PETITION PROCESS INFORMATION

#### 21CZ29

12/1/21

4) Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

Design will adhere to Town of Apex design standards to minimize adverse impacts to

surrounding land. Architectural guidelines and controls will ensure that an appropriate aesthetic is

incorporated that is consistent with local architecture and maintains a high level of quality. The

project will not create any significant or uncommon nuisances to the surrounding properties.

5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

Design will minimize environmental impacts by adhering to all Town of Apex site planning

requirements and any necessary mitigation efforts. The project will incorporate a 20% RCA

factor and include additional conditions beneficial to environmental impacts such as solar panels,

pump station improvements (if necessary) and electric vehicle charging stations.

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

CZ use will not create any unique or uncommon impacts on public facilities. Any impacts to

public facilities will be mitigated by public improvements at the Property or fees in lieu, as

required by the Town of Apex.

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

CZ use will meet all applicable guidelines for health, safety or welfare of the residents of the

Town of Apex.

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

CZ use is in compliance with the Town of Apex's recommended use for the Property, as determined in the

2045 Land Use Map. Proposed residential and office/flex uses are consistent with adjacent properties.

Increased building setbacks have been incorporated on property lines in close proximity to existing residences.

#### **PETITION PROCESS INFORMATION**

9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

CZ use will not create or constitute a nuisance or hazard. A TIA will be included with this application

to recommend any traffic impact mitigation improvements necessary as a result of the CZ use.

The project will comply with traffic mitigation improvements, as required by the Town of Apex.

10) Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

CZ use will comply with all standards imposed on it by all other applicable provision of this

Ordinance for use, layout and general development characteristics.

DEVELOPMENT NAME APPROVAL APPLICATION				
Application #:	21CZ29	Submittal Date:	12/1/21	

Fee for Initial Submittal: No Charge

Fee for Name Change after Approval: \$500\*

#### Purpose

To provide a consistent and clearly stated procedure for the naming of subdivisions and/or developments and entrance roadways (in conjunction with *Town of Apex Address Policy*) so as to allow developers to define and associate the theme or aesthetics of their project(s) while maintaining the Town's commitment to preserving the quality of life and safety for all residents of Apex proper and extraterritorial jurisdiction.

#### Guidelines

- ✓ The subdivision/development name shall not duplicate, resemble, or present confusion with an existing subdivision/development within Apex corporate limits or extraterritorial jurisdiction except for the extension of an existing subdivision/development of similar or same name that shares a continuous roadway.
- ✓ The subdivision/development name shall not resemble an existing street name within Apex corporate limits or extraterritorial jurisdiction unless the roadway is a part of the subdivision/development or provides access to the main entrance.
- ✓ The entrance roadway of a proposed subdivision/development shall contain the name of the subdivision/development where this name does not conflict with the Town of Apex Road Name Approval Application and Town of Apex Address Policy guidelines.
- ✓ The name "Apex" shall be excluded from any new subdivision/development name.
- ✓ Descriptive words that are commonly used by existing developments will be scrutinized more seriously in order to limit confusion and encourage distinctiveness. A list of commonly used descriptive words in Apex's jurisdiction is found below.
- ✓ The proposed subdivision/development name must be requested, reviewed and approved during preliminary review by the Town.
- ✓ A \$500.00 fee will be assessed to the developer if a subdivision/development name change is requested after official submittal of the project to the Town.\*

\*The imposed fee offsets the cost of administrative changes required to alleviate any confusion for the applicant, Planning staff, other Town departments, decision-making bodies, concerned utility companies and other interested parties. There is no charge for the initial name submittal.

#### **Existing Development Titles, Recurring**

Residential		Non-Residential	
10 or more	Creek, Farm(s), Village(s),	Center/Centre	
6 to 9	Crossing(s), Park, Ridge, Wood(s)	Commons, Park	
3 to 5	Acres, Estates, Glen(s), Green <sup>•</sup> , Hills	Crossing(s), Plaza, Station, Village(s)	

•excludes names with Green Level

Planned Unit Develome

#### **DEVELOPMENT NAME APPROVAL APPLICATION**

Application #: 21CZ29

Submittal Date:

12/1/21

#### **Proposed Subdivision/Development Information**

Description of location: Nine parcels at intersection of Laura Duncan, Candun Drive and North Salem Street

Nearest intersecting roads: Laura Duncan Road, Candun Drive and North Salem Street

Wake County PIN(s): \_\_\_\_\_\_0753024120, 0753026029, 0753028181, 0753019925, 0753019769, 0753016795, 0753015

Fax number:

Township: Cary and White Oak

**Contact Information (as appropriate)** 

Contact person: Jeff Shifflett

Phone number: 434-531-6301 Fax number:

Address: 230 Court Square, Suite 202, Charlottesville, VA 22902

E-mail address: jshifflett@castledp.com

Owner: DAVID J & MARILYN B MARTIN IRREVOCABLE TRUST

Phone number: 919-420-1568

Address: 1201 BUCK JONES RD., RALEIGH NC 27606-5635

E-mail address: blake.thomas@avisonyoung.com

#### **Proposed Subdivision/Development Name**

1<sup>st</sup> Choice: North Salem Station

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

#### Town of Apex Staff Approval:

Town of Apex Planning Department Staff

Date

AGEN	IT AUTHORIZAT	ION FORM		
Applic	cation #:	21CZ29	Submittal Date:	12/1/21
DAVID J & MARILYN B MARTIN IRREVOCABLE TRUS is the owner* of the property for which the att				
	ition is being su		-	
	Land Use A	nendment		
	ā	or Conditional Zoning and Planne authorization includes express con Agent which will apply if the appli	nsent to zoning conditions t	· · ·
	Site Plan			
	Subdivision			
	Variance			
	Other:	2		
The pro	perty address	is: 0 Candun Drive		
The age	ent for this proj	ect is: Jeff Shifflett		
	🗆 I am the	owner of the property and will be	e acting as my own agent	
Agent I	Name:	Jeff Shifflett		
Addres		230 Court Square, Suite 202, 0	Charlottesville, VA 22902	
Teleph	one Number:	434-531-6301		
	Address:	jshifflett@castledp.com		
		Signature(s) of Owner(s)* DAVID J. AND MAMUYN E. Donna Evenson, Trustee	MANN IRFEVOLAGUE TM Denne M. Frien Type or print nam	a Trustice 11/29
			Type or print nam	ne Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

Planned Unit Devel - Page 104 -

A	FFIDA	VIT OF	OW	NERSHIP
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Application #: 21CZ29

Submittal Date: 12/1/21

The undersigned, <u>Donna Evenson</u> (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole 1. owners. of the property located at authorized agent of all owner. or is the 0 Candun Drive, Apex, NC and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>12/30/2010</u>, and recorded in the Wake County Register of Deeds Office on <u>12/30/2010</u>, in Book <u>014220</u> Page
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).

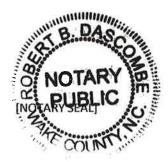
This the	29	_day of _	NOVEMBER	David J. & Marilyn B. Martin Irrevocable Trust dated the 24t	h day of
				November, 2010 Donna M. Fuensor	(seal)
				Donna Evenson, Trustee	

Type or print name

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of <u>WAKE</u>, hereby certify that **DONNA A**. **EVENSON**, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's <u>NA</u>, personally appeared before me this day and acknowledged the

due and voluntary execution of the foregoing Affidavit.



Notary Public State of North Carolina My Commission Expires:

Robert B. Dascombe 11-14-2026

- Page 105 -

AFFIDAVIT OF OW	NERSHIP: EXHIBIT A – LEGAL DESC		and the second
Application #:	21CZ29	Submittal Date:	12/1/21
	Insert legal de	escription below.	
See Attached		•	
·			
	29		
	: , *		8

This is a description of a survey for the Town of Apex, being that property recorded in Deed Book 18823 at Page 715 in the Wake County Registry of Deeds, being located in The Town of Apex, Wake County, North Carolina and being more particularly described as follows:

## TRACT 1

Being a portion of the property of Old Apex Associates, LP, a deed which is recorded in Deed Book 18823 at Page 715 (Tract IV and a Portion of Tract I), being Lot 3 as shown on the plat entitled "Duncan Plaza, Phase 1" a plat which is recorded at Book of Maps 1989 at Page 1135; and Lot 4 as shown on the plat entitled "Subdivision Map of Lots 1-2, 4-10 Parkway Station", a plat which is recorded at Book of Maps 1992 at Page 344, all being recorded in the Wake County Registry of Deeds.

Beginning on an iron pipe found on the southern right-of-way of Candun Drive, a 60-foot wide right-of-way recorded at Book of Maps 1992 at Page 344, being a common corner with Lot 3 as shown on the plat entitled "Duncan Plaza, Phase 1" a plat which is recorded at Book of Maps 1989 at Page 1135; and with Lot 4 as shown on the plat entitled "Subdivision Map of Lots 1-2, 4-10 Parkway Station", a plat which is recorded at Book of Maps 1992 at Page 344, all being recorded in the Wake County Registry of Deeds; said Point of Beginning having the North Carolina State Plane (Grid) coordinates (NAD 83 – 2011) of North 731,826.82 feet and East 2,050,554.86 feet; thence from the Beginning Point and continuing with Lot 4 (BM 1992, Pg. 344) and the southern right-of-way of Candun Drive for two calls: North 68 degrees 50 minutes 19 seconds East 179.76 feet to an iron pipe set at a point of curve; and a curve to the right having a radius of 30.00 feet, an arc length of 47.48 feet and a chord of South 65 degrees 48 minutes 47 seconds East 42.68 feet to an iron pipe set at a point of tangency being located on the western right-of-way of Laura Duncan Road, a variable width right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds; thence continuing with Lot 4 and the western right-of-way of Laura Duncan Road for four calls: South 20 degrees 27 minutes 55 seconds East 93.97 feet to an iron pipe set; South 13 degrees 20 minutes 35 seconds East 40.28 feet to an iron pipe set; South 20 degrees 27 minutes 55 seconds East 97.54 feet to an iron pipe set at a point of curve; and a curve to the right having a radius of 30.00 feet, an arc length of 47.13 feet and a chord of South 24 degrees 32 minutes 05 seconds West 42.43 feet to an iron pipe set at a point of tangency being located on the northern right-of-way of Old U.S. Highway 1 – North Salem Street, a 75-foot wide right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds; thence continuing with Lot 4 and the northern right-of-way of Old U.S. Highway 1 – North Salem Street for two calls: South 69 degrees 29 minutes 11 seconds West 122.07 feet to an iron pipe set; and South 69 degrees 29 minutes 11 seconds West 14.44 feet to an iron pipe found, being a common corner with Lot 4 and the aforementioned Lot 3 (BM 1989, Pg. 1135); thence continuing with Lot 3 and the northern right-of-way Old U.S. Highway 1 – North Salem Street for four calls: South 69 degrees 28 minutes 22 seconds West 83.65 feet to an iron pipe set; South 69 degrees 25 minutes 17 seconds West 99.41 feet to an iron pipe set; South 69 degrees 41 minutes 21 seconds West 3.86 feet to an iron pipe set at a point of curve; and a curve to the right having a radius of 30.00 feet, an arc length of 47.13 feet and a chord of North 66 degrees 29 minutes 30 seconds West 42.43 feet to an iron pipe set at a point of tangency being located on the eastern right-of-way of Candun Drive, a 60-foot wide right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds; thence continuing with Lot 3 and the eastern right-of-way of Candun Drive for three calls: North 21 degrees 29 minutes 10 seconds West 137.35 feet to an iron pipe set on a point of curve; a curve to the right having a radius of 120.00 feet, an arc length of 189.18 feet and a chord of North 23 degrees 40 minutes 36 seconds East 170.19 feet to an iron pipe set at a point of tangency; and North 68 degrees 50 minutes 19 seconds East 62.78 feet to the Point of Beginning, containing 2.50 Acres by coordinates.

#### TRACT 2

Being a portion of the property of Old Apex Associates, LP, a deed which is recorded in Deed Book 18823 at Page 715 (Portion of Tract I), being Lots 6 and 7 as shown on the plat entitled "Subdivision Map of Lots 1-2, 4-10 Parkway Station", a plat which is recorded at Book of Maps 1992 at Page 344, both being recorded in the Wake County Registry of Deeds.

Beginning on an iron pipe found on the northern right-of-way of Candun Drive, a 60-foot wide right-of-way recorded at Book of Maps 1992 at Page 344, being a common corner with Lot 6 as shown on the plat entitled "Subdivision Map of Lots 1-2, 4-10 Parkway Station", a plat which is recorded at Book of Maps 1992 at Page 344, a common corner with Phoenix Dawn, LLC, a deed which is recorded at Deed Book 18366 at Page 240, and a point in the center of an Existing 20-foot wide Drainage Easement recorded at Book of Maps 1992 at Page 344, all being recorded in the Wake County Registry of Deeds; said Point of Beginning having the North Carolina State Plane (Grid) coordinates (NAD 83 – 2011) of North 731,851.29 feet and East 2,050,455.27 feet; thence from the Beginning Point and continuing with Lot 6 (BM 1992, Pg. 344), Phoenix Dawn, LLC and the center of an Existing 20-foot wide Drainage Easement for two calls: North 36 degrees 47 minutes 51 seconds West 187.11 feet to an iron pipe found; and North 04 degrees 38 minutes 26 seconds East 209.39 feet to a computed point being located South 04 degrees 38 minutes 26 seconds West 0.55 feet from an iron pipe found, said computed point being located on the northern edge of an Existing 30-foot wide Sanitary Sewer and Access Easement recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds, thence leaving Phoenix Dawn, LLC and continuing with Lot 6 and the northern edge of an Existing 30-foot wide Sanitary Sewer and Access Easement for one call: South 89 degrees 01 minutes 06 seconds East 172.96 feet to an iron pipe found, being a common corner with Lot 6 and the aforementioned Lot 7 (BM 1992, Pg. 344); thence leaving Lot 6 and continuing with Lot 7 and the northern edge of an Existing 30-foot wide Sanitary Sewer and Access Easement for two calls: South 89 degrees 01 minutes 06 seconds East 243.51 feet to an iron pipe found; and South 89 degrees 01 minutes 06 seconds East 0.50 feet to an iron pipe found on the western right-of-way of Laura Duncan Road, a 60-foot wide right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds; thence continuing with Lot 7 and the western right-of-way of Laura Duncan Road for two calls: a curve to the left having a radius of 358.53 feet, an arc length of 227.50 feet and a chord of South 11 degrees 44 minutes 07 seconds West 223.70 feet to an iron pipe set at a point of reverse curve; and a curve to the right having a radius of 30.00 feet, an arc length of 39.43 feet and a chord of South 30 degrees 39 minutes 21 seconds West 36.65 feet to an iron pipe set at a point of tangency being located on the northern right-of-way of Candun Drive, a 60-foot wide right-of-way recorded at Book of Maps 1992 at Page 344; thence continuing with Lot 7 and the northern right-of-way of Candun Drive for one call: South 68 degrees 51 minutes 52 seconds West 152.70 feet to an iron pipe found, being a common corner with Lot 7 and the aforementioned Lot 6 (BM 1992, Pg. 344); thence continuing with Lot 6 and the northern right-of-way of Candun Drive for two calls: South 68 degrees 51 minutes 52 seconds West 103.15 feet to an iron pipe found at a point of curve; and a curve to the left having a radius of 180.00 feet, an arc length of 20.82 feet and a chord of South 65 degrees 35 minutes 53 seconds West 20.81 feet to the Point of Beginning, containing 2.64 Acres by coordinates.

## TRACT 3

Being a portion of the property of Old Apex Associates, LP, a deed which is recorded in Deed Book 18823 at Page 715 (Portion of Tract I), being Lots 8, 9 and 10 as shown on the plat entitled "Subdivision Map of Lots 1-2, 4-10 Parkway Station", a plat which is recorded at Book of Maps 1992 at Page 344, both being recorded in the Wake County Registry of Deeds.

Beginning on an iron pipe found at the northeast corner of Lot 10 of "Subdivision Map of Lots 1-2, 4-10 Parkway



### 21CZ29 North Salem Station PUD-CZ Legal Description

Station", a plat which is recorded at Book of Maps 1992 at Page 344, being a common corner in the line with Christopher C. Bode and wife, Amy R. Bode, a deed which is recorded at Deed Book 12382 at Page 2551, a common corner with a Common Area recorded at Book of Maps 2014 at Page 1172, and a point in the eastern edge of an Existing 20-foot wide Drainage Easement recorded at Book of Maps 1992 at Page 344, all being recorded in the Wake County Registry of Deeds; said Point of Beginning having the North Carolina State Plane (Grid) coordinates (NAD 83 – 2011) of North 732,199.28 feet and East 2,050,983.47 feet; thence from the Beginning Point and continuing with Lot 10 (BM 1992, Pg. 344), Common Area and the eastern edge of an Existing 20-foot wide Drainage Easement: South 16 degrees 21 minutes 10 seconds East 170.12 feet, passing a common corner with the Common Area (BM 2014, Pg. 1172) and Laurel Crossing Townhomes Association, Inc, a deed which is recorded at Deed Book 16254 at Page 2741 in the Wake County Registry of Deeds to an iron pipe set, being a common corner with Lot 10 and the aforementioned Lot 9 (BM 1992, Pg. 344); thence continuing along the same bearing with Lot 9 (BM 1992, Pg. 344), Laurel Crossing Townhomes Association, Inc. and the eastern edge of an Existing 20-foot wide Drainage Easement 139.55 feet to an iron pipe set, being a common corner with Lot 9 and the aforementioned Lot 8 (BM 1992, Pg. 344); thence continuing along the same bearing (South 16 degrees 21 minutes 10 seconds East) with Lot 8 (BM 1992, Pg. 344), Laurel Crossing Townhomes Association, Inc. and the eastern edge of an Existing 20-foot wide Drainage Easement 171.08 feet, for a total distance along this bearing of 480.75 feet to an iron pipe found, being a common corner with Lot 8, Laurel Crossing Townhomes Association, Inc., and located on the northern right-of-way of Old U.S. Highway 1 – North Salem Street, a variable width right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds, thence leaving Laurel Crossing Townhomes Association, Inc. and continuing with Lot 8 (BM 1992, Pg. 344), the eastern edge of an Existing 20foot wide Drainage Easement and the right-of-way of Old U.S. Highway 1 - North Salem Street for one call: South 16 degrees 21 minutes 10 seconds East 8.77 feet to an iron pipe set; thence continuing with Lot 8 and the rightof-way of Old U.S. Highway 1 – North Salem Street for two calls: South 69 degrees 30 minutes 07 seconds West 191.61 feet to an iron pipe set a point of curve; and a curve to the right having a radius of 30.00 feet, an arc length of 47.13 feet and a chord of North 65 degrees 32 minutes 35 seconds West 42.43 feet to and iron pipe set at a point of tangency on the eastern right-of-way of Laura Duncan Road, a variable width right-of-way recorded at Book of Maps 1992 at Page 344 in the Wake County Registry of Deeds; thence continuing with Lot 8 and the eastern right-of-way of Laura Duncan Road for two calls: North 20 degrees 32 minutes 35 seconds West 97.49 feet to an iron pipe set; and North 27 degrees 40 minutes 05 seconds West 40.31 feet to an iron pipe found at the common corner of Lot 8 and the aforementioned Lot 9 (BM 1992, Pg 344); thence continuing with Lot 9 and the eastern right-of-way of Laura Duncan Road for two calls: North 20 degrees 32 minutes 05 seconds West 120.08 feet to an iron pipe set at a point of curve; and a curve to the right having a radius of 298.53 feet, an arc length of 62.75 feet and a chord of North 14 degrees 31 minutes 06 seconds West 62.63 feet to an iron pipe found at a point of curve, being the common corner of Lot 9 and the aforementioned Lot 10 (BM 1992, Pg 344); thence continuing with Lot 10 and the eastern right-of-way of Laura Duncan Road for two calls: a curve to the right having a radius of 298.53 feet, an arc length of 214.94 feet and a chord of North 12 degrees 12 minutes 04 seconds East 210.33 feet to an iron pipe set at a point tangency; and North 32 degrees 39 minutes 25 seconds East 18.87 feet to and iron pipe found, being a common corner with Lot 10, with Rohini Rasakulasuriar, a deed which is recorded at Deed Book 14989 at Page 621, and a point in the northern edge of an Existing 20-foot wide Drainage Easement recorded at Book of Maps 1992 at Page 344, all being recorded in the Wake County Registry of Deeds; thence leaving Laura Duncan Road and continuing with Lot 10 (BM 1992, Pg. 344), Rohini Rasakulasuriar and the northern edge of an Existing 20-foot wide Drainage Easement: South 89 degrees 02 minutes 00 seconds East, passing a common corner with the aforementioned Christopher C. Bode and wife, Amy R. Bode property 136.41 feet to the Point of Beginning, containing 2.71 Acres by coordinates.

### TRACT 4

Being a portion of the property of Old Apex Associates, LP, a deed which is recorded in Deed Book 18823 at Page 715 (Tracts Two and Three), being Lots 2 and 3 as shown on the plat entitled "Survey for David J. Martin – Irrevocable Trust, White Oak Township, Wake County N.C." a plat which is recorded at Book of Maps 1992 at Page 1399, both being recorded in the Wake County Registry of Deeds.

Beginning on a railroad spike pipe found on the southern right-of-way of Old U.S. Highway 1 – North Salem Street, a variable width right-of-way recorded at Book of Maps 1992 at Pages 344 and 1399, being in the eastern line of Lot 2 as shown on the plat entitled "Survey for David J. Martin – Irrevocable Trust, White Oak Township, Wake County N.C." a plat which is recorded at Book of Maps 1992 at Page 1399, and a common corner with NC Department of Transportation, a deed which is recorded at Deed Book 1083 at Page 376, all being recorded in the Wake County Registry of Deeds; said Point of Beginning having the North Carolina State Plane (Grid) coordinates (NAD 83 – 2011) of North 731,433.61 feet and East 2,050,545.23 feet; thence from the Beginning Point, leaving the right-of way of Old U.S. Highway 1 – North Salem Street, and continuing with Lot 2 (BM 1992, Pg. 1399) and NC Department of Transportation: South 20 degrees 11 minutes 19 seconds East 66.63 feet to an iron pipe found, being a common corner with Lot 2, NC Department of Transportation and a point on the northern right-of-way of the CSX Railroad, a 100-foot wide right-of-way recorded at Book of Maps 1992 at Page 1399; thence continuing along the same bearing and with Lot 2: 50.50 feet, for a total distance along this bearing of 117.13 feet to a point in the centerline of existing railroad tracks and the 100-foot wide right-of-way; thence continuing with the centerline of the railroad tracks, the 100-foot wide right-of-way and with Lot 2 (BM 1992, Pg. 1399) for seven calls: South 61 degrees 27 minutes 07 seconds West 7.32 feet; South 59 degrees 39 minutes 21 seconds West 99.73 feet; South 58 degrees 33 minutes 33 seconds West 100.99 feet; South 57 degrees 32 minutes 10 seconds West 99.93 feet; South 56 degrees 35 minutes 06 seconds West 98.89 feet to a nail found; South 55 degrees 14 minutes 39 seconds West 61.98 feet; and South 56 degrees 22 minutes 01 seconds West 36.36 feet to a common corner with Lot 2 and the aforementioned Lot 3; thence continuing with Lot 3: South 53 degrees 05 minutes 58 seconds West 433.82 feet to a point in the centerline of existing railroad tracks and the 100-foot wide right-of-way (BM 1992, Pg. 1399); thence leaving the railroad tracks and continuing with Lot 3 (BM 1992, Pg. 1399) North 40 degrees 11 minutes 58 seconds West 49.83 feet to an iron pipe found on the northern right-of-way of the CSX Railroad, a 100-foot wide right-of-way recorded at Book of Maps 1992 at Page 1399, being a common corner with Apex Business Condominium (Common Elements), a deed which is recorded at Deed Book 8973 at Page 442, both being recorded in the Wake County Registry of Deeds ; thence continuing along the same bearing and with Apex Business Condominium and Lot 3: 132.33 feet to an iron pipe set on the southern right-of-way of Old U.S. Highway 1 – North Salem Street, a variable width right-of-way recorded at Book of Maps 1992 at Pages 344 and 1399 in the Wake County Registry of Deeds; thence leaving Apex Business Condominium and the northern right-of-way of Old U.S. Highway 1 – North Salem Street and continuing along the same bearing (North 40 degrees 11 minutes 58 seconds West) with Lot 3: 31.88 feet, for a total distance along this bearing of 214.04 feet to a point within the right-of-way of Old U.S. Highway 1 – North Salem Street; thence continuing with Lot 3: North 55 degrees 34 minutes 06 seconds East 586.26 feet to a point within the right-of-way of Old U.S. Highway 1 – North Salem Street, being common corner with Lot 3 and the aforementioned Lot 2 (BM 1992, Pg. 1399); thence continuing with Lot 2 for six calls within the right-of-way of Old U.S. Highway 1 – North Salem Street: North 62 degrees 12 minutes 17 seconds East 105.71 feet; North 64 degrees 04 minutes 58 seconds East 99.89 feet; North 66 degrees 10 minutes 17 seconds East 100.73 feet; North 67 degrees 55 minutes 16 seconds East 48.46 feet; North 69 degrees 00 minutes 33 seconds East 61.10 feet; and South 20 degrees 11 minutes 19 seconds East 30.01 feet to the Point of Beginning, containing 4.23 Acres by coordinates.

Tract 4 is subject to the right-of-way of Old U.S. Highway 1 – North Salem Street, a variable width right-of-way



### 21CZ29 North Salem Station PUD-CZ Legal Description

recorded at Book of Maps 1992 at Pages 344 and 1399, containing 0.57 acre; and subject to the CSX Railroad, a 100-foot wide right-of-way recorded at Book of Maps 1992 at Page 1399, containing 1.10 acres; resulting in a net area for Tract for of 2.56 acres.

These descriptions are taken from a survey entitled "Plat of ALTA/NSPS Land Title Survey Prepared For CDG Holdings, LLC – A Virginia Limited Liability Company" performed by Seth E. Healy, PLS on the 27<sup>th</sup> day of August 2021.

Dogo E of E	1
- Page 111 -	

Application #:

21CZ29

Submittal Date:

12/1/21

### Town of Apex 73 Hunter Street P.O. Box 250 Apex, NC 27502 919-249-3400

### WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

North Salem Station

Nine parcels at intersection of Laura Duncan, Candun Drive and North Sale

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

Old Apex Associates LP

Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

### ACCEPTED:

CUSTO	MER: Old Apex Associates LP	TOWN C	DF APEX
BY:	Jupaar	BY:	
	Authorized Agent		Authorized Agent
DATE:	12/1/21	DATE:	



### Wake County Residential Development Notification

Developer Company Information					
Company Name	Old Apex Associates, LP				
Company Phone Number	434-531-6301				
Developer Representative Name	Jeff Shifflett				
Developer Representative Phone Number	434-531-6301				
Developer Representative Email	jshifflett@castledp.com				

New Residential Subdivision Information					
Date of Application for Subdivision	12/1/21				
City, Town or Wake County Jurisdiction	Town of Apex				
Name of Subdivision	North Salem Station				
Address of Subdivision (if unknown enter nearest cross streets)	Candun Drive and Laura Duncan Road, Apex, NC 27523				
REID(s)	0192936, 0192937, 0192940, 0192939, 0192938, 0192934, 0179933, 0062452, 0025354				
PIN(s)	0753024120, 0753026029, 0753028181, 0753019925, 0753019769, 0753016795, 0753015606, 0753013228, 0743908968				

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

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

Please send any questions about this form to:

studentassignment-gisgroup@wcpss.net

Revised 08/10/2018

Projected Dates Information					
Subdivision Completion Date	7/1/2025				
Subdivision Projected First Occupancy Date	1/1/2025				

	Lot by Lot Development Information																
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Squar Rar		Price	Range	ļ	Anticipate	ed Comp	letion Uni	ts & Dat	es
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family																	
Townhomes																	
Condos																	
Apartments	240			105	111	24		650	1450	1250	2000	2025	240				
Other																	

# NOTICE OF ELECTRONIC NEIGHBORHOOD MEETING

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

10/07/2021

### Date

### Dear Neighbor:

You are invited to an electronic neighborhood meeting to review and discuss the development proposal at

(See Attached)	(See Attached)
Address(es)	PIN(s)

in accordance with the Town of Apex Electronic Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, you may contact the applicant before or after the meeting is held. Once an application has been submitted to the Town, it may be tracked using the <u>Interactive Development Map</u> or the <u>Apex Development Report</u> located on the Town of Apex website at <u>www.apexnc.org</u>. If at all feasible given emergency declarations, limits on in-person gatherings, and social distancing, an additional in-person Neighborhood Meeting may be scheduled and held prior to a public hearing or staff decision on the application.

An Electronic Neighborhood Meeting is required because this project includes (check all that apply):

Арр	plication Type	Approving Authority
X	Rezoning (including Planned Unit Development)	Town Council
	Major Site Plan	Town Council (QJPH*)
	Special Use Permit	Town Council (QJPH*)
	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review
		Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

Rezoning of nine (9) parcels currently PC (Planned Commercial) and B1 (Neighborhoold Business District) to PUD-CZ (Planned Unit Development - Conditional Zoning District)

for the development of a multi-family housing community with amenity area.

Estimated submittal date: November 1, 2021

MEETING INFORMATION: Property Owner(s) name(s):	Jess Achenbach	
Applicant(s):	Castle Development Partners	
Contact information (email/phone):	jachenbach@castledp.com/434-260-6628	_
Electronic Meeting invitation/call in info:	Video Link: https://bit.ly/3DA5SYb Audio Only: +1 984-275-4893, Phone Conference ID: 128 973	522#
Date of meeting**:	October 26, 2021, Tuesday	_
Time of meeting**:	5:00 p.m 7:00 p.m.	

### **MEETING AGENDA TIMES:**

Welcome: <u>5:00 - 5:15 pm</u> Project Presentation: <u>5:15 - 6:15 pm</u> Question & Answer: <u>6:15 - 7:00 pm</u>

\*\*Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <a href="http://www.apexnc.org/180/Planning">http://www.apexnc.org/180/Planning</a>.

# **PROJECT CONTACT INFORMATION**

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

Development Contacts:			
Project Name: North Salem Station	n Development	Zoning: PC and B1 (Current)	
Location: Multiple Parcels- Interse	ection of Laura Duncan	Road and N. Salem Street (See attac	hed)
Property PIN(s): <u>See Attached</u>	Acreage/Square Fe	et: <u>10.39 acres +/- 452,588 sf</u>	
Property Owner: Castle Developr	nent Partners		
Address: 230 Court Square, Suite	202		
City: <u>Charlottesville</u>	State: V	AZip: <u>22902</u>	
	Email: jachenbach@c	astledp.com	
Developer: Castle Development P	artners		
Address: 230 Court Square, Suite	202		
City: Charlottesville	State: VA	Zip: <u>22902</u>	
Phone: <u>434-260-6628</u> Fax	«:	Email: jachenbach@castledp.com	
Engineer: The Wooten Company			
Address: 120 North Boylan Avenu	le		
City: Raleigh	State:	NC Zip: <u>27603</u>	
Phone: <u>919-828-0531</u> Fax	« <u>919-834-3589</u>	Email: <u>awadsworth@thewootencor</u>	<u>npa</u> ny.co
Builder (if known): N/A			
Address:			
City:	State:	Zip:	
Phone: Fa:		_ Email:	

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts	
Planning Department Main Number	
(Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department	
Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation	
Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department	
Jessica Bolin, Senior Engineer (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
Stan Fortier, Senior Engineer (Stormwater, Sedimentation & Erosion Control)	(919) 249-1166
James Gregg, Utility Engineer (Water & Sewer)	(919) 249-3324
Electric Utilities Division	
Rodney Smith, Electric Technical Services Manager	(919) 249-3342

### Providing Input to Town Council:

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <u>http://www.apexnc.org/838/Agendas-Minutes</u>). You may also contact Town Council by e-mail at <u>AllCouncil@apexnc.org</u>.

### Private Agreements and Easement Negotiation:

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <a href="http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4d">http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4d</a>

### **Documentation:**

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

# **COMMON CONSTRUCTION ISSUES & WHO TO CALL**

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

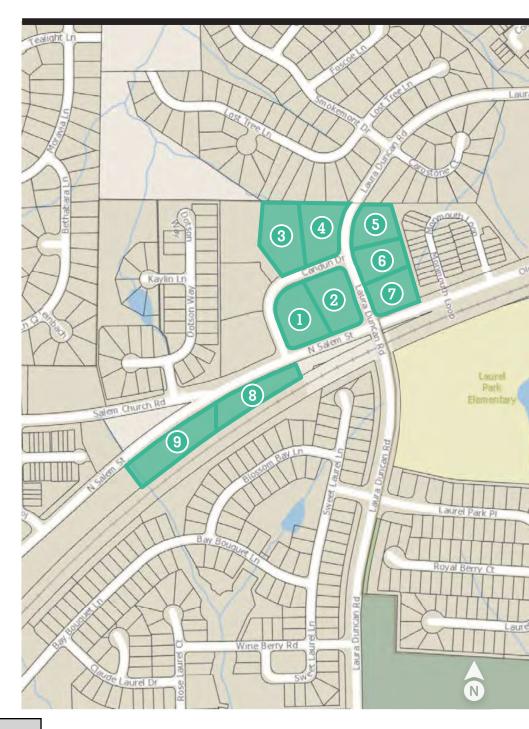
Noise & Hours of Construction:	Non-Emergency Police	919-362-8661
Noise from tree removal, grading,	excavating, paving, and building structures	s is a routine part of the
construction process. The Town gene	erally limits construction hours from 7:00 a.m	. to 8:30 p.m. so that there
are quiet times even during the co	nstruction process. Note that construction	outside of these hours is
allowed with special permission from	n the Town when it makes more sense to have	e the construction occur at
night, often to avoid traffic issues. I	n addition, the Town limits hours of blasting	g rock to Monday through
-	eport violations of construction hours and oth	
Non-Emergency Police phone number	•	
Construction Traffic:	James Misciagno	919-372-7470
	avy throughout the development process, ir	
	irt coming in and/or out of the site, construct	
	halt and concrete trucks come in to pave,	
	d to try to prevent as much dirt from leaving	
÷	require they clean the street (see "Dirt in th	•
Road Damage & Traffic Control:	Water Resources – Infrastructure Inspe	
	damage, roadway improvements, and traffic	
-	r traffic control, blocked sidewalks/paths are all	-
	astructure Inspections at 919-249-3427. The To	
if needed.		
Parking Violations:	Non-Emergency Police	919-362-8661
	here should be no construction parking in neigh	
	t-of-way is allowed, but Town regulations prohi	•
	ngles. Trespassing and parking complaints sho	
Emergency Police phone number at 91		·
Dirt in the Road:	James Misciagno	919-372-7470
	e existing roads due to rain events and/or ver	
	o. He will coordinate the cleaning of the roadwa	
Dirt on Properties or in Streams:	James Misciagno	919-372-7470
	Danny Smith	Danny.Smith@ncdenr.gov
Sediment (dirt) can leave the site and g	et onto adjacent properties or into streams and	stream buffers; it is typically
transported off-site by rain events. Th	ese incidents should be reported to James Mi	sciagno at 919-372-7470 so
that he can coordinate the appropria	te repairs with the developer. Impacts to the	streams and stream buffers
should also be reported to Danny Smit	h ( <u>danny.smith@ncdenr.gov</u> ) with the State.	
Dust:	James Misciagno	919-372-7470
During dry weather dust often becor	nes a problem blowing into existing neighbo	rhoods or roadways. These
incidents should be reported to Jame	s Misciagno at 919-372-7470 so that he can c	coordinate the use of water
trucks onsite with the grading contract	or to help control the dust.	
Trash:	James Misciagno	919-372-7470
Excessive garbage and construction de	bris can blow around on a site or even off of the	site. These incidents should
be reported to James Misciagno at 91	9-372-7470. He will coordinate the cleanup a	nd trash collection with the
developer/home builder.		
Temporary Sediment Basins:	James Misciagno	919-372-7470
Temporary sediment basins during co	nstruction (prior to the conversion to the final s	stormwater pond) are often
quite unattractive. Concerns should be	e reported to James Misciagno at 919-372-747	0 so that he can coordinate
the cleaning and/or mowing of the slo	pes and bottom of the pond with the develope	r.
Stormwater Control Measures:	Jessica Bolin	919-249-3537
Post-construction concerns related t	o Stormwater Control Measures (typically a	stormwater pond) such as
conversion and long-term maintenanc	e should be reported to Mike Deaton at 919-24	9-3413.
Electric Utility Installation:	Rodney Smith	919-249-3342
Concerns with electric utility installat	ion can be addressed by the Apex Electric Ut	ilities Department. Contact
Rodney Smith at 919-249-3342.		
	- Page 117 -	
Page 6 of 9 Instructio	n Packet & Affi	Last Updated: March 25, 2020

Instruction Packet & Afficience Neighborhood Meetings

# **Parcel information**

	Parcel ID	Land Area	a Zoning
0	0753-01-5606 Address: 0 Candun Drive		PC
2	0753-01-6795 Address: 0 Candun Drive		PC
3	0753-02-4120 Address: 0 Candun Drive	±1.43 ac	PC
4	0753-02-6029 Address: 0 Candun Drive	±1.21 ac	PC
5	0753-02-8181 Address: 0 Laura Duncar	±0.90 ac Road	PC
6	0753-01-9925 Address: 0 Laura Duncar		PC
7	0753-01-9769 Address: 0 North Salem		PC
8	0753-01-3228 Address: 0 North Salem S		: B1
9	0743-90-8968 Address: 0 North Salem S		: B1
coui	nty jurisdi	ction	total land area

Apex



 $\pm 10.39$  ac

Wake





### **APEX MULTIFAMILY** APEX, NC DENSITY STUDY • 10-01-2021

CST2021-02

DYNAMIK DESIGN

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#### Owners Tenants within 300' of Property Provided by Town of Apex

SITE_ADDRE	PIN_NUM	OWNER	ADDR1	ADDR2	ADDR3
219 LOST TREE LN		ADOLFIE, ELIZABETH	219 LOST TREE LN	CARY NC 27513-5713	
505 SWEET LAUREL LN		ALEXE, CATALIN ALEXE, GEORGIANA	505 SWEET LAUREL LN	APEX NC 27523-9303	
802 NEW DERBY LN		ALLEN, DONALD WAYNE JR ALLEN, AMELIA ANN	802 NEW DERBY LN	APEX NC 27523-6409	
1038 MONMOUTH LOOP		AMBROSECCHIA, DUSTIN AMBROSECCHIA, VANESA	1038 MONMOUTH LOOP	CARY NC 27513-4864	
104 CAROSTONE CT		AMH 2014-3 BORROWER LLC	AMERICAN HOMES 4 RENT	30601 AGOURA RD STE 200	AGOURA HILLS CA 91301-2148
2166 N SALEM ST			YORK PROPERTIES INC	2108 CLARK AVE	RALEIGH NC 27605-1606
820 DOTSON WAY		ARAVA, SRINIVAS ARAVA, NAGA VARALAKSHMI	820 DOTSON WAY	APEX NC 27523-7535	
1053 MONMOUTH LOOP 1051 MONMOUTH LOOP		BIAN, ZHENGKAI WU, DAN	1053 MONMOUTH LOOP	CARY NC 27513-4873	
1064 MONMOUTH LOOP		BILLAKOTA, SRINIVAS BILLA, BABAMANIKYAM BILLAKOTA, SRINIVAS BILLA, BABAMANIKYAM	171 WILDFELL TRL 400 RAPPORT DR	CARY NC 27513-5503 CARY NC 27519-5586	
102 CAROSTONE CT		BODE, CHRISTOPHER C BODE, AMY R	102 CAROSTONE CT	CARY NC 27513-5717	
1042 MONMOUTH LOOP		BOWDEN, GEORGE KEVIN TRUSTEE BOWDEN, JOANNE DALY TRUSTEE	102 CAROSTONE CT	CARY NC 27513-4864	
1011 MONMOUTH LOOP		BREZNIK, DIANE BUCKLER	1011 MONMOUTH LOOP	CARY NC 27513-4873	
728 BLOSSOM BAY LN		BRIDGERS, BRIAN BRIDGERS, SARAH	728 BLOSSOM BAY LN	APEX NC 27523-6801	
1061 MONMOUTH LOOP		BROWN, BEVERLY M	1061 MONMOUTH LOOP	CARY NC 27513-4873	
720 BLOSSOM BAY LN		CCMA INVESTMENTS LLC	106 SIR WALKER LN	CARY NC 27519-5500	
1008 DOTSON WAY		CHAO, MENG-JUI CHEN, LAN-JU	1008 DOTSON WAY	APEX NC 27523-7519	
820 BAY BOUQUET LN		CHAUDHARI, ABHIJEET N MAHAJAN, DEEPALI	820 BAY BOUQUET LN	APEX NC 27523-9316	
803 NEW DERBY LN	0743904819	CHHAYA, RAHUL HARSHAD TRUSTEE CHHAYA, MINAL RAHUL TRUSTEE	113 DUMBLEDORE CT	CARY NC 27519-7524	
227 LOST TREE LN	0753021500	COETZER, CHRIS T MARTEL, EMILIE	227 LOST TREE LN	CARY NC 27513-5713	
1120 DOTSON WAY	0753020176	COLE, EMMANUEL B COLE, WINSTONA D	1120 DOTSON WAY	APEX NC 27523-7525	
1048 MONMOUTH LOOP	0753121001	CONTE, DIANE	1048 MONMOUTH LOOP	CARY NC 27513-4864	
1100 DOTSON WAY		COOKE, CHERYL B COOKE, QUINTON E	1100 DOTSON WAY	APEX NC 27523-7525	
0 CANDUN DR		DAVID J & MARILYN B MARTIN IRREVOCABLE TRUST	1201 BUCK JONES RD	RALEIGH NC 27606-5635	
201 LOST TREE LN		DIETZ, JAMES J DIETZ, AMY L	201 LOST TREE LN	CARY NC 27513-5713	
1015 MONMOUTH LOOP		DONDAPATI, SURESH DONDAPATI, INDIRA	1015 MONMOUTH LOOP	CARY NC 27513-4873	
0 SWEET LAUREL LN		ELLINGTON PLACE APEX HOA INC	C/O ELITE MANAGEMENT PROF	4112 BLUE RIDGE RD STE 100	RALEIGH NC 27612-4652
0 BAY BOUQUET LN		ELLINGTON PLACE APEX HOA, INC	4112 BLUE RIDGE RD STE 100	RALEIGH NC 27612-4652	
756 BLOSSOM BAY LN		ENGLISH, SCOTT	756 BLOSSOM BAY LN	APEX NC 27523-6801	
215 LOST TREE LN		FANNEY, BRIAN HUNTER FANNEY, ALLISON	215 LOST TREE LN	CARY NC 27513-5713	
105 CAROSTONE CT		FELICIANO, ISAAC GOMEZ RIVERA, JAYLENE RIOS FISCHER, KENNETH ALAN FISCHER, JEANNE MARIE	105 CAROSTONE CT 764 BLOSSOM BAY LN	CARY NC 27513-5718 APEX NC 27523-6801	
764 BLOSSOM BAY LN 1050 MONMOUTH LOOP		FISCHER, REINETH ALAN FISCHER, JEANNE MARIE	1050 MONMOUTH LOOP	CARY NC 27513-4864	
1052 MONMOUTH LOOP		GARCIA, ALFREDO GARCIA, MYRIAM SUSANA	1052 MONMOUTH LOOP	CARY NC 27513-4864	
1116 DOTSON WAY		GILREATH, MICHAEL WAYNE	1116 DOTSON WAY	APEX NC 27523-7525	
223 LOST TREE LN		GORDON, JAY K GORDON, CYNTHIA G	223 LOST TREE LN	CARY NC 27513-5713	
1104 DOTSON WAY		GROVES, SABA GROVES, ISAAC	1104 DOTSON WAY	APEX NC 27523-7525	
1012 DOTSON WAY		GRUMET, SURAH AL-MUSSAWIR, HAYF	1012 DOTSON WAY	APEX NC 27523-7519	
0 LAURA DUNCAN RD		HALEY FAMILY HSH REALTY LLC	1812 TRINITY RD	RALEIGH NC 27607-4922	
221 LOST TREE LN		HEERING, JOHN R HEERING, CAROLYN D	221 LOST TREE LN	CARY NC 27513-5713	
808 BAY BOUQUET LN		HOULIHAN, BRANDON FRANCIS HOULIHAN, JESSICA YURI	808 BAY BOUQUET LN	APEX NC 27523-9316	
760 BLOSSOM BAY LN	0753000638	HUNTER, DAMON KEITH HUNTER, SARAH BETH	760 BLOSSOM BAY LN	APEX NC 27523-6801	
106 CAROSTONE CT	0753121254	INGALLS, GREGORY EMERY, JEANETTE	106 CAROSTONE CT	CARY NC 27513-5717	
1058 MONMOUTH LOOP		JEFFORDS, TYLER MAX	1058 MONMOUTH LOOP	CARY NC 27513-4864	
740 BLOSSOM BAY LN		JENKINS, LESLIE JAYNEA	740 BLOSSOM BAY LN	APEX NC 27523-6801	
724 BLOSSOM BAY LN		KABIR, MD ASHFANOOR MAHMUD, MARZANA MANTASHA	724 BLOSSOM BAY LN	APEX NC 27523-6801	
748 BLOSSOM BAY LN		KEMPFER, HEATHER ANNE KEMPFER, CHRISTOPHER A	748 BLOSSOM BAY LN	APEX NC 27523-6801	
1605 SALEM CHURCH RD		KING, TOMMY KING, NANCY	1605 SALEM CHURCH RD	APEX NC 27523-7566	
1005 MONMOUTH LOOP		KIRKPATRICK, BRIAN	1005 MONMOUTH LOOP	CARY NC 27513-4873	
1065 MONMOUTH LOOP		KITTRELL, JACQUES ANTHONY KITTRELL, CHARITY SUZETTE	1065 MONMOUTH LOOP	CARY NC 27513-4873	
1000 DOTSON WAY		KRISHNAMURTHY, RAMESH RAMESH, SUMATHI	1000 DOTSON WAY	APEX NC 27523-7519	
1016 DOTSON WAY		KRISHNAMURTHY, USHA MAHALINGAM, KRISHNAMURTHY LAUREL CROSSING TOWNHOMES ASSOCIATION, INC.	1016 DOTSON WAY	APEX NC 27523-7519	
0 OLD APEX RD 1027 MONMOUTH LOOP		LAUREL CROSSING TOWNHOMES ASSOCIATION, INC.	1210 TRINITY RD STE 102 C/O COMMUNITY ASSOCIATION MANAGEMEN	CARY NC 27513-6245 PO BOX 79032	CHARLOTTE NC 28271-0030
1027 MONMOUTH LOOP		LEBETA, KALKIDAN HUNDE HAILEMARIAM, RAHEL ESHETU	1062 MONMOUTH LOOP	CARY NC 27513-4864	CHARLOTTE NC 2627 I-0030
0 SALEM CHURCH RD		LEWTER, JOSEPHINE S	1513 TYONEK DR	DURHAM NC 27703-5639	
1021 MONMOUTH LOOP		LIU, YAQIN TU, YA PING	306 ALLIANCE CIR	CARY NC 27519-5527	
810 DOTSON WAY		LOVELL, CLINTON POWERS JR LOVELL, SANDRA SINISI	810 DOTSON WAY	APEX NC 27523-7535	
1057 MONMOUTH LOOP		LUDWICZAK, JAMES A LUDWICZAK, KATHLEEN S	1057 MONMOUTH LOOP	CARY NC 27513-4873	
1112 DOTSON WAY		MAMO, DANIEL MAMO, KERRI T	1112 DOTSON WAY	APEX NC 27523-7525	
712 BLOSSOM BAY LN		MAYHEW, JONATHAN SCOTT MAYHEW, ROMINA ISABEL	712 BLOSSOM BAY LN	APEX NC 27523-6801	
209 LOST TREE LN		MCCLUSKY, DOUGLAS RANDALL PERMANA, SOFIE HARUN	209 LOST TREE LN	CARY NC 27513-5713	
518 SWEET LAUREL LN		MCKAY, MICHAEL REYNALDO BROOKS-MCKAY, EMMA	518 SWEET LAUREL LN	APEX NC 27523-9302	
1049 MONMOUTH LOOP		MEHTA, NISHANT JASWANTBHAI MEHTA, MANALI NISHANT	1049 MONMOUTH LOOP	CARY NC 27513-4873	
816 BAY BOUQUET LN	0743907588	MILLER, DEAN MILLER, JENNIFER	816 BAY BOUQUET LN	APEX NC 27523-9316	
1028 DOTSON WAY	0753010786	MINSTER, KEITH E MINSTER, JOY B	1028 DOTSON WAY	APEX NC 27523-7519	
217 LOST TREE LN	0753023477	MOXLEY, WESLEY MOXLEY, ROZALINA	217 LOST TREE LN	CARY NC 27513-5713	
801 NEW DERBY LN		MUDHAS, ANTONY AROGYA VIJAY SAGAR	801 NEW DERBY LN	APEX NC 27523-6409	
211 LOST TREE LN		MUELLER, HORST TRUSTEE MUELLER-PHILIPPIDOU, EFFROSINI TRUSTE		CHAPEL HILL NC 27514-5960	
110 CAROSTONE CT		MULLER, RAFAEL J SANTIAGO, ANA C	TONE CT	CARY NC 27513-5717	
513 SWEET LAUREL LN	0753018148	NASH, ADAM HUNT NASH, CHRISTINA WALDO	- Page 120 - LAUREL LN	APEX NC 27523-9303	

#### Owners Tenants within 300' of Property Provided by Town of Apex

SITE_ADDRE	PIN_NUM OWNER	ADDR1	ADDR2	ADDR3
213 LOST TREE LN	0753024384 NAUPAS, EVA LUZ TINEO	213 LOST TREE LN	CARY NC 27513-5713	
D N SALEM ST	0753016444 NC DEPT OF TRANSPORTATION	1 S WILMINGTON ST	RALEIGH NC 27601-1429	
304 NEW DERBY LN	0743914004 NEUPANE, JHABINDRA NEUPANE, YAMUNA PANGENI	804 NEW DERBY LN	APEX NC 27523-6409	
32 BLOSSOM BAY LN	0753002976 PAI, HSIU CHU	11325 LEGACY TER	SAN DIEGO CA 92131-3552	
LAURA DUNCAN RD	0743928434 PARKWAY COMMUNITY ASSOCIATION INC	OMEGA ASSOCIATION MANAGEMENT INC	160 NE MAYNARD RD STE 210	CARY NC 27513-9676
05 SMOKEMONT DR	0753027534 PATEL, PIYUSH C PATEL, SULBHA P	2308 HANIMAN PARK DR	CARY NC 27513-8324	
055 MONMOUTH LOOP	0753112958 PATEL, PRAGNESH PATEL, KRISHNA	1055 MONMOUTH LOOP	CARY NC 27513-4873	
12 BAY BOUQUET LN	0743908630 PATEL, RONAK DOLATBHAI PATEL, SUSHMABEN BHARATBHAI	812 BAY BOUQUET LN	APEX NC 27523-9316	
05 LOST TREE LN	0753027363 PAULOVITS, MIKLOS PAULOVITS, MARTA	205 LOST TREE LN	CARY NC 27513-5713	
07 LOST TREE LN	0753026299 PERMANA, SOFIE HARUN	209 LOST TREE LN	CARY NC 27513-5713	
4 BAY BOUQUET LN	0743906590 PETERSON, ERIC M MATHEW, SONI P	824 BAY BOUQUET LN	APEX NC 27523-9316	
09 CANDUN DR	0753022017 PHOENIX DAWN LLC	2209 CANDUN DR	APEX NC 27523-6404	
4 SWEET LAUREL LN	0753016189 PROKIC, DJORDJE PROKIC, MILJA	514 SWEET LAUREL LN	APEX NC 27523-9302	
17 MONMOUTH LOOP	0753123024 PULLURU, SANDEEP BAKKI, SHRUTHI	1017 MONMOUTH LOOP	CARY NC 27513-4873	
0 CAROSTONE CT	0753029361 RASAKULASURIAR, ROHINI	1927 MOSTYN LN	APEX NC 27502-6509	
8 CAROSTONE CT	0753122224 REDFORD, NATHAN PROBUS, AMANDA	108 CAROSTONE CT	CARY NC 27513-5717	
5 LOST TREE LN	0753021453 REED, RICHARD B REED, BRIARLY	225 LOST TREE LN	CARY NC 27513-5713	
24 DOTSON WAY	0753010781 REICHERT, EWA REICHERT, ARTUR	1024 DOTSON WAY	APEX NC 27523-7519	
0 DOTSON WAY	0743918334 RICHARDSON, DONNOVAN KEITH RICHARDSON, CIJI	830 DOTSON WAY	APEX NC 27523-7535	
32 DOTSON WAY	0753010882 ROBERTSON, GEORGE EDWARD JR ROBERTSON, AGNES HEMMERICH		APEX NC 27523-7519	
9 SWEET LAUREL LN	0753018253 ROBINSON, STEVEN D	509 SWEET LAUREL LN	APEX NC 27523-9303	
4 LOST TREE LN	0753025581 ROCHE, CHRISTOPHER J ROCHE, TIFFANY N	204 LOST TREE LN	CARY NC 27513-5712	
05 CANDUN DR	0753012727 S & K PARTNERSHIP LLC	1000 DARRINGTON DR STE 105	CARY NC 27513-8134	
3 LOST TREE LN	0753028400 SAAVEDRA, CLAUDIA PATRICIA SMITH, ROBERT SPRUILL	203 LOST TREE LN	CARY NC 27513-5713	
2 SWEET LAUREL LN	0753016068 SALAMONE, JOHN SALAMONE, ABBIE S	522 SWEET LAUREL LN	APEX NC 27523-9302	
4 SALEM POINTE PL	0743903728 SALEM POINTE OWNERS ASSOCIATION INC	REALMANAGE	PO BOX 803555	DALLAS TX 75380-3555
NEW DERBY LN	0743819029 SALEM POINTE OWNERS ASSOCIATION INC	8480 HONEYCUTT RD STE 200	RALEIGH NC 27615-2261	DALLAS 1X 75360-3555
			CARY NC 27513-4873	
007 MONMOUTH LOOP	0753113962 SCOTT, CHRISTOPHER 0753120477 SHI, RUI YANG, CHENMIN	1007 MONMOUTH LOOP 101 CAROSTONE CT	CARY NC 27513-4673 CARY NC 27513-5718	
04 DOTSON WAY	0753010421 SHIPWASH, ROBERT W SHIPWASH, TERRY F	1004 DOTSON WAY	APEX NC 27523-7519	
19 MONMOUTH LOOP	0753123026 SHIVALINGAPPA, MAHESH GOWDA, ASHWINI VENKATESHA	1019 MONMOUTH LOOP	CARY NC 27513-4873	
0 DOTSON WAY	0743916332 SHUKLA, SAURABH LAAD, ANAMIKA	800 DOTSON WAY	APEX NC 27523-7535	
09 MONMOUTH LOOP	0753113955 SKARKA, KRAIG E	1009 MONMOUTH LOOP	CARY NC 27513-4873	
6 BLOSSOM BAY LN	0753002933 SNARE, MICHAEL ALAN JR SNARE, JODI WRIGHT	736 BLOSSOM BAY LN	APEX NC 27523-6801	
6 LOST TREE LN	0753025524 SWIFT, PERCY	206 LOST TREE LN	CARY NC 27513-5712	
3 CAROSTONE CT	0753121453 TEW, COLEMAN A TEW, MARISSA A	103 CAROSTONE CT	CARY NC 27513-5718	
0 DOTSON WAY	0743919920 THE TRACE COMMUNITY ASSOCIATION, INC.	812 SALEM WOODS DR	RALEIGH NC 27615-3346	
5 NEW DERBY LN	0743903899 THIRUNAVUKKARASU, SENTHILNATHAN MURUGANANTHAM, SEETHA	805 NEW DERBY LN	APEX NC 27523-6409	
2 LOST TREE LN	0753026448 THOMPSON, JAMES RAY JR WILLIAMSON, STEPHANIE ANNE	107 ABBOTS GLEN CT	CARY NC 27511-5059	
46 MONMOUTH LOOP	0753120094 TIRGRATH, MATTHEW R	1046 MONMOUTH LOOP	CARY NC 27513-4864	
SALEM CHURCH RD	0743917296 TRACE II HOMEOWNERS ASSOCIATION INC	1210 TRINITY RD STE 102	CARY NC 27513-6245	
40 MONMOUTH LOOP	0753120191 TUCKER, MICHAEL J DEVITA-TUCKER, CYNTHIA L	1040 MONMOUTH LOOP	CARY NC 27513-4864	
60 MONMOUTH LOOP	0753111847 VALLURY, APARNA	1060 MONMOUTH LOOP	CARY NC 27513-4864	
08 DOTSON WAY	0753010989 VALLURY, APARNA KOCHUPARAMBIL, BEJOY J	1108 DOTSON WAY	APEX NC 27523-7525	
8 BLOSSOM BAY LN	0753015088 VENUGOPAL, MAGESH K KONDASWAMY NARAYANASWAMY, MANJU	708 BLOSSOM BAY LN	APEX NC 27523-6801	
56 MONMOUTH LOOP	0753111932 VISAKOWITZ, SCOTT LINDSTADT, ROBYN	1056 MONMOUTH LOOP	CARY NC 27513-4864	
	0753115217 WAKE CNTY BOARD OF EDUCATION	RE SERVICES DIRECTOR	1551 ROCK QUARRY RD	RALEIGH NC 27610-4145
63 MONMOUTH LOOP	0753112879 WAN, CHUYANG	1063 MONMOUTH LOOP	CARY NC 27513-4873	
26 SWEET LAUREL LN	0753016053 WANG, JENG JIE WANG, SHU LI	1033 HOLTRIDGE DR	APEX NC 27523-3708	
	0743915064 WEAVER, TREVA WILLARD	1608 SALEM CHURCH RD	APEX NC 27523-7565	
20 DOTSON WAY	0753010685 WOODS, ROBERT L WOODS, TERRI L	1020 DOTSON WAY	APEX NC 27523-7519	
44 BLOSSOM BAY LN	0753001857 YE, QING KANG, RUI	2012 KILLEARN MILL CT	CARY NC 27513-4293	
	0753000788 ZHANG, XIAO BING LIN, QING	752 BLOSSOM BAY LN	APEX NC 27523-6801	
52 BLOSSOM BAY LN	010000000 ZHANG, AAO DING EIN, GING	132 DECOGOM DAT EN	AI LA NO 27 323-0001	

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#### Owners Tenants within 300' of Property Provided by Town of Apex

SITE_ADDRE	PIN_NUM	OWNER	ADDR1	ADDR2	ADDR3
	APEX TOWN OF		PO BOX 250	APEX NC 27502	
	Current Tenant		716 Blossom Bay LN	APEX NC 27523	
	Current Tenant		720 Blossom Bay LN	APEX NC 27523	
	Current Tenant		732 Blossom Bay LN	APEX NC 27523	
	Current Tenant		744 Blossom Bay LN	APEX NC 27523	
	Current Tenant		2201 Candun DR	APEX NC 27523	
	Current Tenant		2205 Candun DR	APEX NC 27523	
	Current Tenant		803 New Derby LN	APEX NC 27523	
	Current Tenant		2166 N Salem ST	APEX NC 27523	
	Current Tenant		2172 N Salem ST	APEX NC 27523	
	Current Tenant		2180 N Salem ST	APEX NC 27523	
	Current Tenant		2186 N Salem ST	APEX NC 27523	
	Current Tenant		2190 N Salem ST	APEX NC 27523	
	Current Tenant		526 Sweet Laurel LN	APEX NC 27523	

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# AFFIDAVIT OF CONDUCTING AN ELECTRONIC NEIGHBORHOOD MEETING AND ISSUES/RESPONSES SUBMITTAL

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

HDA. WILDSINK \_\_\_\_, do hereby declare as follows: Print Name

- 1. I have conducted an Electronic Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- 2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Electronic Neighborhood Meeting.
- 3. The meeting was conducted via <u>leams Victual Meeting</u> (indicate format of meeting) on <u>Oct. 26, 202</u> (date) from <u>5:0pm</u> (start time) to <u>7:00pm</u> (end time).
- 4. I have included the mailing list, meeting invitation, attendance sheet issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

NOV. 30,70 Date

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,	Elnabeth M.L	orscherder a Notary	Public for the above State and
County, on this the <u>30</u> day o	f November	, 20 ZI.	

SEAL

Elizabeth M. Lorscherder



My Commission Expires: May 15, 2025



# ELECTRONIC NEIGHBORHOOD MEETING ATTENDANCE SHEETNorth Salem StationCastle Development PartnersDate/Time of Meeting:10/26/2021, 5 pm-7 pm

NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL
Jennifer Ashton			
Jess Achenbach		-	
Jeff Shiftlett		-	
Ana Wadsworth			
Drew Howe		-	
Michael Karpinski		-	
Brian Bridgers	728 Blossom Bay Lane, Apex NC 27523	-	
Daniel Jacobson	110 Mint Court, Cary NC 27513		
George Bowden	1042 Monmouth Loop, Cary NC 27513		
Nancy Schipon	202 Kellyridge Drive, Apex NC 27502	-	
Matthew Tirgrath	1046 Monmouth Loop, Cary NC 27513	-	
Mike & Diane Stypolkowski	1048 Monmouth Loop, Cary NC 27513		
Mike Stellpflug	117 White Sands Dr, Cary NC 27513	-	
Scott Meyers	104 Foscoe Lane, Cary NC 27513	-	
Cindy & Mike Tucker	1040 Monmouth Loop, Cary NC 27513		
Heather & Chris Kempfer			
Allyson Banas	107 Foscoe Lane, Cary NC 27513		
Scott & Robyn Visakowitz	1056 Monmouth Loop, Cary NC 27513	-	
Rozalina & Wesley Moxley	217 Lost Tree Lane, Cary NC 27513		
Ana Santiago	110 Carostone Court, Cary NC 27513		
Nichey Fuller	1050 Monmouth Loop, Cary NC 27513		
Ryan and Laurel Gordon	118 Carostone Court, Cary NC 27513		
Treva Weaver	1608 Salem Church Rd., Apex NC 27523		
Rafael Muller	110 Carostone Court, Cary NC 27513		
Paras Patel	823 Bay Bouquet Lane, Apex NC 27523	]	
Matt & Barb Conroy	216 Lost Tree Lane, Cary NC 27513		
Diane Mickelson	1804 Oak Street, Apex NC 27502		
Michael & Megan Berry	113 Lost Tree Lane, Cary NC 27513		

# ELECTRONIC NEIGHBORHOOD MEETING ATTENDANCE SHEETNorth Salem StationCastle Development PartnersDate/Time of Meeting:10/26/2021, 5 pm-7 pm

NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL
Steve Barrett	111 Lock Lomond Circle, Cary NC 27511		
Tammie Cheek	414 Hilltop View St., Cary NC 27513		
Isaac Gomes & Jaylene Rios	105 Carostone Ct., Cary NC 27513		
Jodi & Mike Snare	736 Blossom Bay Lane, Apex NC 27523		
Bob Dascombe	2105 West Marilyn Circle, Cary NC 27523		
Jennifer Ashton			
April Johnson			
Robert Smith	203 Lost Tree Ln., Cary NC 27513		
Sarah Grumet			
Sijing Liu			
Mariea Estrada			
Brian & Lois Magee	237 Lost Tree Ln., Cary NC 27513		
David Moore	113 Smokemont Drive, Cary NC 27513		

# SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

**North Salem Station** 

### October 26, 2021 : 5 pm to 7 pm

# Concern #1

### Traffic Impacts

- Most common concern among all residents.
- Community expressed traffic is already a major concern along adjacent spans of Laura Duncan Road, Salem Church Road, North Salem Street and Old Apex Road.

### Proposed Mitigation:

- A full Traffic Impact Analysis has been conducted and is part of this rezoning package.
- Based on the findings of that TIA, several improvements to the adjacent roads to accommodate future traffic conditions. See "Right-of-Way Improvements" section above as well as the full TIA attached.
- Additionally, a trip generation comparison was conducted to compare the site trips (traffic) associated with the allowable land uses under the current zoning (Planned Commercial) versus the site trips associated with the future land use (high-density residential) under the proposed re-zoning.
- Based on those preliminary results, the proposed zoning for all parcels north of N. Salem Street / Old Apex Road is expected to generate significantly fewer trips in comparison to the allowable land uses under the current zoning. The full comparison letter is attached to this submittal.
- Land dedication to the Town of Apex is proposed for future traffic circle.
- Parking has been reduced to 1.6 spaces/unit to promote public transit.
- Construction of bus stop to promote public transit.
- Proposed plan will meet Town of Apex's Transportation plan and will include the necessary right-of-way width to accommodate for future roadway improvements.

### Concern #2

### **Stormwater Runoff and Drainage**

• Neighboring property owners expressed concern that the increased impervious area in the development would create water runoff that current drainage conditions are not equipped to handle, creating erosion and flooding issues.

Proposed Mitigation:

- Design will consider existing drainage patterns and maintain current discharge points.
- Maximum built-upon area will be met (70% or less).
- All new stormwater runoff associated with development will be detained and treated per the Town's nutrient and peak flow requirements.
- All stormwater runoff will be reduced to pre-development conditions to ensure no net increase.
- Stormwater measures will consist of above and underground detention facilitates throughout the site.
- Erosion control devices will be installed per State and Town of Apex Requirements.

### Concern #3

### **Proximity of Development to Neighboring Homes**

• Neighboring property owners to the east expressed concerns about proximity of their homes to the property line and the impact the new apartment buildings will have on their viewshed.

### Proposed Mitigation:

- Setbacks in these areas have been increased more than the 10 foot requirement where feasible.
- A voluntary 60 foot setback has been added to eastern side of the site to reduce the impact to these neighbors.
- Development will preserve existing trees on site to the greatest extent possible.
- A Type A Buffer has been proposed throughout the development for enhanced screening.
- All residential buildings will be a maximum of 4 stories, which has been reduced from the allowed 5-story construction.

### Concern #4

### **Property Devaluation**

• Neighbors to the east expressed concern that the proximity of apartment buildings to their homes will devalue their property values.

### Proposed Mitigation:

• The subject properties were zoned for commercial uses (1986) prior to the development of the nearby subdivisions (Linville Ridge, 1993) (The Trace, 2007) (Laurel Crossing, 2014), and so any possible impact of the proximity

of surrounding neighborhoods to commercial properties has long been factored into the value of nearby residential properties.

- The proposed residential use will have less impact on adjoining/nearby properties than commercial uses permitted under current zoning
- The proposed rezoning will include voluntary building setbacks and increase buffer densities that ensure appropriate transitions to nearby residential uses

### Concern #5

### Impact on School Capacity

• Community expressed concerns that the apartment dwellings will lead to more school age children in a school system that is already at or over capacity.

### Proposed Mitigation:

- The proposed residential unit mix will cap 3-bedroom units at 10% of the total unit count.
- Applicant's comparable properties average fewer than .06 school age children per unit.
- In similar projects (4-story, interior corridor) in the market developed by Castle Development Partners, the number of school-aged children is minimal.
- December 2019 (pre-pandemic levels) from applicable schools:
  - Laurel Park Elementary School had a capacity of 854 students and an enrollment of 888 students—operating at 104% of capacity
  - Salem Middle School had a capacity of 1,274 students and an enrollment of 1,027 students—operating at 80% of capacity.
- Apex High School had a capacity of 2,222 students and an enrollment of 2,158 students—operating at 97% of capacity.
- None of these three schools are subject to enrollment caps.

### Concern #6

### Pedestrian Safety

• As part of the general traffic concern, residents expressed concerns around pedestrian safety resulting from the increased traffic—particularly due to the railroad track and nearby elementary school.

Proposed Mitigation:

- Currently, sidewalks exist along the western side of Laura Duncan and along the North Salem Street frontage.
- A 10' side path will be added along the eastern side of Laura Duncan to connect with Town of Cary's side path.
- Additional sidewalks, ADA ramps and crosswalks will be added along the perimeter of all parcels to enhance pedestrian connectivity around the development.

### Concern #7

### Preservation of Existing Field and Open Space

• The neighboring community has grown accustomed to and enjoys the open field condition of the site currently.

### Proposed Mitigation:

- Current site plan will dedicate 0.7 acres at the northwest corner of the site solely as greenspace. This will be used to count towards the RCA requirement as well as to provide a buffer between the neighboring property.
- 1.17 acres will also be dedicated RCA within the non-residential parcels.

Planned Unit Development

# NORTH SALEM STATION DEVELOPMENT

Laura Duncan Road · Candun Drive · North Salem Street

Apex, North Carolina PUD PLAN

March 29, 2022











TheWootenCompany.com

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# **NORTH SALEM STATION**

### **Planned Unit Development**

Prepared for The Town of Apex, North Carolina

### **Developer**

Castle Development Partners 230 Court Square, Suite 202 Charlottesville, VA 22902

### Architect

Dynamik Design 5901 Peachtree Dunwoody Rd. Building C, Suite 250 Atlanta, GA 30328

### **Civil Engineer**

The Wooten Company 120 N. Boylan Ave. Raleigh, NC 27603

### **Traffic Engineer**

Ramey Kemp & Associates 120 N. Boylan Ave. Raleigh, NC 27603





Nooten

**RKV** 

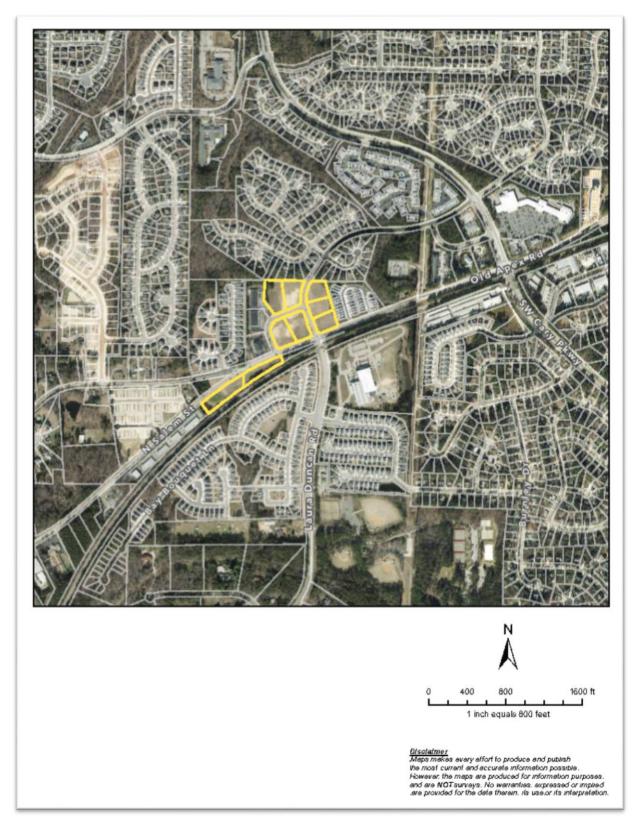
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### **VICINITY MAP**



### Tract 1: PIN 0753015606

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.25 acres

### Tract 2: PIN 0753016795

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.25 acres

### Tract 3: PIN 0753024120

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.43 acres

### PIN 0753026029

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.21 acres

### Tract 5:

### PIN 0753028181

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 0.90 acres

### Tract 6:

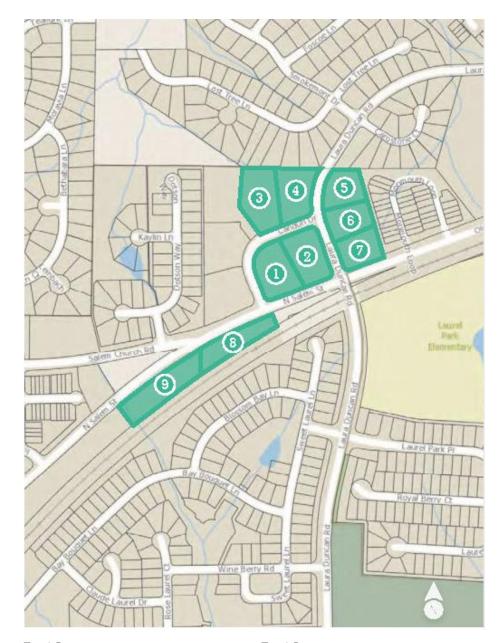
### PIN 0753019925

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 0.90 acres

### Tract 7:

PIN 0753019769 Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 0.91 acres

### **PARCEL INFORMATION**



# Tract 8: PIN 0753013228

Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.00 acres

### Tract 9:

PIN 0743908968 Old Apex Associates LP 230 Court Square Suite 202 Charlottesville, VA 22902 Area: 1.54 acres

# **PROJECT DATA**

1. Name of Project:	North Salem Station
2. Applicant:	Castle Development Partners 230 Court Square, Suite 202 Charlottesville, VA 22902
3. Prepared By:	The Wooten Company 120 N. Boylan Ave. Raleigh, NC 27603
4. Current Zoning:	PC – Planned Commercial (7 Parcels) and B1 - Neighborhood Business (2 Parcels)
5. Proposed Zoning:	PUD–CZ: Planned Unit Development Conditional Zoning
6. Current 2045 LUM: Designation	High-Density Residential, Apartments Only/ Commercial Services (7 Tracts- North of N. Salem Street) High-Density Residential / Office Employment (2 Tracts- South of N. Salem Street)
7. Area of Tract(s):	10.39 Acres
8. Areas Designated as Mixed	Use on 2045 LUM: 0 Acres
9. Area of Mixed-Use Property	y Proposed as Non-Residential: 0 Acres

**10.** Percent of Mixed-Use Areas Proposed as Non-Residential: 0%

# **PURPOSE STATEMENT**

North Salem Station development site is comprised currently of nine (9) individual parcels. It is intended that some of these parcels be recombined, resulting in a total of six (6) parcels. Of these parcels, three (3) will be dedicated for residential uses, one (1) for non-residential uses, and two (2) for Resource Conservation Area.

The following information provides a brief summary of how the Development Parameters in the Planned Unit Development District (PUD-CZ) will be met:

The proposed uses designated above for each group of parcels, are permitted uses per §4.2.2 Use Table in the Town of Apex's UDO.

North Salem Station includes both residential and non-residential parcels. The residential development will consist of multi-family housing with a maximum of 239 units. The non-residential development will consist of a single building with a maximum area of 10,000 SF.

The proposed development has provided dimensional standards that either meet or exceed compliance with the Town of Apex's UDO. In addition, this development will follow all other requirements of the UDO, North Carolina Building Code and North Carolina Fire Code.

Public sidewalks (5') will be constructed along all right-of-way frontages associated with the development. Per the Town's Parks, Recreation, Greenways and Open Space Master Plan, a ten (10) foot side path will also be constructed along the eastern side of Laura Duncan Road. Internal sidewalks with associated crosswalks and ADA accessible ramps throughout the development will be provided to promote a walkable community for residents.

North Salem Station PUD-CZ is consistent with the High-Density Residential, Apartments only Land Use Designation that was adopted in the 2045 LUM in February 2021 and the proposed design is compatible with the uses and character of the surrounding properties.

North Salem Station will provide quality through enhanced materials and design features, as outlined in the Architectural Controls section below. Sample elevations found in this document illustrate a sample of the style of both residential and non-residential development will provide.

The following information provides a brief summary of how this development proposes sitespecific standards and conditions consistent with all Conditional Zoning (CZ) District Standards found in the Town of Apex's UDO §2.3.3 Conditional Zoning Districts:

The proposed zoning district PUD-CZ is allowed within the High-Density Residential Use per the 2045 Town of Apex's Land Use Map. The development proposes a maximum density of 23 units per acre.

The proposed location of the development is compatible with the character of the surrounding land uses.

Supplemental standards pertaining to multi-family development, as well as the future use of the non-residential parcels will be incorporated into the final design.

Design will adhere to the Town of Apex's design standards to minimize adverse impacts to the surrounding land. Architectural guidelines and controls will ensure that an appropriate aesthetic is incorporated that is consistent with local architecture and maintains a high level of quality. The project will not create any significant or uncommon nuisances to the surrounding properties.

Design will minimize environmental impacts by adhering to all the Town of Apex's site planning requirements and necessary mitigation efforts. The project will designate 20% of the site as RCA and include additional conditions beneficial to environmental impacts such as solar panels, sanitary sewer pump station improvements (if required) and electric vehicle charging stations for residential uses.

The proposed PUD-CZ will not create any unique or uncommon impacts on public facilities. Any impacts to public facilities will be mitigated by public improvements at the property or fees in lieu, as required by the Town of Apex.

The proposed PUD-CZ will meet all applicable guidelines for health, safety, or welfare of the residents of the Town of Apex.

The proposed PUD-CZ is in compliance with the Town of Apex's recommended use for the Property, as determined in the 2045 Land Use Map. Proposed residential and office/flex uses are consistent with adjacent properties. Increased building setbacks have been incorporated on property lines near existing residences.

The proposed PUD-CZ will not create or constitute a nuisance or hazard. A TIA will be included with this application to recommend any traffic impact mitigation improvements necessary because of the CZ use. The project will comply with traffic mitigation improvements, as required by the Town of Apex.

The proposed PUD-CZ will comply with all standards imposed on it by all other applicable provision of this ordinance for use, layout, and general development characteristics.

### **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.

Permitted Residential Use Categories: Parcels 2, 3, and 4	
Multi-Family/Apartment	Accessory apartment
Condominium	Utility minor
Townhouse	Park, active



Permitted Residential Use Categories: Parcels	2, 3, and 4
Duplex	Park, passive
Triplex	Private Recreation Facility
Quadplex	



Permitted Non-Residential Use Categories: Parcel 6		
Recreational Uses:	Food and Beverage Services:	
Park Active/Park Passive	Restaurant, General	
Office and Research:	Industrial Services:	
Medical or Dental Office or Clinic	Woodworking or cabinetmaking	
Medical or Dental Laboratory	Manufacturing and processing, minor (S)	
Office (Business or Professional)	Microbrewery	
Research Facility	Micro Distillery	
Retail Sales and Services:		
Artisan Studio	Barber and Beauty Shop	
Book Store	Floral Shop	
Financial Institution	Grocery, General	

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Permitted Non-Residential Use Categories: Parcel 6		
Grocery, Specialty	Health/fitness center or spa	
Kennel	Printing and copying service	
Real estate sales	Retail sales, general	
Studio for art	Tailor shop	
Upholstery shop	Pet services	



# SITE DESIGN CONTROLS

### Total Site Acreage: 10.39 acres

### **Residential Use Parcels**

- 1. Maximum Overall Gross Density 23 Units/Acre
- 2. Maximum Number of Units 239
- 3. Maximum Building Height 60 feet (Maximum 4 Stories)
- 4. Maximum Built Upon Area –70% of Total Area
- 5. Building Setbacks

Parcel 1		
RCA- No Setbacks		
Parcel 2		
Front:	10 feet (South, Candun Drive)	
Side:	20 feet (East, Laura Duncan Drive)	
Side:	0 feet (West, Parcel 1)	
Rear:	Required Buffer + 5 Feet (North)	
Rear:	Required Buffer + 5 Feet (North)	

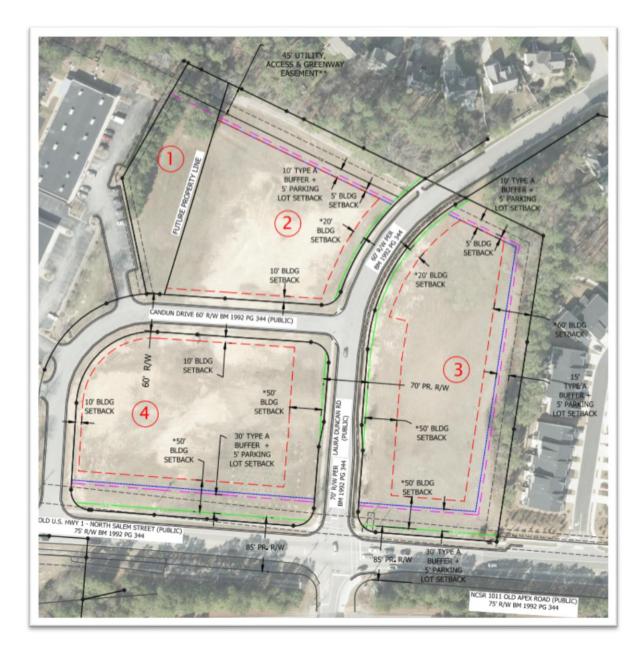


Parcel 3	
Front:	50 feet (West, South of Candun Drive)
	20 feet (West, North of Candun Drive)
Side:	50 feet (South, Old Apex Road)
Side:	Required Buffer + 5 Feet (North)
Rear:	60 feet (East)
Parcel 4	
Front:	50 feet (South, N. Salem Street)
Side:	50 feet (East, Laura Duncan Road)
Side:	10 feet (West, Candun Drive)
Rear:	10 feet (North, Candun Drive)

### 6. Buffers

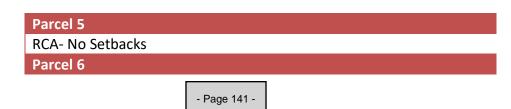
Perimeter	
Northern Buffer	10 feet – Type A Buffer
Eastern Buffer	15 feet – Type A Buffer
North Salem Street	30 feet – Type A Buffer*
Western Buffer	0 feet
Laura Duncan Road	0 feet

\*The overhead Duke Energy electric easement along North Salem Street shall be counted towards the required buffer standards as identified within various UDO sections. Vegetation planted under the buffer shall be chosen to be 20 feet or less tall, so as to avoid impacting the overhead utility lines.



### **Non-Residential Use Parcels**

- 1. Maximum Building Height 40 feet (Maximum 2 Stories)
- 2. Maximum Built Upon Area -70% of Total Area
- 3. Maximum Square Footage- 10,000 SF
- 4. Building Setbacks



Front:	Required Buffer + 10 feet (North, North Salem St.)	
Side:	10 feet	
Rear:	10 Feet (South, CSX Rail)	

### 5. Buffers

Perimeter	
North Salem Street	20 feet – Type A Buffer
Eastern Buffer	0 feet
Southern Buffer	0 feet
Western Buffer	0 feet



# **ARCHITECTURAL DESIGN CONTROLS**

The proposed development offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Elevations included are limited examples of multiple options available. Changes to the exterior materials, roof, windows, doors, process, trim, etc. are allowable with administrative approval at the staff level. Further details shall be provided at the time of Site Plan submittal.

### Residential (all product types):

- 1. Proposed materials and styles will be of a similar palette to provide consistency of character along with visual interest. Exterior materials that may be incorporated into any of the residential buildings include:
  - a. Cementitious siding
  - b. Wood or synthetic wood siding
  - c. Stone or synthetic stone
  - d. Brick
  - e. Additional building materials may be included with administrative staff approval. Substitute materials shall be allowed by staff approval if the Planning Director determine them to be adequately similar.



- 2. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 3. For multi-family/apartment buildings, the roofs may be pitched or flat. All other housing types shall have pitched roofs.
- 4. Siding materials shall be varied in type and/or color on 30% of each facade on each building.
- 5. Windows that are not recessed must be trimmed.
- 6. Rooflines cannot be a single mass; they must be varied with the use of gables or parapets.
- 7. Solar conduit will be provided on all buildings to accommodate the future installation of solar panels.
- 8. The proposed residential unit mix will cap 3-bedroom units at 10% of the total unit count.

### Non-Residential:

- 1. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials and ornamental details as well as landscaping shall be incorporated to add visual interest. Large expanses of blank walls, greater than 20 feet in length or height, shall be broken up with windows or other architectural features to reduce visual impacts.
- 2. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material.
- 3. Two (2) or more materials shall be used on each building.
- 4. Permitted materials include:
  - a. Brick, stone, or synthetic stone masonry
  - b. Decorative concrete block (integral color or textured)
  - c. Stone accents
  - d. Aluminum storefront windows/doors 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 25% of each building facade.
  - g. Precast concrete
  - h. Cementitious siding
- 5. Prohibited materials include:
  - a. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
  - b. Painted, smooth faced concrete block
  - c. Metal Walls. Decorative metal accents and panels may be accepted.
- 6. Exterior lighting shall not exceed a color temperature of 3,500K and shall meet UDO requirements for full cut off lights.

# PARKING AND LOADING

Parking calculations and dimensions for this PUD will comply with UDO Section 8.3 (Off-Street Parking and Loading) of the Town of Apex's Unified Development Ordinance unless otherwise stated in this document.

This development proposes a minimum of 1.3 spaces/residential unit and a maximum of 1.6 spaces/residential unit for all surface lot spaces serving the residential lots. This cap on the maximum

parking count was incorporated after discussions with Town Council members and is intended to reduce the number of parking spaces from what the ordinance would require otherwise to maximize green space and promote the use of public transit. The parking count will be based on all unit types and not specify a requirement per number of bedrooms. No more than 10% of the total unit count shall be 3-bedroom units.

As a consideration for the number of residents this development will bring to the area, Castle Development aims to reduce the amount of traffic and promote the use of public transportation by reducing parking spaces on site. The residential development shall construct two bus stops along North Salem Street/Old Apex Road and coordinate the final location with the Town of Apex and Town of Cary in accordance with GoApex and Regional Transit requirements.

Parking associated with the non-residential use lots shall comply with UDO Section 8.3. Bicycle and ADA parking will be provided as required.

A minimum of 5% of the parking spaces shall be Electric Vehicle (EV) Charging spaces. EV charging spaces for the residential development shall be based on the number of parking spaces required by the UDO rather than the reduced parking ratio proposed by the PUD. EV charging spaces shall be provided in either surface or garage lots in accordance with UDO Sec. 8.3.11.

Boat, Boat Trailer, and Recreational Vehicle (RV) parking shall be prohibited on site.

Trash pick-up shall be contracted with a private company and limited to the hours of 7:00 AM to 7:00 PM, Monday through Saturday.

# SIGNAGE COMPLIANCE

All signage for this PUD will comply with Section 8.7 (Signs) of the Town of Apex UDO.

# NATURAL RESOURCE AND ENVIRONMENTAL DATA

### 1. Primary or Secondary Watershed Protection Overlay District -

This project is located within the Cape Fear River Basin. Most of the proposed site (parcels north of N. Salem St.) is located within the Secondary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Map. The two (2) parcels south of N. Salem St. are located within the Primary Watershed Protection Overlay District. This PUD will comply with section 6.1.7 of the UDO, High-Density Development Option.

### 2. FEMA Designated 100 Year Floodplain -

The proposed PUD site is not located in a designated current or future 100-year floodplain as shown on the Town of Apex FEMA map and FIRM Panels 3720074300J and 3720075300J, effective 5/02/06.

### 3. Resource Conservation Area (RCA)

The PUD will be subject to and meet the requirements of Sections 8.1.2 and 2.3.2 of the Town of Apex UDO. Since the site is located to the east of NC 540, a minimum 20% of the gross site acreage shall be designated as RCA.

RCA BREAKDOWN	
Total Site Area:	10.39 acres/452,588 SF
Total RCA Required (20%):	2.08 acres/90,518 SF
Total RCA Provided (20.8%):	2.16 acres/93,944 SF

Applicant intends to dedicate 0.7 acres of land **(Parcel 1)** at the northwest corner of the site solely for open space/RCA dedication. This land will prohibit construction of any kind. It is currently grassy and will be planted to meet the UDO's requirements for planted RCA.

In addition, approximately 1.17 acres of land located on the south side of North Salem Street **(Parcel 5)** will be dedicated as RCA. The proposed plan will also prohibit construction to occur within this area for the purposes of this development.

The RCA for Parcels 1 and 5 shall be planted and dedicated prior to the last Site Plan Final Plat for the residential portion of the development.

## 4. Evidence of Historic Structure On-Site -

Per the North Carolina State Historic Preservation Office National Historic Places, there are no historic structures present within the proposed project boundary.

## **STORMWATER MANAGEMENT**

The proposed PUD shall meet all stormwater management quality and quantity requirements in accordance with 6.1.7 of the Town of Apex's Unified Development Ordinance.

- Post-development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1and 10-year storm events.
- Treatment will be provided for the 1<sup>st</sup> inch of runoff and will provide a minimum of 85% removal of total suspended solids.

Due to site constraints, stormwater control measures may include, but not be limited to, underground detention systems with NCDEQ approved Storm Filter and Filterra Systems for treatment and bioretention areas and/or construction stormwater wetlands in and around parking lots. If elevation change is feasible, an above ground stormwater detention pond may be added to a portion of the lot on the south side of N. Salem Street. All stormwater control measures shall be approved and designed according to the NCDEQ Design Manual as well as the Town of Apex's UDO.

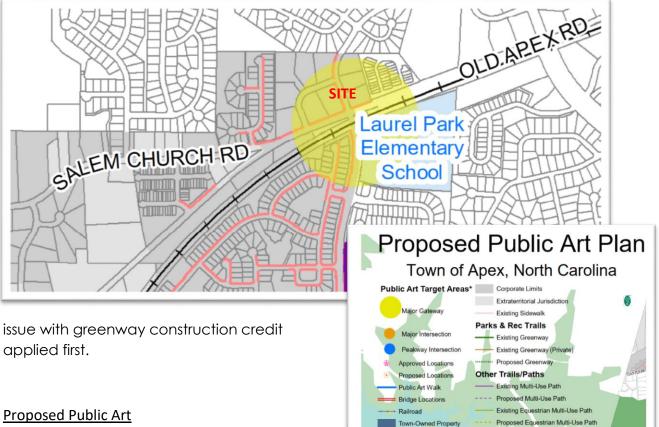
## PARKS, RECREATION AND CULTURAL RESOURCES

This PUD proposes a fee-in-lieu of dedication. The rate is based on the time of PUD and PRCR Advisory Commission Approval.

## \$2,226.05 per multi-family unit

However, per the Town of Apex's Parks, Recreation, Greenways and Open Space Master Plan, a new 'Greenway Trail' is proposed along the Northern Property Boundary (Along Proposed Parcels 1 and 2) and a 'Sidepath' is proposed along the Eastern side of Laura Duncan Drive.

The Parks, Recreation and Cultural Resources Advisory Commission reviewed the project on February 23, 2022. They unanimously recommended a fee-in-lieu of dedication for 240 multi-family units and with credit for construction of greenway trail against fees owed. The timing for the completion of the greenway should be tied to the approval of the final plat. The rate of the fee-in-lieu will be set at the time of Town Council approval. The current 2022 rate of \$2226.05 multiplied by the maximum multi-family unit total would result in \$534,252.00 of fees deposited with the Town at the time the building permit is approved for



The Town of Apex's Public Art Plan designates the area around the intersection of Laura Duncan and

North Salem as a "Major Gateway" into Apex. To help promote the Town's Public Art Plan, the Applicant proposes to dedicate an easement for the installation of public art. Location of the art installation will be agreed upon and determined during site plan review.

Application proposes to donate \$10,000 to the Citizens for Apex Parks to be allocated towards an art installation to be erected within this development area.

## **PUBLIC FACILITIES**

The proposed PUD shall meet all public facilities requirements in accordance with the Town of Apex's UDO, Advance Apex: The 2045 Transportation Plan, and Standard Specifications and Details.

## Roadway Infrastructure

See Right-of-Way Improvements Section of this document for a summary of how proposed roadway infrastructure and right-of-way dedications will be consistent with the Town of Apex's UDO and Transportation Plan.

## Pedestrian Connectivity

All sidewalks installed per the Right of Way Improvements section herein shall be a minimum five (5) feet wide to enhance pedestrian connectivity and safety. All sidewalks will include ADA accessible ramps, detectable warning strips and crosswalks where necessary.

A ten (10) foot wide side path along the eastern side of Laura Duncan Road will be constructed in accordance with the Town of Apex's Parks, Recreation, Greenways and Open Space Master Plan.

## Water and Sanitary Sewer

All lots within the project will be served by the Town of Apex for water and sanitary sewer. The proposed design will meet the Town's current standard details and specifications for all connections to the public system.

A capacity study is in progress that analyzes existing and proposed wastewater flows. A final report and analysis will be provided to the Town of Apex to determine if any improvements are required. Any upgrades required to the system will be a condition of site plan approval.

A fire flow test will be conducted to analyze current static and residual pressures around the site.

## **PROJECT PHASING**

Phasing for the project shall be determined during site plan or master subdivision plan review and coordinated with the Technical Review Committee.

## **CONSISTENCY WITH LAND USE PLAN**

The proposed land use is consistent with the Advance Apex: 2045 Land Use Map Update.

The 2045 Land Use Map designates the subject parcels to the North of N. Salem St. (2-4) as High-Density Residential, Apartments Only and Commercial Services. The proposed land use for these parcels is High-Density Residential, which is consistent with the Land Use Map designation.

The 2045 LUM designates the subject parcels to the South of N. Salem St. as High-Density Residential and Office Employment. The proposed land uses designated for parcel 6 are consistent with those listed in the zoning districts under Office Employment. Those uses are consistent with the 2045 Land Use Map designation.

## **COMPLIANCE WITH UNIFIED DEVELOPMENT ORDINANCE**

The proposed PUD-CZ and associated development is consistent with all applicable requirements of the Town's Unified Development Ordinance.

## **RIGHT-OF-WAY IMPROVEMENTS**

The following recommendations were provided as part of the Traffic Impact Analysis (TIA) prepared by Ramey Kemp and Associates in November of 2021. Refer to the figure below for an illustration of the recommended lane configuration. The full TIA is provided as an attachment to the PUD re-zoning submittal.

## 1. Laura Duncan Road and Candun Drive/Access A:

- a. Construct the westbound approach with one ingress and one egress lane.
- b. Provide stop control for the westbound approach.

## 2. Laura Duncan Road and Access B:

- a. Construct the eastbound approach with one ingress and one egress lane.
- b. Provide Stop control for the eastbound approach.

## 3. Laura Duncan Road and Access C:

- a. Construct the northbound and southbound approaches with one ingress and one egress lane.
- b. Provide Stop control for the northbound and southbound approaches.

## 4. Laura Duncan Road and Access D:

- a. Align access D with existing driveway on Candun Drive.
- b. Construct the westbound approach with one ingress and one egress lane.
- c. Provide Stop control for the westbound approach.

## 5. <u>North Salem Street and Access E (Will Complete for the Development of the Non-Residential</u> Lots):

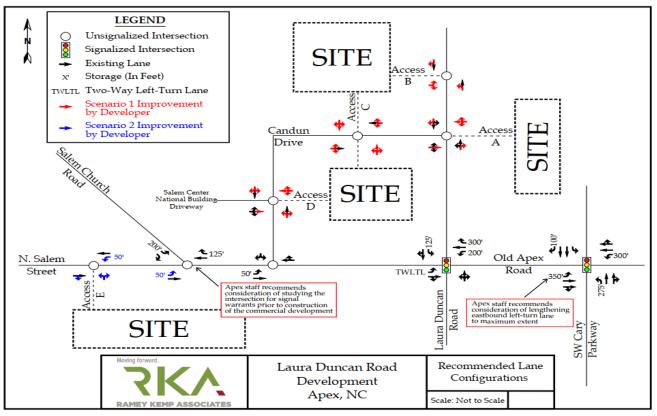
- a. Provide an exclusive westbound left-turn lane with a minimum of a 50' storage lane and appropriate deceleration and taper on North Salem Street.
- b. Construct the northbound approach with one ingress and one egress lane.
- c. Provide stop control for the northbound approach.

## 6. <u>North Salem Street and Salem Church Road (Will Complete for the Development of the Non-Residential Lots)</u>:

a. Construct an exclusive eastbound left turn lane with a minimum of a 50' storage lane and appropriate deceleration and taper on North Salem Street.

## 7. Old Apex Road and SW Cary Parkway

a. The Town of Apex staff recommends consideration of lengthening eastbound left-turn lane to maximum extent. Developer will consider these improvements only if NCDOT requires only grinding of existing paint lines, not mill and overlay of full roadway width.



## **TRANSPORTATION ZONING CONDITIONS**

- 1. All proposed driveway access and improvements on state-maintained roadways are subject to NCDOT review and approval.
- 2. All development frontage improvements along North Salem Street shall be based on a minimum 41' back-to-back 3-lane roadway on 80' right-of-way. As part of the non- residential site plan, a maximum of one (1) access point shall be proposed on North Salem Street, to be located west of Salem Church Road and serving the south parcel.
- 3. All development frontage along Laura Duncan Road shall include a 5' sidewalk on the west side and 10' Side Path on the east side. A maximum of two (2) access points shall be proposed, one located north of Candun Drive serving the west side and one across from Candun Drive serving the east side.
- 4. All development frontage along both sides of Candun Drive shall include a 5' sidewalk. A maximum of three (3) access points shall be proposed, two located across from each other west of Laura Duncan Road serving the north and south side and one north of North Salem Street serving the east side.
- 5. Developer shall provide a 50' building setback along Laura Duncan Road from North Salem Street to Candun Drive and along the entire development frontage of North Salem Street in consideration of the planned grade separation of Laura Duncan Road at the railroad tracks.
- 6. Developer shall perform a warrant study for the intersection of Salem Church Road at North Salem Street if directed by Apex staff prior to site plan approval of the non-residential parcel south of North Salem Street and install a traffic signal if determined by warrant study and

required by NCDOT. If not required at that time, developer shall have no future responsibility for a traffic signal.

- 7. Developer will dedicate a maximum of 0.24 acres of additional right of way as shown on the Site Layout based on a conceptual future single-lane roundabout at the intersection of North Salem Street and Salem Church Road.
- 8. At the time of constructing driveway access to the non-residential parcel located south of North Salem Street, developer shall widen North Salem Street to provide a two-way left-turn lane (TWLTL) between the driveway access and Salem Church Road serving left turns at both intersections.
- 9. Prior to the first Site Plan Final Plat for the residential parcels, Developer shall lengthen the eastbound left turn lane on Old Apex Road approaching Cary Parkway to the maximum extent possible by restriping the existing painted median island for additional storage length only if NCDOT allows this work to be done without milling and asphalt overlay. If NCDOT requires milling and asphalt overlay then this work shall not be required of the Developer.
- 10. Developer shall construct two bus stops per Town of Apex standards with amenity pad, bench, bicycle parking, and trash receptacle. Bus stops shall be constructed to accommodate a shelter, but shelters shall not be provided by the applicant. The bus stops shall be paired, to serve both sides of North Salem Street, the final location to be determined by Apex staff during site plan review. If needed, a Transit Access Easement shall be provided for public access to the bus stops.

## ADDITIONAL RIGHT-OF-WAY IMPROVEMENTS

Currently, sidewalks exist along the western side of Laura Duncan and along the North Salem Street frontage. A 10' side path will be built along the eastern side of Laura Duncan to connect with Town of Cary's side path. During construction of the residential development, the developer shall ensure that a safe, paved pedestrian route shall be maintained from Linville Ridge Subdivision to Laurel Park Elementary School.

Prior to the residential final plat, additional sidewalks, ADA ramps and crosswalks will be added along the street frontage of all residential parcels to enhance pedestrian connectivity around the development. A sidewalk along the south side of North Salem Street will be constructed from the intersection of Laura Duncan Road westward to the proposed bus stop located Son the south side of North Salem Street. If approval of the bus stop and/or sidewalk on the south side of North Salem Street is not permitted by CSX Railroad, NCDOT and/or the Town of Cary, installation of this sidewalk will not be a condition of this rezoning and will not prohibit or delay any approvals or permits of the residential development.

Prior to the non-residential final plat, a sidewalk will be constructed along the property frontage of Lots 5 and 6, continuing eastward to the proposed bus stop located on the south side of North Salem Street. If approval of the bus stop and/or sidewalk on the south side of North Salem Street is not permitted by CSX Railroad, NCDOT and/or the Town of Cary, installation of this sidewalk will not be a condition of this rezoning and will not prohibit or delay any approvals or permits of the non-residential development.

At the intersection of Laura Duncan Road and North Salem Street, applicant shall install remaining two legs of the crosswalk with construction of the residential parcels. If approval of both (two) legs

of the crosswalk are not permitted by CSX Railroad, NCDOT and/or Town of Cary, applicant will attempt approval of a single leg of crosswalk; if approval of a single leg of the crosswalk is not permitted by CSX Railroad, NCDOT and/or Town of Cary, installation of crosswalks at the intersection of Laura Duncan Road and North Salem Street will no longer be a condition of this rezoning and will not prohibit or delay any approvals or permits of the residential or non-residential developments.

Future right-of-way and/or easement dedication (Developer is flexible on locations) is provided as a part of this proposal for the following:

- Two Bus Stop Locations to promote public transportation (Along N. Salem St.)
- Future Traffic Circle near the N. Salem St. and Salem Church Rd. intersection. (This will be dedicated prior to non-residential final plat).
- Public Art Installation

## ENVIRONMENTAL ADVISORY BOARD RECOMMENDATIONS

The following environmental commitments were discussed and approved by the Apex Environmental Board on August 19, 2021. This summary describes each concern and how the applicant plans to address these recommendations.

**#1:** Project shall apply for sustainable building certification.

Response: The residential parcels shall apply for the National Green Building Standard Certification at the Bronze level and will be designed and constructed to meet those standards. The application process would begin at the start of architectural design for the residential buildings). The Certification would be obtained within 1 year of the building Certificate of Occupancy. A third-party energy management consultant will be contracted as a part of the design team to ensure that the standards are met.

#2: Pet waste stations shall be installed throughout the neighborhood.

Response: Pet waste stations shall be installed at 3 or more locations throughout the development.

#3: Site shall include electric vehicle charging stations.

Response: A minimum of 5% of the parking spaces shall be Electric Vehicle (EV) Charging spaces. EV charging spaces for the residential development shall be based on the number of parking spaces required by the UDO rather than the reduced parking ratio proposed by the PUD. EV charging spaces shall be provided in either surface or garage lots in accordance with UDO Sec. 8.3.11.

## #4: Follow the International Dark Sky Association compliance standards.

Response: International Dark Sky Association Compliance Standards is already intended for this project, as this is a standard practice at all Castle Development sites.

- a. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
- b. Lighting that minimizes the emission of blue light to reduce glare shall be used.
- c. Lighting with a color temperature of 3000K or less shall be used for outside installations.

## **#5:** Reserve pervious surface areas for residents with pets.

Response: Since the EAB has reviewed the conceptual site plan, additional green space has been added to designate a dog park within the community.

#6: Recommendation of decreasing housing density to accommodate the following:

- Double the set-back from N. Salem Street/Old Raleigh to accommodate a minimum 30-foot-wide "A" type buffer.
- Provide an "A" type buffer around the remainder of the development.
- Use canopy trees in the parking lot and add six trees internal to the lot.
- Add a retention pond that will serve a 25-year storm with maximum residual volume allowed for the pond surface area.

**Response:** 

- All setbacks and buffers have been adjusted to provide an appropriate width and screening for surrounding streets and properties. A 30' wide Type A Buffer and a 50' Building Setback have been added along the street frontage of N. Salem Street.
- Type A Buffers have been added to the remainder of the development.
- If site design allows, applicant agrees to install additional trees where appropriate.
- Due to site constraints, an underground detention system with other surface stormwater control measures will be proposed to detain and treat runoff from the 1- and 10- year/24-hour storm events.
- #7: Install solar PV systems on the south facing rooftops of a minimum size that will support the common electrical energy requirements. This includes the recreational room and pool. If there is additional rooftop available, install solar energy PV systems that provide electricity to individual apartments.

Response:

- Applicant will install Solar PV System (minimum 4KW DC Solar PV System). to power community clubhouse building in residential area.
- Solar conduits will be installed in all residential buildings for future PV systems.

## TOWN OF APEX'S SUGGESTED CONDITIONS

In previous meetings, the Town Council has expressed several areas of concern. Below is a summary of how the applicant plans to address some of these concerns.

## Concern #1: Affordable Housing

## Response:

To support the need for affordable housing within the Town of Apex, the Developer proposes that for a minimum affordability period of seven (7) years from the issuance of the first residential certificate of occupancy (the "Affordability Period), at least five percent (5%) of the total number of dwelling units built on the Property shall be designated as low-income restricted units (the "Affordable Dwelling Units"). The Affordable Dwelling Units shall be rented to and occupied by low-income households during the Affordability Period at maximum rent limits per bedroom size and income limits adjusted for family size, no greater than seventy percent (70%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as most recently published by the U.S. Department of Housing and Urban Development (HUD) and stipulated by the most recently published North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) income and rent limits for the Wake Metropolitan area. Allocation of the Affordable Dwelling Units between 1, 2 and 3-bedroom units will be at the discretion of the Developer, so long as a minimum of five percent (5%) of the Project's total units are maintained as Affordable Dwelling Units. During the Affordability Period, the Developer shall be responsible for performing all property management and administration duties for the Affordable Dwelling

Units. Following completion of the Affordability Period, this affordable housing condition shall expire, the Developer shall be relieved of all obligations set forth in this affordable housing condition, and the Affordable Dwelling Units may be freely marketed and leased at market-rate rents. A restrictive covenant (i.e. affordable housing agreement) between the Town and Applicant shall be recorded against the property prior to the first Certificate of Occupancy to memorialize the affordable housing terms and conditions of the approved zoning condition.

## Concern #2: Tree Preservation

## Response:

The existing site is mostly clear. However, areas around the perimeter include natural vegetation. A tree survey will be conducted to ensure the species and size of trees surrounding the site. Areas within a portion of the landscape buffers will be used for RCA. Any cleared areas designated as RCA shall be planted to the standards listed in the UDO.

A Type A Buffer is also proposed for all landscape buffers throughout the site. Although not anticipated, any existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, beyond standard UDO requirements. Landscape will follow the Town's UDO to provide the required plantings on site throughout the

development, as well.

## Concern #3: Solar Energy

Response:

- Lots 2-4: The residential clubhouse building will incorporate a solar PV system (minimum 4KW DC Solar PV System). Solar conduits will be included in all residential buildings for potential future installations. All solar installation required by this condition shall be completed or under construction prior to the final building Certificate of Occupancy.
- Lot 6: No solar PV system requirement included.

## NEIGHBORHOOD CONCERNS

## Concern #1: Traffic Impacts

Most common concern among all residents.

Community expressed traffic is already a major concern along adjacent spans of Laura Duncan Road, Salem Church Road, North Salem Street and Old Apex Road.

## Response/Proposed Mitigation:

- A full Traffic Impact Analysis has been conducted and is part of this rezoning package.
- Based on the findings of that TIA, multiple improvements are proposed accommodate future traffic conditions. See "Right-of-Way Improvements" section above as well as the full TIA attached.
- Additionally, a separate TIA was conducted to compare the traffic impact of multiple by-right scenarios (office/commercial) to the proposed rezoned use (high-density residential).
  - Based on the TIA findings, the proposed high-density residential development will generate significantly less traffic impact than if the properties were to be developed per the in-place, By-Right zoning designations. See full finding of traffic engineer's study attached to this submittal.
- Land shall be dedicated to the Town of Apex for a future traffic circle at Salem Church Road and North Salem St.
- Parking has been reduced to a minimum of 1.3 spaces per unit and a maximum of 1.6 spaces/unit to promote public transit.

- The project shall construct two bus stops to promote public transit.
- The proposed plan shall meet Town of Apex's Transportation plan and will include the necessary rightof-way width to accommodate for future roadway improvements.

## Concern #2: Stormwater Runoff and Drainage

Neighboring property owners expressed concern that the increased impervious area in the development would create water runoff that current drainage conditions are not equipped to manage, creating erosion and flooding issues.

## Response/Proposed Mitigation:

All Stormwater Control Measures and Erosion Control Measures will be designed to comply with the following:

- NC DEQ and Town of Apex standards and requirements
- Design will consider existing drainage patterns and maintain current discharge points.
- Maximum built-upon area will be 70% or less.
- All new stormwater runoff associated with development will be detained and treated per the Town's nutrient and peak flow requirements.
- All stormwater runoff will be reduced to pre-development conditions to ensure no net increase.
- May consist of above and underground detention facilities throughout the site. The best SCM will be chosen once design has begun.
- By-Right development of the site would have an equal or greater amount of impervious area.

## **Concern #3: Proximity of Development to Neighboring Homes**

Neighboring property owners to the east expressed concerns about proximity of their homes to the property line and the impact the new apartment buildings will have on their viewshed.

## Response/Proposed Mitigation:

- Setbacks in these areas have been increased more than the 10-foot requirement where feasible.
- A voluntary 60-foot building setback has been added to eastern side of the site to reduce the impact to these neighbors.
- Development will preserve existing trees and plant additional trees on site to the greatest extent possible.
- All buffer types have been upgraded to a Type A Buffer surrounding the development for enhanced screening.
- All residential buildings will be a maximum of 4 stories, which has been reduced from the allowed 5story construction.

## **Concern #4: Property Devaluation**

Neighbors to the east expressed concern that the proximity of apartment buildings to their homes will devalue their property values.

## Response/Proposed Mitigation:

• The subject properties were zoned for commercial uses in 1986, prior to the development of the nearby subdivisions (Linville Ridge, 1993) (The Trace, 2007) (Laurel Crossing, 2014)—therefore, development of these properties has been anticipated for as long as any of the homes have existed.

- The home devaluation concern reflects comparing the current home values (with an undeveloped field) to future home values (developed with apartments).
  - Future home values inclusive of a By-Right development should also be considered—By-Right development could include strip malls, gas stations, fast food drive-throughs, car washes, auto service stations and other businesses that are typically regarded as more obtrusive than apartments.
- The proposed rezoning will include voluntary building setbacks and increased buffer densities that ensure appropriate transitions to nearby residential uses.

## Concern #5: Impact on School Capacity

Community expressed concerns that the apartment dwellings will lead to more school age children in a school system that is already at or over capacity.

## Response/Proposed Mitigation:

- The proposed residential unit mix will cap 3-bedroom units at 10% of the total unit count.
- Applicant's comparable properties average fewer than .06 school age children per unit, which would yield 10-14 school age children at the proposed community.
- In similar projects (4-story, interior corridor) in the market, the number of school-aged children is further reduced.
- December 2019 (pre-pandemic levels) from applicable schools:
  - Laurel Park Elementary School had a capacity of 854 students and an enrollment of 888 students—operating at 104% of capacity
  - Salem Middle School had a capacity of 1,274 students and an enrollment of 1,027 students—operating at 80% of capacity.
  - Apex High School had a capacity of 2,222 students and an enrollment of 2,158 students—operating at 97% of capacity.
  - $\circ$   $\;$  None of these three schools are subject to enrollment caps.
- Wake County Public School System has reviewed the proposed rezoning application through the Wake County Residential Development Notification Database and has confirmed that schools at all grade levels with the current assignment area for the proposed rezoning/development are anticipated to have sufficient capacity for future students.

## Concern #6: Pedestrian Safety

As part of the general traffic concern, residents expressed concerns around pedestrian safety resulting from the increased traffic—particularly due to the railroad track and nearby elementary school.

## Response/Proposed Mitigation:

- Currently, sidewalks exist along the western side of Laura Duncan and along the north side of North Salem Street.
- A 10' side path will be added along the eastern side of Laura Duncan to connect with Town of Cary's side path.
- At the time of the development of the residential parcels, additional sidewalks (5'), ADA ramps and crosswalks will be added along the street frontage of all residential parcels to enhance pedestrian connectivity around the development. A sidewalk along the south side of North Salem Street will be constructed from the intersection of Laura Duncan Road westward to the proposed bus stop located

on the south side of North Salem Street. If permission is not granted by CSX Railroad, installation of this sidewalk will not be a condition of this rezoning.

- Prior to non-residential final plat, a sidewalk will be constructed along the property frontage of Lots 5 and 6, continuing eastward to the proposed bus stop located on the south side of North Salem Street.
- At the intersection of Laura Duncan Road and North Salem Street, applicant shall install remaining 2 legs of the crosswalk with construction of the residential parcels. Additional crosswalks shall only be constructed if permitted by CSX Railroad, NCDOT and Town of Cary. Applicant recognizes that access to bus stop south of North Salem Street is critical and willing to install only one leg if both are not approved by governing parties.
- TIA analysis shows that By-Right development of the site would generate a higher traffic count and therefore greater potential impact on pedestrian safety.
- Site will be designed and constructed in full compliance with the traffic impact analysis, the Town of Apex and NCDOT's review and requirements.

## Concern #7: Preservation of Existing Field and Open Space

The neighboring community has grown accustomed to and enjoys the open field condition of the site currently.

Response/Proposed Mitigation:

- Proposed site plan will dedicate 0.7 acres at the northwest corner of the site (Parcel 1) solely as greenspace. This will be used to count towards the RCA requirement as well as to provide a buffer between the neighboring property.
- 1.17 acres will also be dedicated RCA within the non-residential parcels (Parcel 5). The subject properties have been zoned for development since 1986, in one of the fastest growing MSAs in America—development of these properties, By-Right or otherwise, is unavoidable.

PUD Application Page **27** of **27** April 5, 2022

## **APPENDIX**

## CASTLE DEVELOPMENT PARTNERS APEX, NORTH CAROLINA NORTH SALEM STATION MARCH 2022

## PROJECT DATA TABLE:

NAME OF PROJECT: NORTH SALEM STATION PREPARED BY: THE WOOTEN COMPANY 919-828-0531 120 N BOYLAN AVE RALEIGH, NC OWNER: OLD APEX ASSOCIATES LP 230 COURT SQUARE SUITE 202 CHARLOTTESVILLE, VA 22902

PURCHASER: CASTLE DEVELOPMENT PARTNERS 230 COURT SOUARE, SUITE 202 CHARLOTTESVILLE, VA 22902

CURRENT 2045 LAND USE: PROPOSED 2045 LAND USE: AREA OF TRACT(S):

HIGH DENSITY RESIDENTIAL HIGH DENSITY RESIDENTIAL 10.39 AC

AREA DESIGNATED AS MIXED USE OF 2045 LUM: 0 SF/0%

AREA OF MIXED USE PROPERTY PROPOSED AS NON-RESIDENTIAL DEVELOPMENT: 0 SF PERCENT OF MIXED USE AREA PROPOSED AS NON-RESIDENTIAL DEVELOPMENT: EXISTING AND PROPOSED GROSS SQUARE FOOTAGE OF BUILDINGS:

PROPOSED GROSS SQUARE FOOTAGE BY FLOOR AREA:

PROPOSED HEIGHT OF THE BUILDING AND NUMBER OF STORIES:

MAXIMUM OVERALL GROSS DENSITY

NUMBER OF PARKING SPACES REQUIRED:

**REQUIRED FRONT, SIDE, AND REAR YARD SETBACKS:** PRIMARY OR SECONDARY WATERSHED PROTECTION OVERLAY DISTRICT: INDICATE IF THE SITE CONTAINS A HISTORIC STRUCTURE RECOMMENDATION FROM THE PARKS AND RECREATION ADVISORY BOARD: 0% EX.: 0 SF

MULTIFAMILY: APPROX. 275,000 SF (TOTAL, 4 STORIES) COMMERCIAL/OFFICE: APPROX. 10,000 SF (TOTAL) 60' & MAX OF 4 STORIES (RESIDENTIAL) 40' & MAX OF 2 STORIES (NON-RESIDENTIAL)

23 UNITS/ACRE MAXIMUM 1.6 SPACES PER UNIT (239 UNITS) = 382 MINIMUM 1.3 SPACES PER UNIT (239 UNITS) = 311 SEE SETBACKS TABLE PRIMARY & SECONDARY NO FEE IN LIEU w/ REDUCTION OF FEE FOR CONSTRUCTION OF 10' SIDE PATH



VICINITY MAP 1" = 300'

## **INTERPOSED AND CASTLE DEVELOPMENT PARTNERS**



120 North Boylan Avenue • Raleigh, NC 27603-1423 (919) 828-0531 • thewootencompany.com License Number : F-0115





SHEET INDEX COVER SHEET C-0.01 C-1.00 EXISTING CONDITIONS SHEET C-1.01 LAYOUT SHEET

## PROGRESS DRAWING DO NOT USE FOR CONSTRUCTION

## SETBACK TABLE:

PARCEL #1: NONE (RCA)

PARCEL #2: REAR (N) - 5' SIDE (E) - 20' SIDE (W) - 0' FRONT (S) - 10

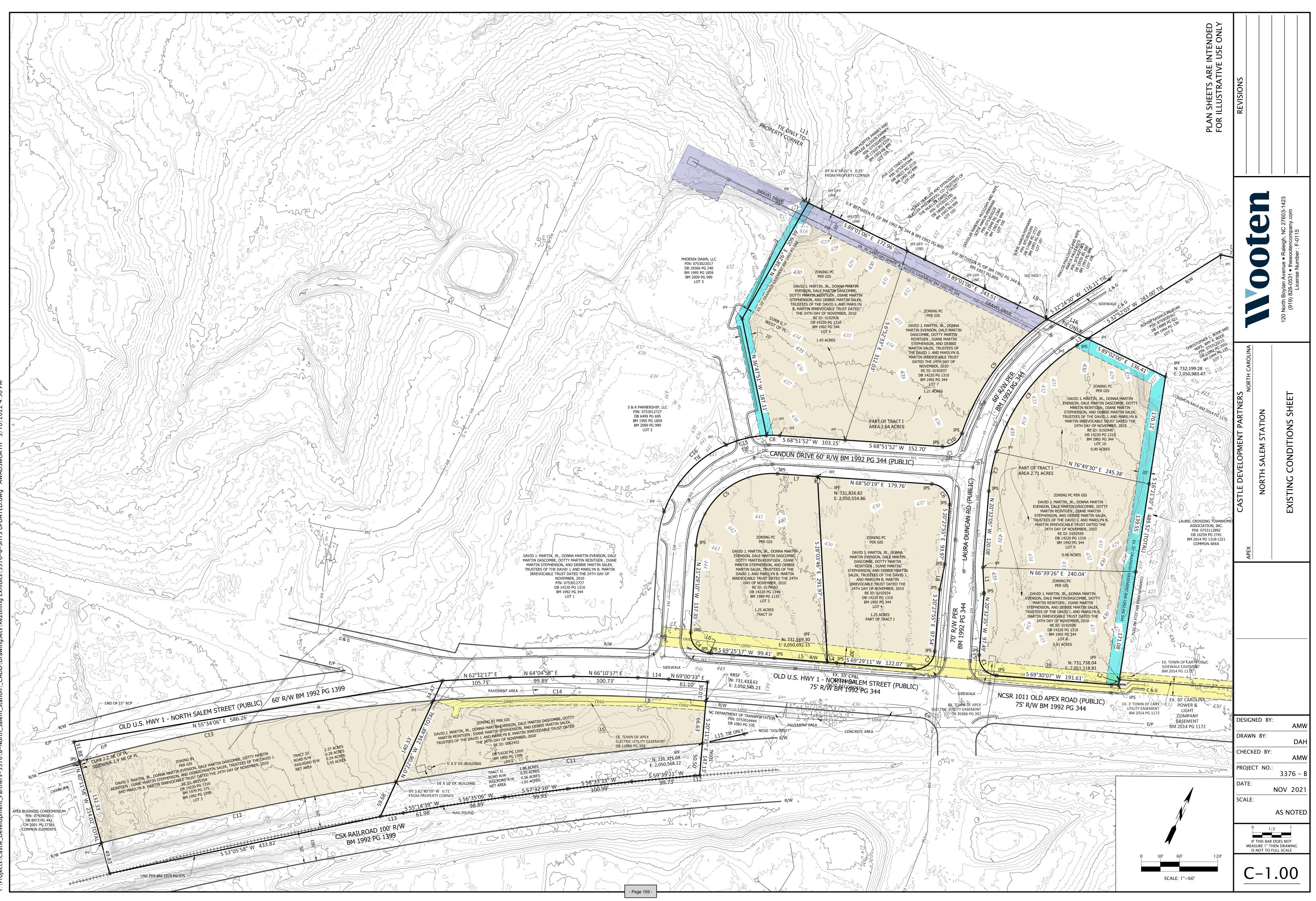
PARCEL #3: REAR (E) - 60' SIDE (N) - 5' SIDE (S) - 50' FRONT (W) - 50' & 20' PARCEL #4: REAR (N) - 10' SIDE (E) - 50' SIDE (W) - 10' FRONT (S) - 50'

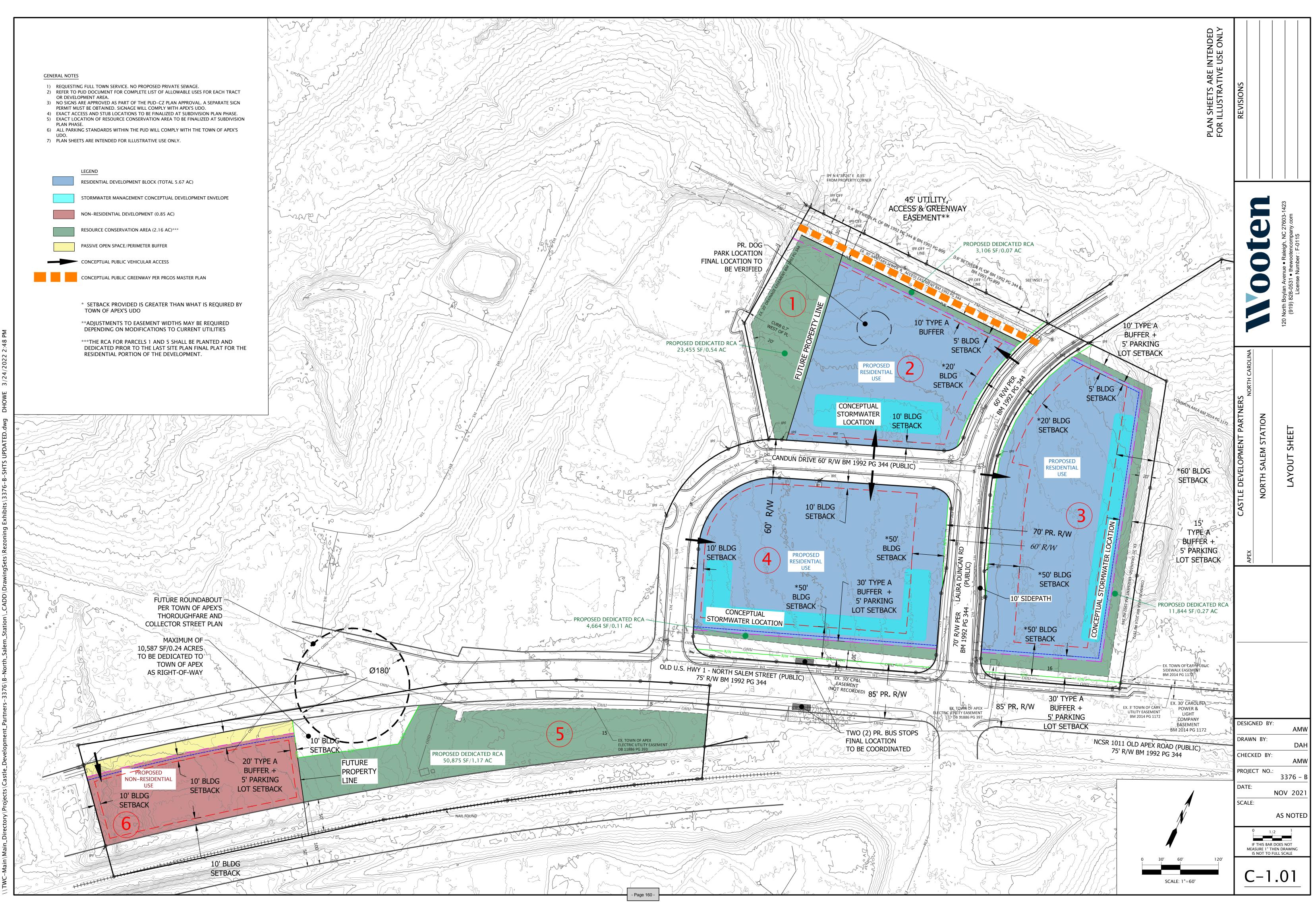
PARCEL #5: NONE (RCA)

PARCEL #6: REAR (S) - 10' SIDE (E/W) - 10' FRONT (N) - 10'



PROJECT AREA MAP 1" = 200'

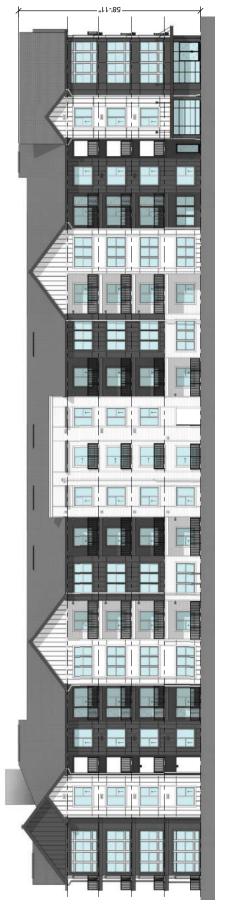






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## APEX MULTIFAMILY APEX, NORTH CAROLINA EXAMPLE IMAGERY CGBF2021-02





























## APEX NON-RESIDENTIAL

APEX, NORTH CAROLINA





## |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## <u>Item Details</u>

Presenter(s):Russell H. Dalton, PE, Traffic Engineering ManagerDepartment(s):Public Works & Transportation

## Requested Motion

Motion to approve a Supplemental Agreement with NCDOT for \$10,000,000 in supplemental construction funds toward U-5928, Apex Peakway at South Salem Street and the CSX railroad tracks, and to authorize the Town Manager to execute the agreement on behalf of the Town.

Approval Recommended?

Yes

## <u>Item Details</u>

An additional \$10,000,000 in construction funds has been approved by the Capital Area MPO as part of the NCDOT Locally Administered Projects Program toward construction of the Apex Peakway bridge project at South Salem Street, project U-5928. Approval of the Supplemental Agreement is required to secure those funds. Combined with the previously approved \$2,500,000 in construction funds, the Town will be entitled to reimbursement of up to a maximum of \$12,500,000 representing a 50/50 funding match toward a \$25,000,000 estimated cost of construction. It is also noted that NCDOT internal staff charges for review and inspection of the project count against the total eligible funding match as required for this type of agreement, so the total reimbursement by the time of project close-out may be impacted by those charges. Standard construction contingencies were assumed in the \$25,000,000 overall estimated cost.

## <u>Attachments</u>

• Agreement ID # 11173



NORTH CAROLINA	SUPPLEMENTAL AGRE	EMENT	
WAKE COUNTY			
	DAT	E: 4/11/2	022
NORTH CAROLINA DEPARTMENT OF			
TRANSPORTATION			
	TIP #:	U-5928	
AND	WBS ELEMENTS:	PE	
		ROW	
TOWN OF APEX		CON	44822.3.1
	OTHER FUNDING:		
	FEDERAL-AID #:	STBGD	A-0501(041)
	CFDA #:	20.205	
TOTAL SUPPLEMENTAL FUNDS [N	ICDOT PARTICIPATION]	\$10,000	,000

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

## WITNESSETH:

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

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

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

## 3. FUNDING

## REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Agreement ID # 11173

1 - Page 164

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

## **REVISED FUNDING TABLE**

Fund Source	Federal Funds Amount		ursement Rate	Non-Federal Match \$	Non-Federal Match Rate
STP-DA (#6569)	\$2,500,000	50%		\$2,500,000	50%
STBGDA (#11173)	\$10,000,000	5	50%	\$10,000,000	50%
Total Project Funding		\$25,000,000			

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

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

L.S. ATTEST:	TOWN OF APEX
BY:	BY:
TITLE:	TITLE:
DATE:	DATE:

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

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

Town of Apex

DEPARTMENT OF TRANSPORTATION

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

(CHIEF ENGINEER)

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

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

## |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## <u>Item Details</u>

Presenter(s): Marty Stone, Assistant Town Manager

Department(s): Administration

## Requested Motion

Motion to approve an encroachment agreement between the Town and property owner Dhiraj Adhikari to install a concrete patio that will encroach 61 square feet and a fence that will encroach 34 linear feet onto the Public Drainage Easement and authorize the Town Manager to execute the same.

## Approval Recommended?

Yes

## <u>Item Details</u>

The proposed Encroachment Agreement is between the Town and property owner Dhiraj Adhikari (Grantee) for the property described as a residential lot known as Wake County PIN #0723-95-5393, Book of Maps 2018, Page 00059, lot is also known as 2434 Fillmore Hall Lane, Apex, NC 27523. Grantee wishes to install certain improvements, more particularly described as a concrete patio that will encroach 61 square feet and a fence that will encroach 34 linear feet onto the Public Drainage Easement.

<u>Attachments</u>

- Encroachment Agreement
- Exhibit A



After Recording Mail To:

Development Services Town of Apex PO Box 250 Apex, NC 27502

## STATE OF NORTH CAROLINA COUNTY OF WAKE

### **ENCROACHMENT AGREEMENT**

THIS ENCROACHMENT AGREEMENT, being made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Dhiraj Adhikari, unmarried hereinafter referred to as "Grantee," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantee is the owner of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN #0723-95-5393** by the Wake County Revenue Department and more particularly described as **Lot 18** of the subdivision known as **Crestmont Phase 2B** as shown on that certain plat recorded in **Book of Maps 2018, Page 00059**, Wake County Registry (hereinafter the **"Subdivision Plat"**). The residential lot is also known as **2434 Fillmore Hall Lane, Apex, NC 27523.** The residential lot described in this paragraph is hereinafter referred to as the **"Residential Lot."** 

WHEREAS, the Town is the owner of a **"20' Public Drainage Easement** as shown on the **Subdivision Plat** hereinafter referred to as the **"Public Drainage Easement."** 

WHEREAS, Grantee wishes to install certain improvements, more particularly described as a concrete patio that will encroach 61 square feet and a fence that will encroach 34 linear feet onto the Public Drainage Easement, which serves the Residential Lot, hereinafter referred to as the "Encroachment," all as shown on the attached Exhibit A. Grantee desires to make certain agreements and covenants regarding the Encroachment.

- Page 168 -

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the abovedescribed Encroachment upon the **Public Drainage Easement**.

NOW, THEREFORE, in consideration of these promises and other consideration, the receipt and sufficiency of which is hereby acknowledged, Grantee and the Town hereby covenant and agree:

1. Subject to the terms herein, the Town agrees to allow Grantee, and Grantees' successors and assigns at Grantees' sole risk and expense, to encroach into the **Public Drainage Easement** of the Town as shown in the attached **Exhibit A**, and incorporated by reference as though fully set forth herein.

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in the **Exhibit A** and described in this Encroachment Agreement. Grantee is responsible for any and all expenditures of labor or materials required for the installation, erection, repair, removal, or maintenance of the above-referenced Encroachment.

3. Grantee is to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantee agrees to and do hereby hold the Town, its officers, council members and employees harmless from any and all liability arising out of such negligence, omission, defect or other cause of action; that it will defend the Town, its officers, council members and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the Town, its officers, council members, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action, claim, cost, or expense arising out of the installation, maintenance, removal, or location of said Encroachment.

5. Sections 3 and 4 shall survive the termination of this Encroachment Agreement for any reason.

6. All notices required herein shall be deemed given by depositing such in the United States mail, first class, and addressed to:

- To Town: Town Manager Town of Apex PO Box 250 Apex, NC 27502
- To Grantees: Dhiraj Adhikari 2434 Fillmore Hall Lane Apex, NC 27523

7. In the event there is a dispute between the parties concerning the interpretation of the terms of this Encroachment Agreement or their respective rights and obligations hereunder, such dispute or controversy shall be adjudged pursuant to the laws of the State of North Carolina.

8. Grantee agree to abide by all applicable laws, regulations, statutes and ordinances.

9. This Encroachment Agreement shall not divest the Town of any rights or interest in said **Public Drainage Easement** and the Town may terminate this Encroachment Agreement by giving Grantee ninety (90) days written notice of termination. Prior to the termination date, Grantee shall remove, at their own expense, all or part of the Encroachment as specified by the Town.

10. If the Town deems, within its sole discretion, that there is not time to give Grantee notice as provided in Paragraph 9 and that removal of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Drainage Easement**, then no notice shall be required and the Town may remove the Encroachment from the **Public Drainage Easement** without cost, risk or liability to the Town.

11. Grantee agrees to pay and reimburse the Town the entire expense and cost of removal of the Encroachment in the event that the Town removes the Encroachment as provided in Paragraph 10 or if Grantees fail to remove the Encroachment within the time limit after receiving notice under Paragraph 9.

12. Grantee, if not self-performing the installations that are the subject of this Agreement, agree to purchase or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, valid general liability insurance in the minimum amount of \$500,000 and provide a certificate of such insurance naming the Town of Apex as additional insured by endorsement to the policy. Where the Grantee is self-performing the installations, Grantee shall show proof of homeowner's insurance with personal liability coverage in a minimum amount of at least \$300,000. Grantee shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company.

13. Notwithstanding Section 14 below, Grantee shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to real property known as **Wake County PIN #0723-95-5393**, **2434 Fillmore Hall Lane, Apex, NC 27523**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantee obligations possesses adequate financial resources and ownership interest, and Grantee delegates and proposed assignee assume and agree to fulfill, in writing, all of Grantee duties set forth in this Encroachment Agreement.

14. The right to encroach is appurtenant to and runs with the land hereinabove referred to and shall forever be subject to the conditions above agreed on between the parties. This Encroachment Agreement is binding upon the heirs, assigns, transferees, and successors in interest of the Grantee and shall, upon execution, be recorded in the Office of the Register of Deeds of Wake County, North Carolina.

## [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In testimony whereof, said Grantee and said Town have here unto set their hands and seals, the day and year first above written.

GRANTEE

By Dhiraj Adhikari STATE OF NORTH CAROLINA COUNTY OF Wake [county in which acknowledgement taken] I, do hereby certify that Dhiral Adhikari, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Withess my hand and official stamp or seal, this tay of H 2022. [Signature of Notary Public] 62022 My Commission Expires: **Felicia Forbes** NOTARY PUBLIC Wake County, NC

My Commission Expires July 16, 2022

**TOWN OF APEX** 

Catherine Crosby Town Manager

(Corporate Seal)

ATTEST:

Julie A. Reid Interim Town Clerk

## STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_ [county in which acknowledgement taken]

I, \_\_\_\_\_\_, a Notary Public of \_\_\_\_\_\_ County, North Carolina, certify that Julie A. Reid personally came before me this day and acknowledged that she is <u>Interim Town Clerk</u> of the <u>Town of Apex</u>, a <u>North Carolina Municipal Corporation</u>, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its <u>Town Manager</u>, sealed with its corporate seal and attested by her as its <u>Interim Town Clerk</u>.

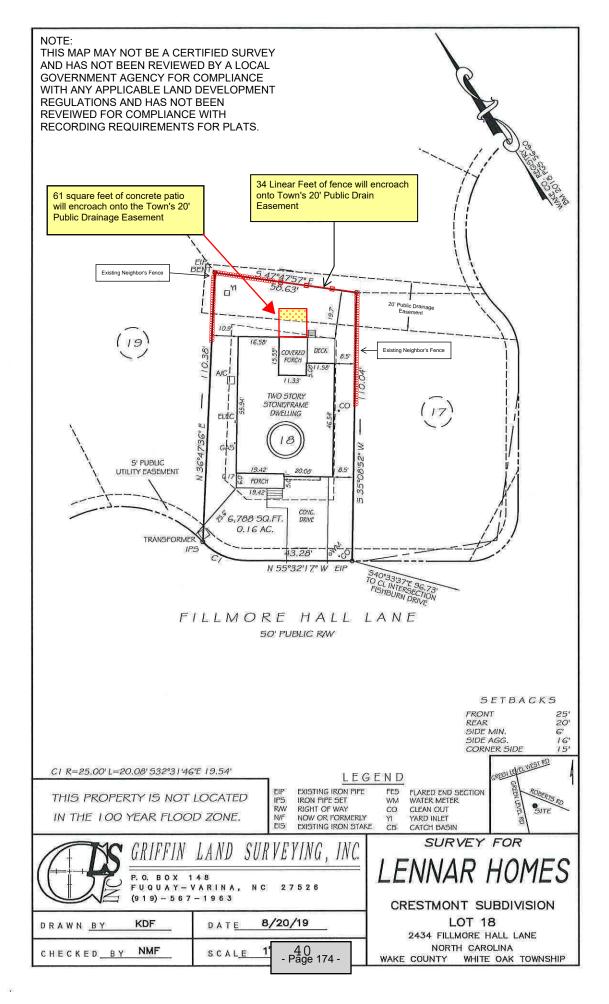
Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

[Signature of Notary Public]

(Seal)

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

## **EXHIBIT A**



## |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## <u>Item Details</u>

Presenter(s):	Lauren Staudenmaier, Planner II
Department(s):	Planning

## 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 Date of Public Hearing for May 10, 2022, on the Question of Annexation – Apex Town Council's intent to annex the Jessica and Abel Figueroa property containing 5.88 acres located at 804 and 808 Wimberly Road, Annexation #723 into the Town's corporate limits.

## Approval Recommended?

<u>Yes</u>

## <u>Item Details</u>

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.

## <u>Attachments</u>

- Annexation Petition
- Legal Description
- Maps
- Resolution Directing the Town Clerk to Investigate Petition
- Certificate of Sufficiency by the Town Clerk
- Resolution Setting Date of Public Hearing





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

Annexation Petition# 723 804 and 808 Wimberly Road

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 her investigation.

This the 26th day of April, 2022.

Jacques K. Gilbert Mayor

ATTEST:

Julie Reid Interim Town Clerk



## CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #723 804 and 808 Wimberly Road

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

I, Julie Reid, Interim 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 26th day of April, 2022.

Julie Reid Interim Town Clerk

(Seal)



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

Annexation Petition #723 804 and 808 Wimberly Road

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 10<sup>th</sup> day of May, 2022.

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, Public Notice, at least ten (10) days prior to the date of said public hearing.

This the 26th day of April, 2022.

Jacques K. Gilbert, Mayor

ATTEST:

Julie Reid Interim Town Clerk

Attachment: Legal Description

- Page 178 -

A portion of that certain parcel of land, situated in White Oak Township, Wake County, State of North Carolina, Recorded in Deed Book 16154 Page 548 in the Wake County Registry, and more particularly described as follows:

## Lot#I

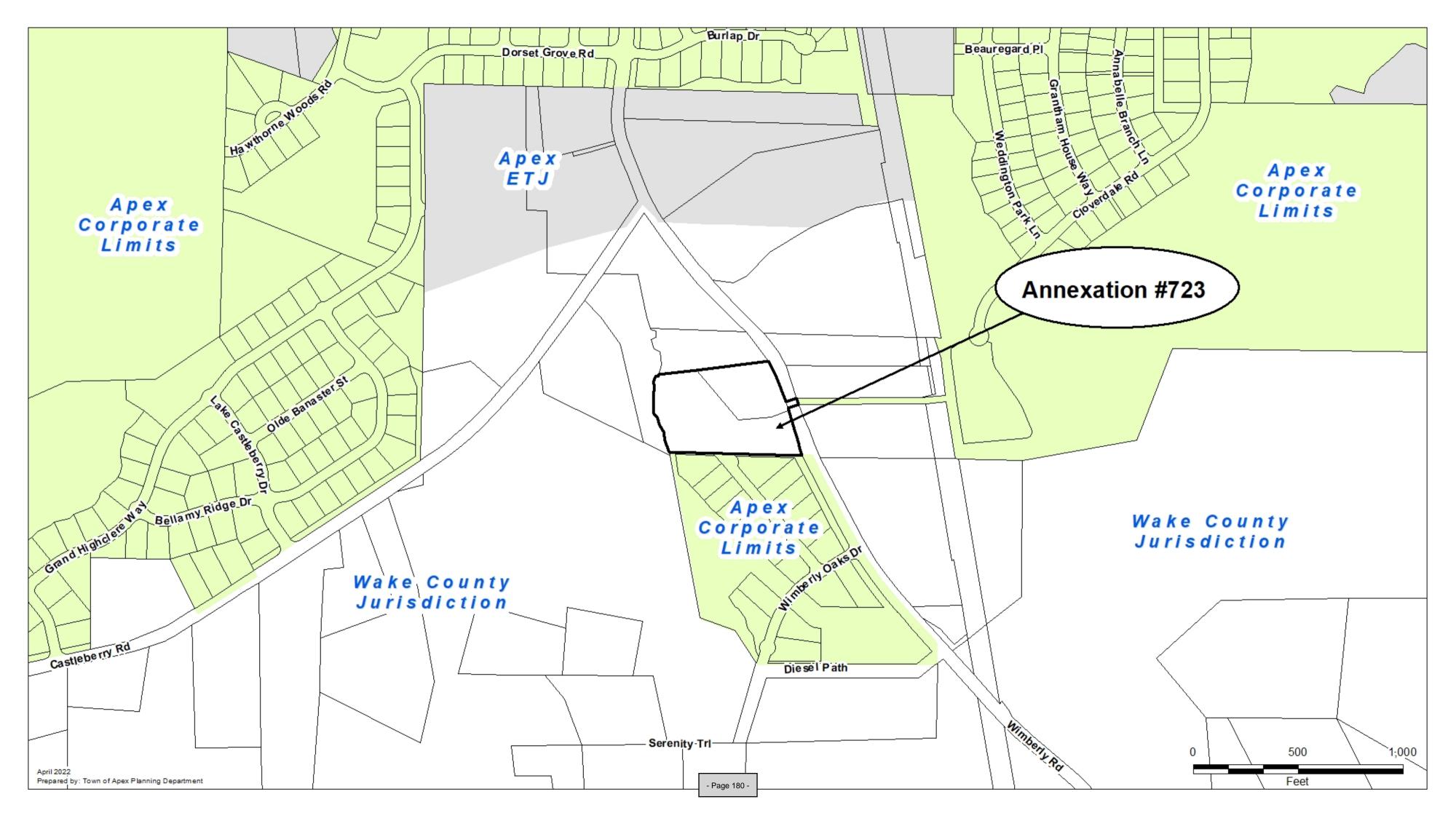
Beginning at a point in the southeastern corner of the lot situated at 808 Wimberly Road, Apex, North Carolina, said point being an Iron Pipe Found at the Right of Way of Wimberly Road, and being the Point and Place of BEGINNING. Thence from said point N 88°36'02" W 653.72 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 50°05'13" W 14.38 feet to a Computed Point, thence from said point N 19°58'44" W 41.06 feet to a Computed Point, thence from said point N 09°04'28" W 41.51 feet to a Computed Point, thence from said point N 31°25'34" W 38.28 feet to a Computed Point, thence from said point N 15°13'02" W 37.28 feet to a Computed Point, thence from said point N 41°43'58" W 23.91 feet to a Computed Point, thence from said point N 00°40'17" W 46.42 feet to a Computed Point, thence from said point N 03°19'31"W 36.43 feet to a Computed Point, thence from said point N 05°18'36"E 48.53 feet to a Computed Point, thence from said point N 13°30'07"W 21.02 feet to a Computed Point, thence from said point N 21°46'00"E 31.17 feet to a Computed Point, thence from said point S 71°16'22"E 11.45 feet to a Computed Point, thence from said point N 15°56'21"E 10.81 feet to a Computed Point, thence from said point N 83°01'58"E 180.69 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 40°20'30"E 312.47 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 84°24'39"E 154.87 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 69°24'36"E 99.34 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 20°35'24"E 226.73 feet to an Iron Pipe Found and being the Point and Place of **BEGINNING** containing 174,327 square feet and 4.00 acres.

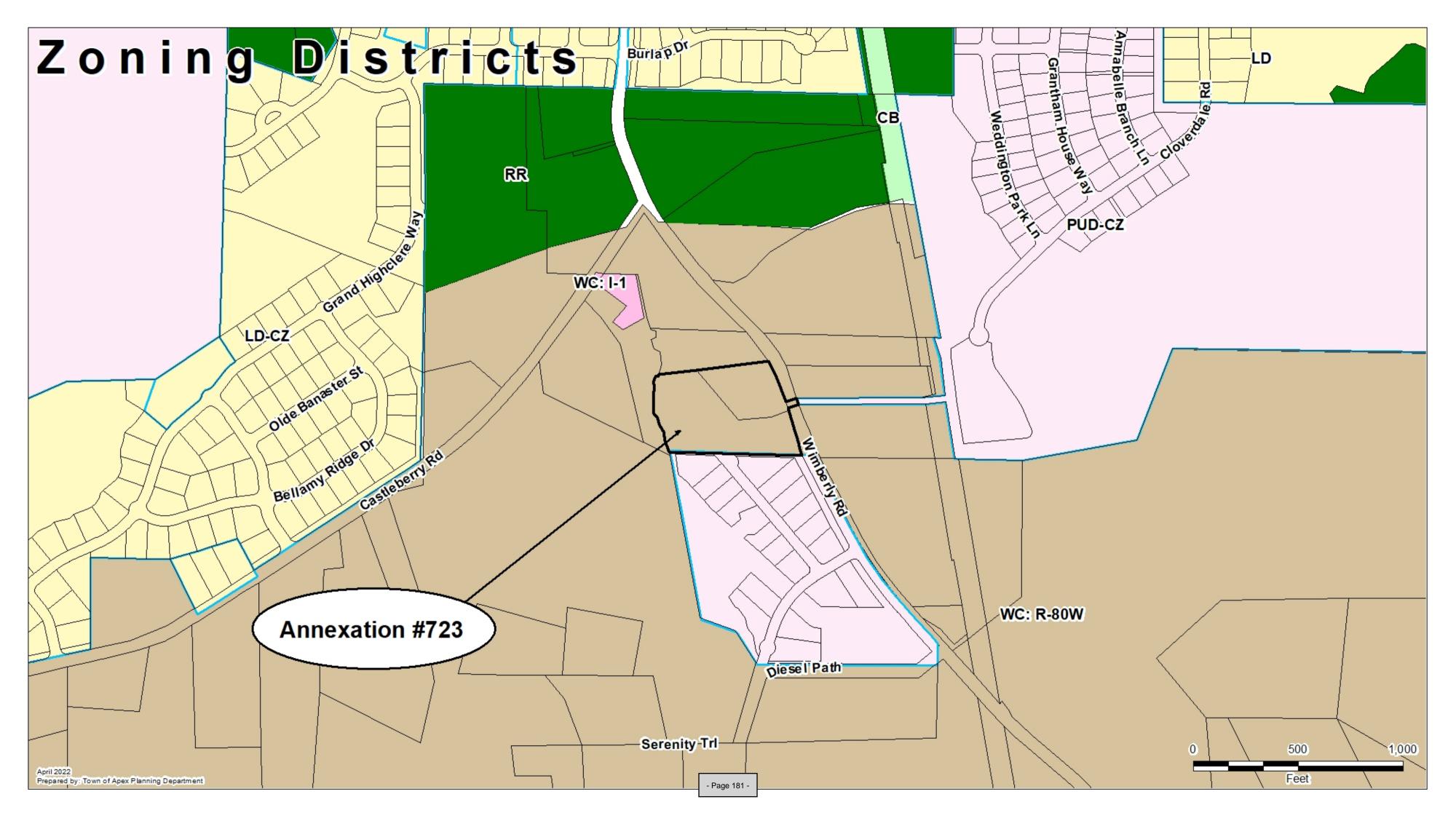
## Lot#2

Beginning at a point in the northeastern corner of the lot situated at 804 Wimberly Road, Apex, North Carolina, said point being an Iron Pipe Found at the Right of Way of Wimberly Road, and being the Point and Place of **BEGINNING.** Thence from said point S 25°21'11" E 77.64 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 20°35'24" E 172.44 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 69°24'36" W 99.34 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 84°24'39" W 154.87 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 40°20'30" W 312.47 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 83°01'58" E 358.16 feet to an Iron Pipe Found and being the Point and Place of **BEGINNING** containing 80,240 square feet and 1.84 acres.

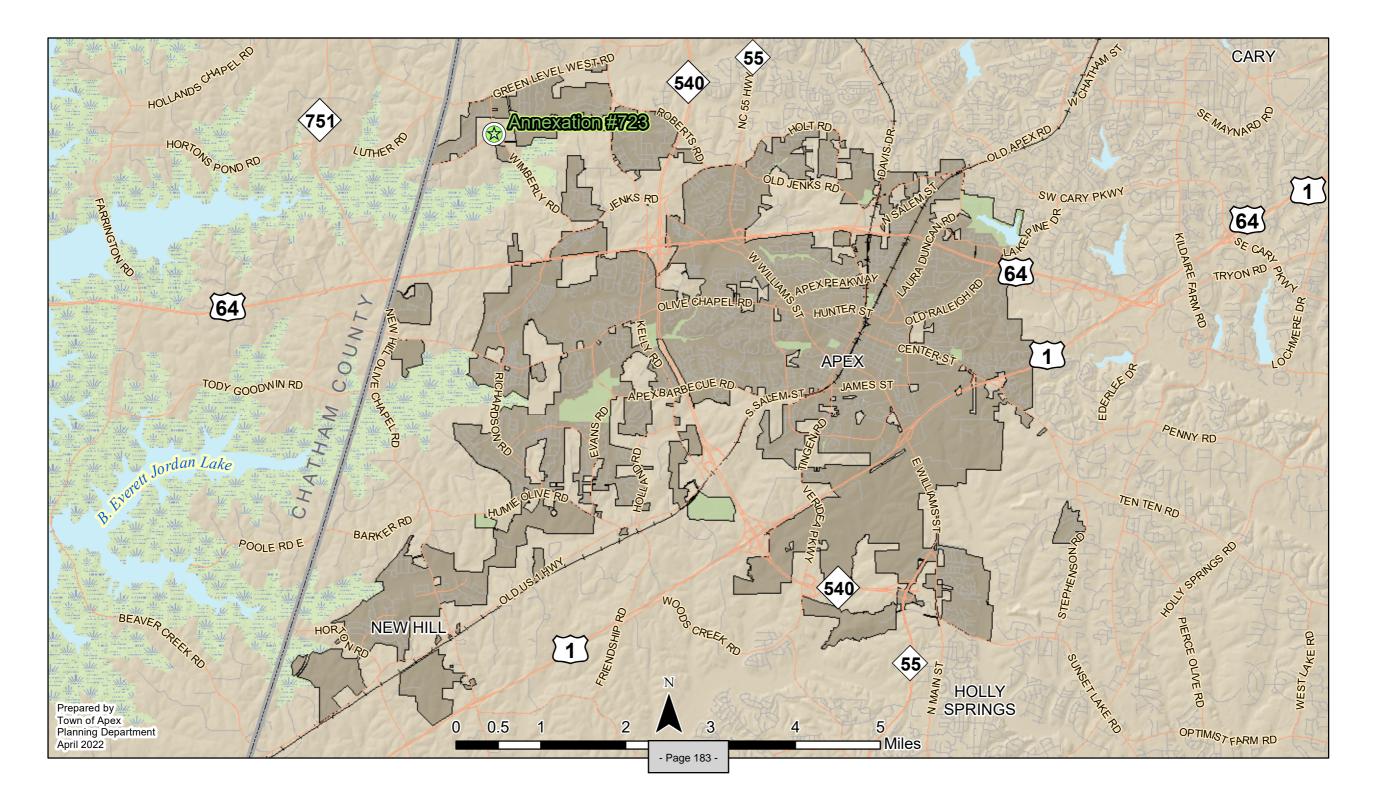
## Wimberly Road Right-of-Way

Beginning at a point in the southeastern corner of the lot situated at 804 Wimberly Road, Apex, North Carolina, said point being an Iron Pipe Found at the Right of Way of Wimberly Road, thence from said point N 20°35'24" W 11.19 feet to a Computed Point, and being the Point and Place of **BEGINNING**. Thence from said point N 20°35'24" W 32.36 feet to a Computed Point, thence from said Computed Point S 69°24'36" W 59.77 feet to a Computed Point, thence from said Computed Point S 19°38'07" E 32.37 feet to a Computed Point, thence from said Computed Point N 69°24'36" E 59.24 feet to a Computed Point and being the Point and Place of **BEGINNING** containing 1,926 square feet and 0.04 acres.









PETITION FOR VOLUNTARY ANNEXATION Town of Apex, North Carolina



**ANNEXATION PETITION SUBMISSION:** Applications are due by 12:00 pm on the first business day of each month. See the "<u>Annexation Petition Schedule</u>" 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	<b>REQUIREMENTS:</b>
---------------------	----------------------

- ELECTRONIC SUBMITTAL REQUIREMENTS: IDT Plans
- Town of Apex Petition for Annexation with original wet ink signatures. No photocopies or scanned images.
- Town of Apex Petition for Annexation Written Metes and Bounds Legal Description: Submit original PDF. Scanned documents will not be accepted.

Petition Fee

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

### FOR WELL AND/OR SEPTIC FAILURES:

If the purpose of the petition is to connect to public water and/or sewer, contact Water Resources Director Michael Deaton at 919-249-3413 or <u>michael.deaton@apexnc.org</u> 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 <u>Town of Apex Fee Schedule</u> for the list of current fees.

Petition for Verancery - Internet

### PETITION FOR VOLUNTARY ANNEXATION

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

Application #:

Fee Paid

Submittal Date:

Check #

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

\$

- 1. We, the undersigned owners of real property, respectfully request that the area described in Part 4 below be annexed to the Town of Apex, ☑ Wake County, □ Chatham County, North Carolina.
- 2. The area to be annexed is <u>contiguous</u>, <u>non-contiguous</u> (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					
Abel & Jessica Figueroa		0723230271			
Owner Name (Please Print)		Property PIN or Deed Book & Page #			
(919) 960-3791		abel@artisanqualityroofing.com			
Phone		E-mail Address			
Abel & Jessica Figueroa		0723232326			
Owner Name (Please Print)		Property PIN or Deed Book & Page #			
(919) 960-3791		abel@artisanqualityroofing.com			
Phone		E-mail Address			
Owner Name (Please Print)		Property PIN or Deed Book & Page #			
Phone		E-mail Address			
SURVEYOR INFORMATION					
Surveyor: Dean Rhoads, PLS-Res	idential Land Serv	vices			
Phone: (919) 378-9316		_ Fax:			
E-mail Address: dean@rls-nc.com					
ANNEXATION SUMMARY CHART					
Property Information		Reason(s) for annexation (select all that apply	y)		
Total Acreage to be annexed:	5.88	Need water service due to well failure			
Population of acreage to be annexed:	8	Need sewer service due to septic system failure			
Existing # of housing units:	2	Water service (new construction)			
Proposed # of housing units:	2	Sewer service (new construction)	V		
Zoning District*:	RR (CZ)	Receive Town Services	r		

\*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Department of Planning and Community Development with questions.

- Page 185 -Petition for Verantary Annexation

Application #:	Submittal Date:
COMPLETE IF SIGNED BY INDIVID	DUALS:
All individual owners must sign.	. (If additional signatures are necessary, please attach an additional sheet.)
Abel Figue	
Please Pr	rint Signature
Jessica Figu	
Please Pri	rint Signature
Please Pri	rint Signature
Please Pri STATE OF NORTH CAROLINA	int Signature
COUNTY OF WAKE	Tession Figueroa
Sworn and subscribed before the	JESSICA Figueroa Abel Louis Figueroa Abel Louis Figueroa Aberry, 20 20.
this the eav of	NEW 20 20. a Notary Public for the above State and County,
NO N	
SEAL	Notary Public
FTA	
ILS COUNT I	
	My Commission Expires: Morember 28,2
	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20
n witness whereof, said corporat	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20
n witness whereof, said corporat fecretary by order of its Board of SEAL	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By:
n witness whereof, said corporat ecretary by order of its Board of SEAL	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20
n witness whereof, said corporat ecretary by order of its Board of SEAL Attest:	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By:
n witness whereof, said corporat Secretary by order of its Board of SEAL Attest: Secretary (Signature) TATE OF NORTH CAROLINA	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By:
n witness whereof, said corporat Secretary by order of its Board of SEAL Attest: Secretary (Signature) TATE OF NORTH CAROLINA OUNTY OF WAKE	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By: President (Signature)
n witness whereof, said corporat ecretary by order of its Board of SEAL Attest: Secretary (Signature) FATE OF NORTH CAROLINA DUNTY OF WAKE	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By: President (Signature)
n witness whereof, said corporat fecretary by order of its Board of SEAL Attest: Secretary (Signature) FATE OF NORTH CAROLINA OUNTY OF WAKE	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By: President (Signature)
a witness whereof, said corporat ecretary by order of its Board of SEAL Attest: Gecretary (Signature) ATE OF NORTH CAROLINA DUNTY OF WAKE Yorn and subscribed before me, _ s theday of	tion has caused this instrument to be executed by its President and attested by its f Directors, this the day of, 20 Corporate Name By: President (Signature)
n witness whereof, said corporat ecretary by order of its Board of SEAL Attest: Secretary (Signature) TATE OF NORTH CAROLINA OUNTY OF WAKE	tion has caused this instrument to be executed by its President and attested by its f Directors, this theday of, 20 Corporate Name
n witness whereof, said corporat fecretary by order of its Board of SEAL Attest: Secretary (Signature) FATE OF NORTH CAROLINA OUNTY OF WAKE worn and subscribed before me, _ is theday of	tion has caused this instrument to be executed by its President and attested by its f Directors, this theday of, 20 Corporate NameBy:President (Signature), a Notary Public for the above State and County,, 20

PETITION FOR VOLUNTARY ANNEXAT	
Application #:	Submittal Date:
COMPLETE IF IN A LIMITED LIABILITY COMPAN	NY
n witness whereof, ts name by a member/manager pursuant to	a limited liability company, caused this instrument to be exec to authority duly given, this the day of, 20, 20,
Name of Limited	d Liability Company
	Ву:
	Signature of Member/Manager
TATE OF NORTH CAROLINA COUNTY OF WAKE	
Sworn and subscribed before me, his theday of	, a Notary Public for the above State and County, 20
SEAL	Notary Public
	M. Commission Engine
	My Commission Expires:
COMPLETE IF IN A PARTNERSHIP	
	, a partnership, caused this instrument to be execute authority duly given, this the day of, 20, 20,
Ν	Name of Partnership
	By:
	Signature of General Partner
STATE OF NORTH CAROLINA COUNTY OF WAKE	
	, a Notary Public for the above State and County
worn and subscribed before me,	
	, 20
before me,day of	, 20
his theday of	

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

COMMON ACRONYMS/DEFINITIONS					
IDT Website	Contractor's Plan Ro	oom	UDO	Town's Unified Devel	opment Ordinance
ТОА	Town of Apex		NCDEQ	North Carolina Dept.	of Environmental Quality
RCA	Resource Conservation	ion Area	DDM	Design & Developme	nt Manual
		CONTACT IN	FORMATION		
Department of Pla Community Devel	•	(919) 249-3426	Soil & Erosio	n Control Officer	(919) 249-1166
Parks, Recreation, Resources Depart		(919) 372-7468	Electric Utilit	ies Department	(919) 249-3342
Transportation En	gineer	(919) 249-3358	Stormwater	& Utility Engineering	(919) 249-3413

#	REQUIRED PLAT ITEMS
1	The exact boundary lines of the area to be annexed fully dimensioned by lengths and bearings, and the location of
	intersecting boundary lines of existing town limits, labeled and distinctly marked. Include full right-of-way if the area
	on both sides is or will be in the corporate limits.
2	Show and label any utility easements with metes and bounds.
3	Accurate locations and descriptions of all monuments, markers, and control points.
4	Ultimate right-of-way widths on all streets.
5	Entitle "ANNEXATION MAP for the TOWN OF APEX" or "SATELLITE ANNEXATION MAP for the TOWN OF APEX", as
	appropriate.
6	Name of property owner.
7	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina
	grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9	Names of the township, county, and state.
10	A detailed vicinity map.
11	Include address of property if assigned.
12	Show all contiguous or non-contiguous town limits.
13	The following certification must be placed on the map near a border to allow the map to be sealed:
	Annexation #
	I, Donna B. Hosch, MMC, NCCMC, 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
	Day/Month/Year
	Donna B. Hosch, MMC, NCCMC, 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
14	plats must be stamped and signed before they can be accepted by the Town.
	plats must be stamped and signed before they can be accepted by the rown.

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## Item Details

Presenter(s):Dianne Khin, Director of Planning and Community DevelopmentDepartment(s):Planning and Community DevelopmentRequested 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 Date of Public Hearing for May 10, 2022, on the Question of Annexation – Apex Town Council's intent to annex the WFINV, LLC property containing 1.910 acres located at 1016 N. Salem Street, Annexation #730 into the Town's corporate limits.

### Approval Recommended?

Yes

## <u>Item Details</u>

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.

### <u>Attachments</u>

- Resolution Directing the Town Clerk to Investigate Petition
- Certificate of Sufficiency by the Town Clerk
- Resolution Setting Date of Public Hearing
- Legal Description
- Vicinity Map
- Plot Plan
- Zoning Map
- Jurisdictional Map
- Annexation Petition





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

Annexation Petition#730 1016 N. Salem Street

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 her investigation.

This the 26<sup>th</sup> day of April, 2022.

Jacques K. Gilbert Mayor

ATTEST:

Julie Reid Interim Town Clerk



## CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #730 1016 N. Salem Street

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

I, Julie Reid, Interim 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 26th day of April, 2022.

Julie Reid Interim Town Clerk

(Seal)



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

Annexation Petition #730 1016 N. Salem Street

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 10<sup>th</sup> day of May, 2022.

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, Public Notice, at least ten (10) days prior to the date of said public hearing.

This the 26th day of April, 2022.

Jacques K. Gilbert, Mayor

ATTEST:

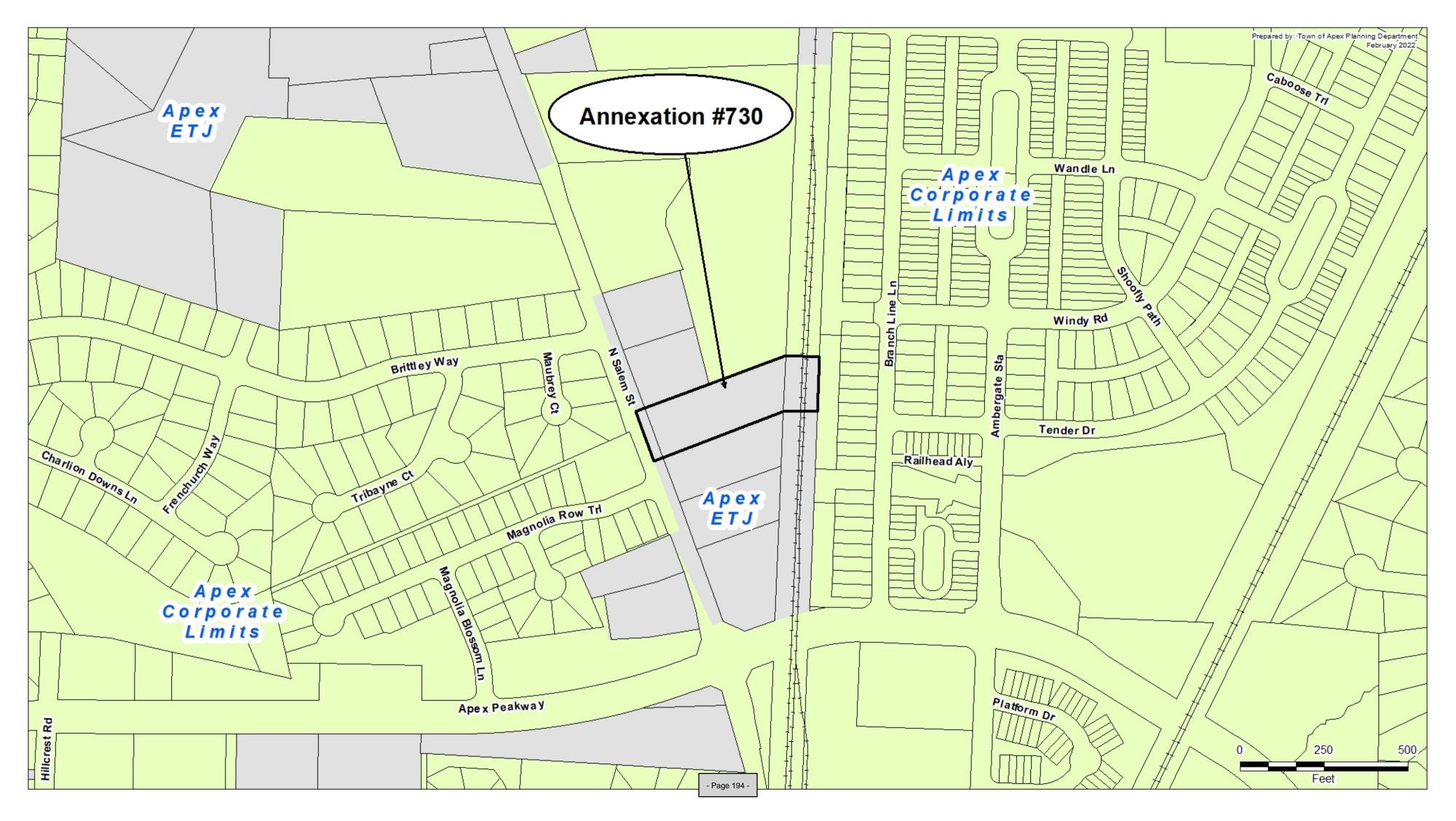
Julie Reid, Interim Town Clerk

Attachment: Legal Description

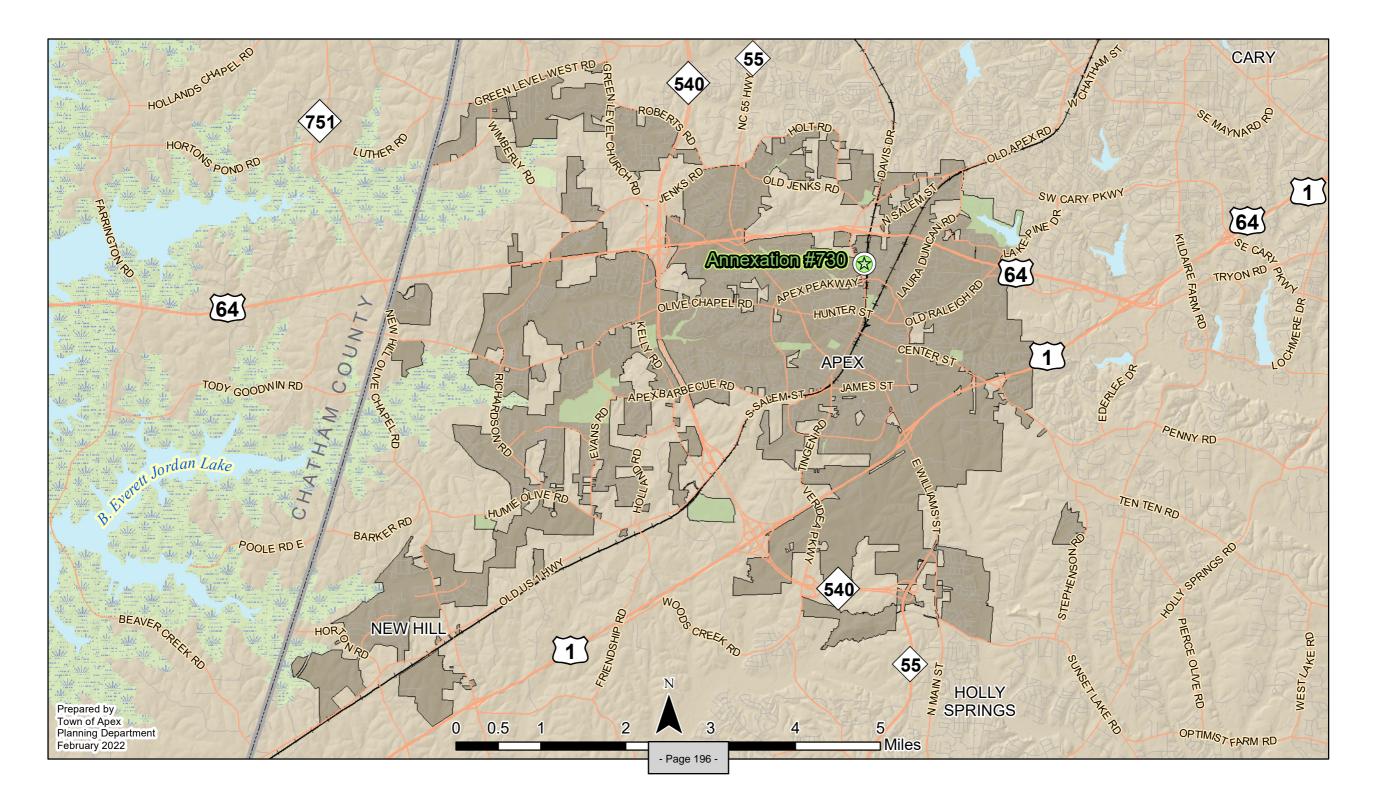
- Page 192 -

Annexation Legal Description for 1016 N. Salem Street

**Beginning** at an Existing Iron Pipe located on the Eastern Right of Way of North Salem Street. Said Existing Iron Pipe having North Carolina Geodetic Coordinates (NAD 83; 2011) N: 725,445.26', E: 2,044,527.61' Thence leaving said Right of Way, North 69°43'32" East a distance of 204.66' to an Existing Angle Iron; Thence North 69°43'31" East a distance of 244.09' to an Existing Iron Pipe located on the Western Railroad Right of Way of CSX Transportation; Thence crossing said Railroad Right of Way, South 87°41'39" East a distance of 100.00' to a Point located on the Eastern Railroad Right of Way of CSX Transportation; Thence along the Eastern Railroad Right of Way, South 02°15'16" West a distance of 161.17' to a Point; Thence crossing said Railroad Right of Way, North 87°44'44" West a distance of 100.00' to an Existing Iron Pipe located on the Western Railroad Right of Pipe located on the Western Railroad Right of Way of CSX Transportation; Thence South 69°38'26" West a distance of 387.75' to an Existing Iron Pipe located on the Eastern Right of Way of North Salem Street; Thence South 69°38'26" West a distance of 33.25' to a Point; Thence North 18°26'31" West a distance of 149.65' to a Point; Thence North 69°43'32" East a distance of 29.25' to an Existing Iron Pipe, being the point and place of **Beginning**, and having an area of 1.910 Acres, 83,206 Square Feet, more or less.









PETITION FOR VOLUNTARY ANNE	YATION			
This document is a public record under the Nor	in the second	de Ast and may be nublished on the	Town's website or disclosed to third pa	ortion
				arties.
Application #: 2022 - C	05	Submittal Date:	1/26/22	
Fee Paid \$ 200.00		Check #	1319	
TO THE TOWN COUNCIL APEX, NORTH C	AROLINA			
<ol> <li>We, the undersigned owners of re to the Town of Apex, <u>Wake Cou</u></li> </ol>			described in Part 4 below be an	nexed
<ol> <li>The area to be annexed is <u>e con</u> boundaries are as contained in the</li> </ol>				nd the
<ol> <li>If contiguous, this annexation will i G.S. 160A-31(f), unless otherwise s</li> </ol>			railroads, and other areas as sta	ated in
OWNER INFORMATION				
WFINV, LLC		0742457443		
Owner Name (Please Print)		Property PIN or Deed Bo	ook & Page #	
919-427-1646		brandon.hafner@captiv	veaire.com	
Phone		E-mail Address		
<u>.</u>				5
Owner Name (Please Print)		Property PIN or Deed Bo	ook & Page #	
Phone		E-mail Address		1
Owner Name (Please Print)	<u> </u>	Property PIN or Deed Bo	ook & Page #	
Phone		E-mail Address		
SURVEYOR INFORMATION				
Surveyor: WithersRavenel				
Phone: 308-249-4632		Fax:		
E-mail Address: bdayton@withersr	avenel.com			
ANNEXATION SUMMARY CHART				
Property Information		Reason(s) for	annexation (select all that appl	y)
Total Acreage to be annexed:	1.910	Need water service	e due to well failure	
Population of acreage to be annexed:	2	Need sewer service	e due to septic system failure	
Existing # of housing units:	1	Water service (nev	v construction)	
Proposed # of housing units:	1	Sewer service (nev	v construction)	
Zoning District*:	MD-CZ	Receive Town Serv	ices	$\checkmark$
*If the property to be accound?	iithin the Tours of A	novés Evtratorsitasial Iusiadi	al al second	hm:+

\*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Department of Planning and Community Development with questions.

Petition for Voluntary Annexation

pplication #:		Submittal Date:
MPLETE IF SIGNED BY INDIVIDUALS:		
individual owners must sign. (If add	litional signatures are nec	essary, please attach an additional sheet.)
Please Print		Signature
Please Print		Signature
Please Print		Signature
Please Print ATE OF NORTH CAROLINA DUNTY OF WAKE		Signature
vorn and subscribed before me, is theday of,		, a Notary Public for the above State and County,
		Notary Public
SEAL		
	My	Commission Expires:
	My	Commission Expires:
anover k 4 Čeneno svenu	Му	Commission Expires:
DMPLETE IF A CORPORATION:	My	Commission Expires:
witness whereof, said corporation h	as caused this instrument	to be executed by its President and attested by its
witness whereof, said corporation h	as caused this instrument ctors, this the day c	to be executed by its President and attested by its of, 20
witness whereof, said corporation h ccretary by order of its Board of Direc	as caused this instrument	to be executed by its President and attested by its
witness whereof, said corporation h cretary by order of its Board of Direc	as caused this instrument ctors, this the day c	to be executed by its President and attested by its of, 20
witness whereof, said corporation h cretary by order of its Board of Direc EAL	as caused this instrument ctors, this the day c	to be executed by its President and attested by its of, 20
witness whereof, said corporation h cretary by order of its Board of Direc EAL	as caused this instrument ctors, this the day c Corporate Name	to be executed by its President and attested by its of, 20
witness whereof, said corporation h cretary by order of its Board of Direc EAL	as caused this instrument ctors, this the day c Corporate Name	to be executed by its President and attested by its of, 20
witness whereof, said corporation h cretary by order of its Board of Direc EAL	as caused this instrument ctors, this the day c Corporate Name	to be executed by its President and attested by its of
witness whereof, said corporation h cretary by order of its Board of Direc EAL Attest: Gecretary (Signature)	as caused this instrument ctors, this the day c Corporate Name	to be executed by its President and attested by its of, 20
witness whereof, said corporation h cretary by order of its Board of Direc EAL Attest: Fecretary (Signature) FATE OF NORTH CAROLINA DUNTY OF WAKE	as caused this instrument ctors, this the day c Corporate Name By:	to be executed by its President and attested by its of, 20 President (Signature)
witness whereof, said corporation h cretary by order of its Board of Direc EAL attest: ecretary (Signature) ATE OF NORTH CAROLINA DUNTY OF WAKE	as caused this instrument ctors, this the day c Corporate Name By:	to be executed by its President and attested by its of, 20 President (Signature)
witness whereof, said corporation h cretary by order of its Board of Direc EAL attest: ecretary (Signature) ATE OF NORTH CAROLINA DUNTY OF WAKE vorn and subscribed before me, is theday of	as caused this instrument ctors, this the day c Corporate Name By:	to be executed by its President and attested by its of, 20 President (Signature)
witness whereof, said corporation h cretary by order of its Board of Direc EAL Attest: ecretary (Signature) ATE OF NORTH CAROLINA DUNTY OF WAKE	as caused this instrument ctors, this the day c Corporate Name By: , 20	to be executed by its President and attested by its of, 20 President (Signature), a Notary Public for the above State and County,
ecretary by order of its Board of Direct SEAL Attest: Gecretary (Signature) TATE OF NORTH CAROLINA DUNTY OF WAKE worn and subscribed before me, is theday of	as caused this instrument ctors, this the day c Corporate Name By: , 20	to be executed by its President and attested by its f, 20 President (Signature) President (Signature) Notary Public for the above State and County,

- Page 199 -

PETITION FOR VOLUNTARY ANNEXATION         Application #:       Submittal Date:
COMPLETE IF IN A LIMITED LIABILITY COMPANY
In witness whereof, <u>WFINV</u> a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the <u>John Ary</u> , 20 <u>77</u> Name of Limited Liability Company <u>WFINV</u> , <u>JUC</u>
By: the fut
Signature of Mernber/Manager STATE OF NORTH CAROLINA COUNTY OF FRANKLIN
Sworn applyubscribed before me, <u>HINCKAWISOOM BOW</u> GANOTARY Public for the above State and County, this Man 152000 day of January, 2022 <u>Humcka Wisodam Bowers</u> SEAN OTARY PUBLIC OF My Commission Expires: <u>Sept 4, 2022</u>
PUBLIC PUBLIC My Commission Expires: Sept 4, 2022 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 theday of, 20
SEAL Notary Public
My Commission Expires:
Page 4 of 5 Petition for Voluntary Annexation Last Updated: November 8, 2021

**PAYMENT DATE** 01/25/2022

COLLECTION STATION Jeri Pederson

**RECEIVED FROM** Withers Ravenel

### 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. 2022-00002305 RECEIPT NO. 2022-00142048 CASHIER Jeri Pederson

DESCRIPTION

Annexation #730 Thales Academy Expansion - 2022-00000005

PAYMENT CODE	PROJECT PL Annexation #7	<b>RECEIPT DESCRIPTIO</b> ANNING CENTER FEES 730 Thales Academy Expansion -		TRANSACTION AMOUNT \$200.00
Payments:	Type Check	<b>Detail</b> 1379	Amount \$200.00	
			<i><b>4</b>200.00</i>	
		Custon - Page 201 -	Total Amount:	\$200.00

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: April 26, 2022

## Item Details

Presenter(s):	Dianne Khin, Director of Planning and Community Development
Department(s):	Planning and Community Development
	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 Date of Public Hearing for May 10, 2022, on the Question of Annexation – Apex Town Council's intent to annex the Tony C. Sears and Judy T. Sears property containing 1.6209 acres located at 0 Kelly Road, Annexation #731 into the Town's corporate limits.

Approval Recommended?

Yes

## <u>Item Details</u>

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** 

- Resolution Directing the Town Clerk to Investigate Petition
- Certificate of Sufficiency by the Town Clerk
- Resolution Setting Date of Public Hearing
- Legal Description
- Vicinity Map
- Plot Plan
- Zoning Map
- Jurisdictional Map
- Annexation Petition





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

Annexation Petition #731 0 Kelly Road

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 her investigation.

This the 26th day of April, 2022.

Jacques K. Gilbert Mayor

ATTEST:

Julie Reid Interim Town Clerk



### CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #731 0 Kelly Road

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

I, Julie Reid, Interim 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 26th day of April, 2022.

Julie Reid Interim Town Clerk

(Seal)



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

Annexation Petition #0 0 Kelly Road

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 6:00 p.m. on the 10th day of May, 2022.

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, Public Notice, at least ten (10) days prior to the date of said public hearing.

This the 26th day of April, 2022.

Jacques K. Gilbert, Mayor

ATTEST:

\_\_\_\_ Attachment: Legal Description

Julie Reid, Interim Town Clerk

- Page 205 -

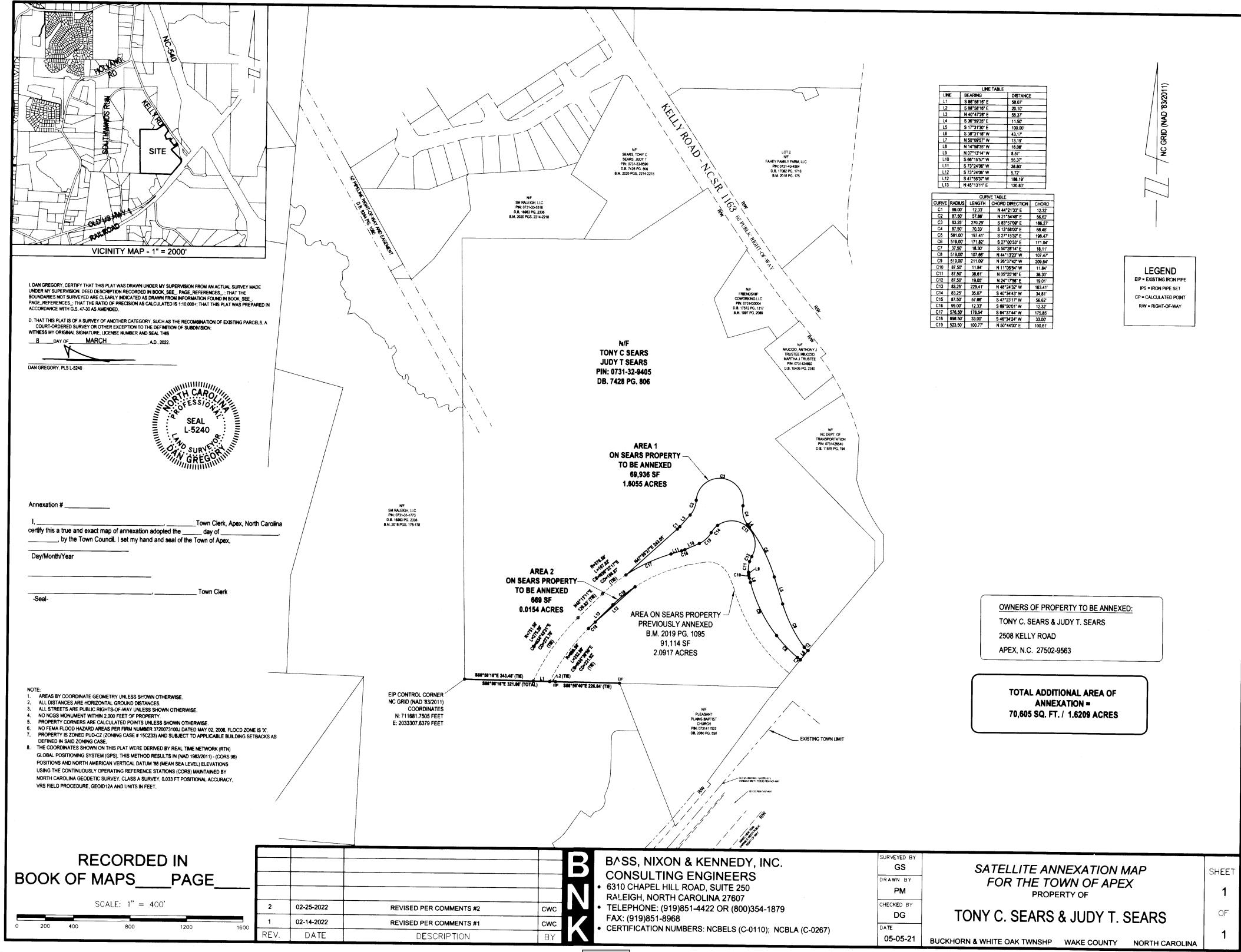
#### AREA 1 PROPERTY DESCRIPTION:

COMMENCING FROM AN EXISTING IRON PIPE, SAID PIPE BEING A NORTHEASTERN PROPERTY CORNER OF LANDS NOW OR FORMERLY OWNED BY SM RALEIGH, LLC AS RECORDED IN DEED BOOK 16983, PAGE 2335, WAKE COUNTY REGISTRY AND SHOWN IN BOOK OF MAPS 2018, PAGES 176-178, WAKE COUNTY REGISTRY AND HAVING NC GRID (NAD 83'/2011) COORDINATES OF N = 711681.7505 FEET AND E = 2033307.6379 FEET; THENCE ALONG AND WITH SAID NORTHERN PROPERTY LINE S 88°58'16" E A DISTANCE OF 243.48 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 275.29 FEET, SAID CURVE HAVING A RADIUS OF 751.50 FEET, A CHORD BEARING OF N 34°43'31" E AND A CHORD DISTANCE OF 273.76 FEET TO A POINT; THENCE N 45°13'11" E A DISTANCE OF 120.83 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 107.02 FEET, SAID CURVE HAVING A RADIUS OF 576.50 FEET, A CHORD BEARING OF N 50°32'17" E AND A CHORD DISTANCE OF 106.87 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING; THENCE N 47°55'37" E A DISTANCE OF 243.05 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 12.33 FEET, SAID CURVE HAVING A RADIUS OF 99.00 FEET, A CHORD BEARING OF N 44°21'33" E AND A CHORD DISTANCE OF 12.32 FEET TO A POINT; THENCE N 40°47'28" E A DISTANCE OF 55.37 FEET; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 57.66 FEET, SAID CURVE HAVING A RADIUS OF 87.50 FEET, A CHORD BEARING OF N 21°54'48" E AND A CHORD DISTANCE OF 56.62 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 270.29 FEET, SAID CURVE HAVING A RADIUS OF 83.25 FEET, A CHORD BEARING OF S 83°57'09" E AND A CHORD DISTANCE OF 166.27 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 70.33 FEET, SAID CURVE HAVING A RADIUS OF 87.50 FEET, A CHORD BEARING OF S 13°58'00" E AND A CHORD DISTANCE OF 68.45 FEET TO A POINT; THENCE S 36°59'35" E A DISTANCE OF 11.50 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 197.41 FEET, SAID CURVE HAVING A RADIUS OF 581.00 FEET, A CHORD BEARING OF S 27°15'32" E AND A CHORD DISTANCE OF 196.47 FEET TO A POINT; THENCE S 17°31'30" E A DISTANCE 100.00 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 171.82 FEET, SAID CURVE HAVING A RADIUS OF 519.00 FEET, A CHORD BEARING OF S 27°00'33" E AND A CHORD DISTANCE OF 171.04 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 18.30 FEET, SAID CURVE HAVING A RADIUS OF 37.50 FEET, A CHORD BEARING OF S 50°28'14" E AND A CHORD DISTANCE OF 18.11 FEET TO A POINT ON THE WESTERN RIGHT OF WAY LINE OF OLD U.S. 1 HIGHWAY; THENCE ALONG AND WITH SAID RIGHT OF WAY S 38°31'18" W A DISTANCE OF 43.17 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY N 50°09'57" W A DISTANCE OF 13.19 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 107.66 FEET, SAID CURVE HAVING A RADIUS OF 519.00 FEET, A CHORD BEARING OF N 44°13'23" W AND A CHORD DISTANCE OF 107.47 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 211.09 FEET, SAID CURVE HAVING A RADIUS OF 519.00 FEET, A CHORD BEARING OF N 26°37'42" W AND A CHORD DISTANCE OF 209.64 FEET TO A POINT; THENCE N 14°58'35" W A DISTANCE OF 16.08 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 11.84 FEET, SAID CURVE HAVING A RADIUS OF 87.50 FEET, A CHORD BEARING OF N 11°05'54" W AND A CHORD DISTANCE OF 11.84 FEET TO A POINT; THENCE N 07°13'14" W A DISTANCE OF 8.57 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 38.61 FEET, SAID CURVE HAVING A RADIUS OF 87.50 FEET, A CHORD BEARING OF N 05°25'16" E AND A CHORD DISTANCE OF 38.30 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 19.05 FEET, SAID CURVE HAVING A RADIUS OF

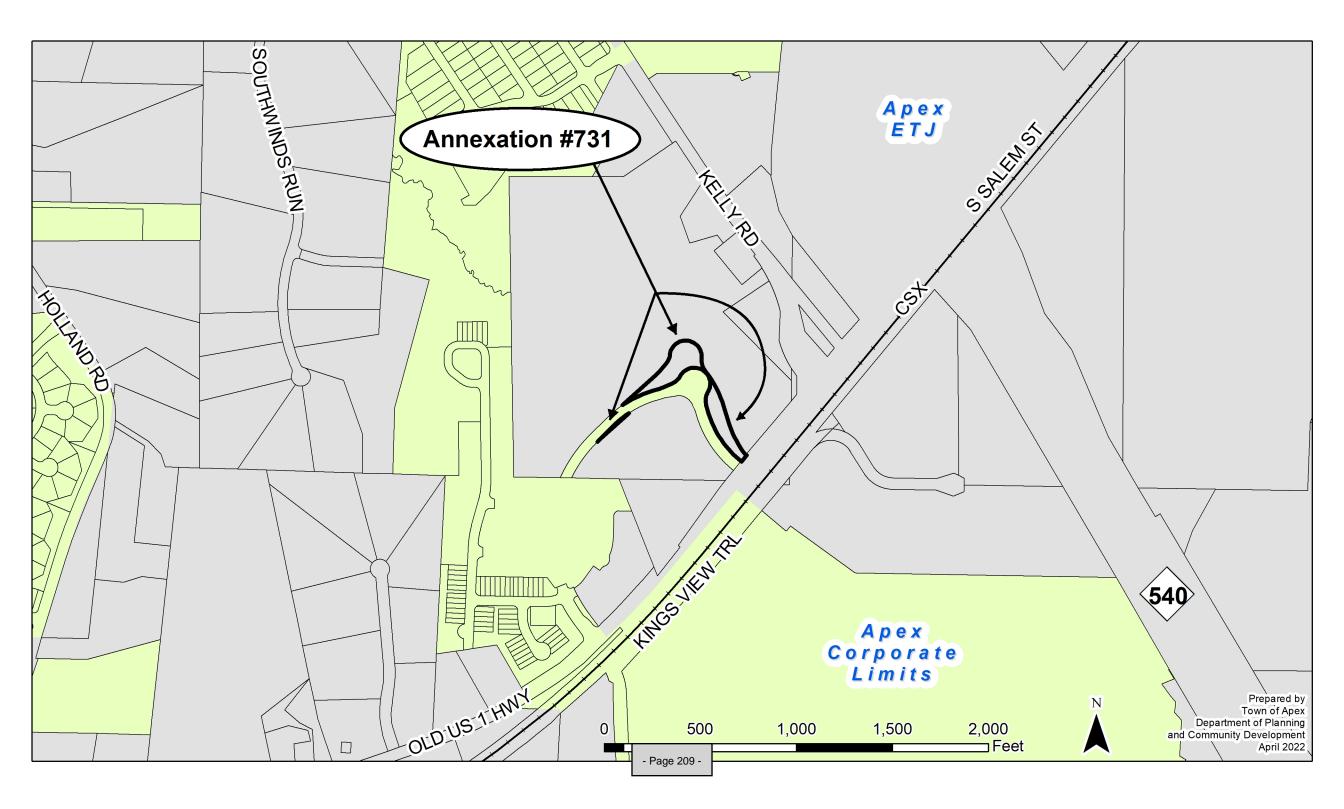
87.50 FEET, A CHORD BEARING OF N 24°17′56″ E AND A CHORD DISTANCE OF 19.01 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 229.41 FEET, SAID CURVE HAVING A RADIUS OF 83.25 FEET, A CHORD BEARING OF N 48°24′32″ W AND A CHORD DISTANCE OF 163.41 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 35.07 FEET, SAID CURVE HAVING A RADIUS OF 83.25 FEET, A CHORD BEARING OF S 40°34′43″ W AND A CHORD DISTANCE OF 34.81 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 57.66 FEET, SAID CURVE HAVING A RADIUS OF 87.50 FEET, A CHORD BEARING OF S 47°23′17″ W AND A CHORD DISTANCE OF 56.62 FEET TO A POINT; THENCE S 66°15′57″ W A DISTANCE OF 55.37 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 12.33 FEET, SAID CURVE HAVING A RADIUS OF 99.00 FEET, A CHORD BEARING OF S 69°50′01″ W AND A CHORD DISTANCE OF 12.32 FEET TO A POINT; THENCE S 73°24′06″ W A DISTANCE OF 38.80 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 176.54 FEET, SAID CURVE HAVING A RADIUS OF 576.50 FEET, A CHORD BEARING OF S 64°37′44″ W AND A CHORD DISTANCE OF 175.85 FEET TO THE POINT OF BEGINNING, CONTAINING 1.6055 ACRES.

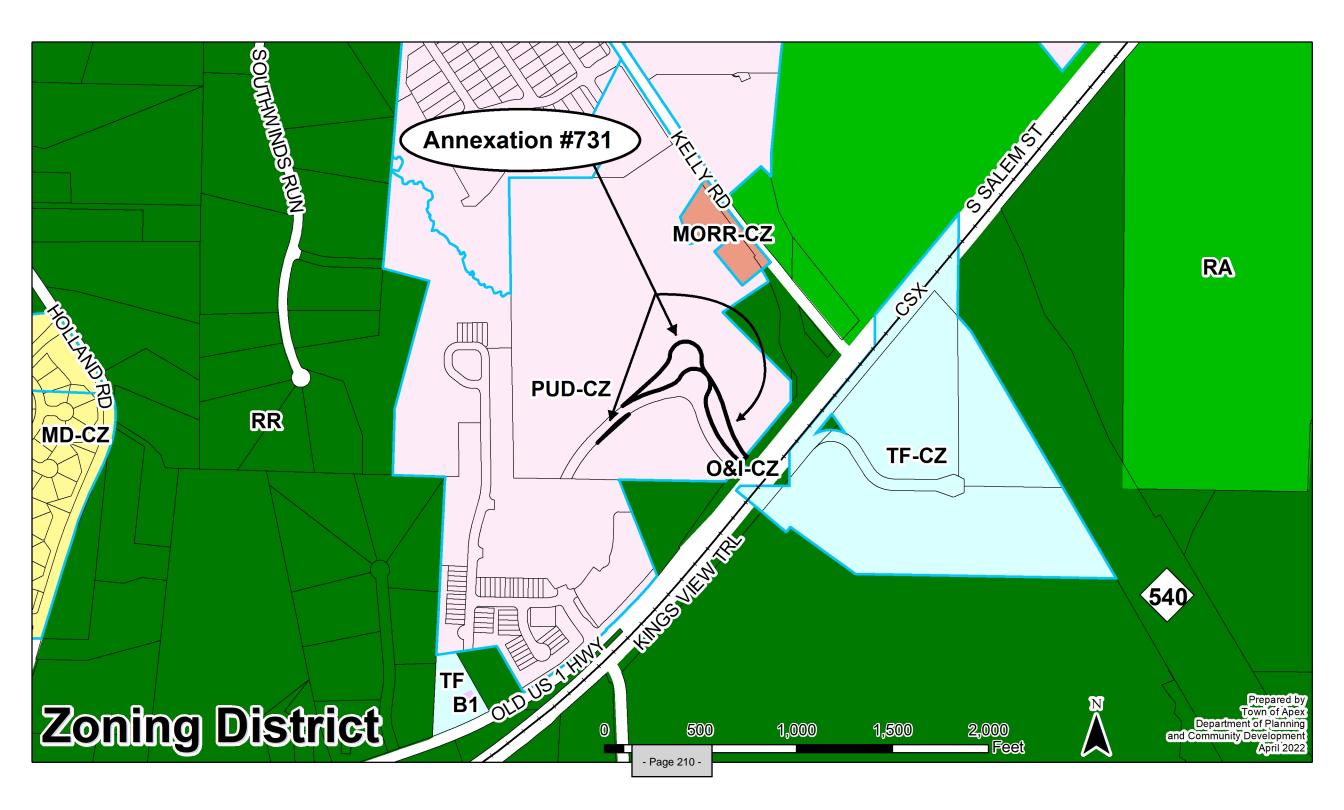
#### AREA 2 PROPERTY DESCRIPTION:

COMMENCING FROM AN EXISTING IRON PIPE, SAID PIPE BEING A NORTHEASTERN PROPERTY CORNER OF LANDS NOW OR FORMERLY OWNED BY SM RALEIGH, LLC AS RECORDED IN DEED BOOK 16983, PAGE 2335, WAKE COUNTY REGISTRY AND SHOWN IN BOOK OF MAPS 2018, PAGES 176-178, WAKE COUNTY REGISTRY AND HAVING NC GRID (NAD 83'/2011) COORDINATES OF N = 711681.7505 FEET AND E = 2033307.6379 FEET; THENCE ALONG AND WITH SAID NORTHERN PROPERTY LINE S 88°58'16" E A DISTANCE OF 301.55 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 232.99 FEET, SAID CURVE HAVING A RADIUS OF 698.50 FEET, A CHORD BEARING OF N 35°39'50" E AND A CHORD DISTANCE OF 231.92 FEET TO THE POINT OF BEGINNING; THENCE N 45°13'11" E A DISTANCE OF 120.83 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 100.77 FEET, SAID CURVE HAVING A RADIUS OF 523.50 FEET, A CHORD BEARING OF N 50°44'03" E AND A CHORD DISTANCE OF 100.61 FEET TO A POINT; THENCE S 47°55'37" W A DISTANCE OF 188.19 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT AN ARC DISTANCE OF 33.00 FEET, SAID CURVE HAVING A RADIUS OF 698.50 FEET, A CHORD BEARING OF S 46°34'24" W AND A CHORD DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.0154 ACRES.



- Page 208 -





# Annexation # 731

### 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 #	1:
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Fee Paid

2022-006	
\$ 200.00	

Submittal Date:

Check	#

2-1-22	
Harter Card	

### 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, North Carolina.
- 2. The area to be annexed is <u>contiguous</u>, <u>non-contiguous</u> (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.

UWNER INFORMATION		
TONY & JUDY SEARS	0731329405	
Owner Name (Please Print)	Property PIN or Deed Book & Page #	
Phone	E-mail Address	
Owner Name (Please Print)	Property PIN or Deed Book & Page #	
Phone	E-mail Address	
Owner Name (Please Print)	Property PIN or Deed Book & Page #	
Phone	E-mail Address	
SURVEYOR INFORMATION		
Surveyor: DAN GREGORY, PLS		
Phone: 919-851-4422	Fax:	
E-mail Address: DAN.GREGORY@BNKINC.CO	M	
ANNEXATION SUMMARY CHART Property Information	Reason(s) for annexation (select all that apply	
	Reason(s) for annexation (select all that appr	*)
Total Acreage to be annexed: <u>1.6209</u>	Need water service due to well failure	
Population of acreage to be annexed:	Need sewer service due to septic system failure	
Existing # of housing units:	Water service (new construction)	
Proposed # of housing units:	Sewer service (new construction)	

\*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 for questions.

**Receive Town Services** 

Zoning District\*:

 $\checkmark$ 

Application #:	Submittal Date:
COMPLETE IF SIGNED BY INDIVIDUALS:	
All individual owners must sign. (If additional si	gnatures are necessary, please attach an additional sheet.)
Tony C Sears Please Print	from clean
Please Print	Signature
Judy T. SERRS Please Print	Judy T. Sears
Please Print	Signature
Please Print	Signature
Please Print	Signature
STATE OF NORTH CAROLINA COUNTY OF WAKE	
Sworn and subscribed before me. Jachun	<b>Elck</b> , a Notary Public for the above State and Coun
Sworn and subscribed before me, <u>Jaclyn</u> this the $28$ day of, <u>January</u> ,	2012.
J	Jaclyn allk
IN CEADING HILL	V Notary Public
* SPAL	
Not Mouri E 3 N	My Commission Expires: <u>12-4-2023</u>
NY COLOR OF	
COMPRETATE & CORPORATION:	
Sworn and subscribed before me, <u>JAClyn</u> this the <u>28</u> day of, <u>January</u> , this the <u>28</u> day of, <u>January</u> , SEAPIC SEAPIC Nota Nation EXP. <u>28</u> Nota Nation EXP. <u>28</u>	
In witness whereof, said corporation has caused	d this instrument to be executed by its President and attested by its
In witness whereof, said corporation has caused	d this instrument to be executed by its President and attested by its s the day of, 20
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp	
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this	s the day of, 20
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp	s the day of, 20 porate Name
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp	s the day of, 20
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL	s the day of, 20 porate Name
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL	s the day of, 20 porate Name
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature)	s the day of, 20 porate Name
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest:	s the day of, 20 porate Name
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE	s the day of, 20 borate Name By: President (Signature)
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE	s the day of, 20 porate Name By: President (Signature), a Notary Public for the above State and Cour
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE Sworn and subscribed before me,	s the day of, 20  borate Name By: President (Signature), a Notary Public for the above State and Cour
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE Sworn and subscribed before me,	s the day of, 20 porate Name By: President (Signature), a Notary Public for the above State and Cour
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE Sworn and subscribed before me,	s the day of, 20  borate Name By: President (Signature), a Notary Public for the above State and Coun
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE Sworn and subscribed before me,	s the day of, 20  borate Name By: President (Signature), a Notary Public for the above State and Coun
In witness whereof, said corporation has caused Secretary by order of its Board of Directors, this Corp SEAL Attest: Secretary (Signature) STATE OF NORTH CAROLINA COUNTY OF WAKE Sworn and subscribed before me,	s the day of, 20  borate Name By: President (Signature), a Notary Public for the above State and Coun 20 Notary Public

Petition for Voluntary Annexation

PETITION FOR VOLUNTARY ANNEXATION		
Application #:		Submittal Date:
COMPLETE IF IN A LIMITED LIABILITY COMPANY		
In witness whereof,	a limit thority duly giv	ted liability company, caused this instrument to be executed in ven, this the day of
Name of Limited Lial	bility Company	/
	By:	
STATE OF NORTH CAROLINA COUNTY OF WAKE		Signature of Member/Manager
Sworn and subscribed before me, this theday of ,, 2		, a Notary Public for the above State and County,
SEAL		Notary Public
	N	Ay Commission Expires:
COMPLETE IF IN A PARTNERSHIP		
In witness whereof,		, a partnership, caused this instrument to be executed in its n, this the day of
Name	e of Partnershi	ip
	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 theday of, 2	20	
SEAL		Notary Public
	Ν	My Commission Expires:

**PAYMENT DATE** 02/01/2022

COLLECTION STATION Jeri Pederson

Jen Pederson

RECEIVED FROM Brian Ketchem

### 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.** 2022-00002373 **RECEIPT NO.** 

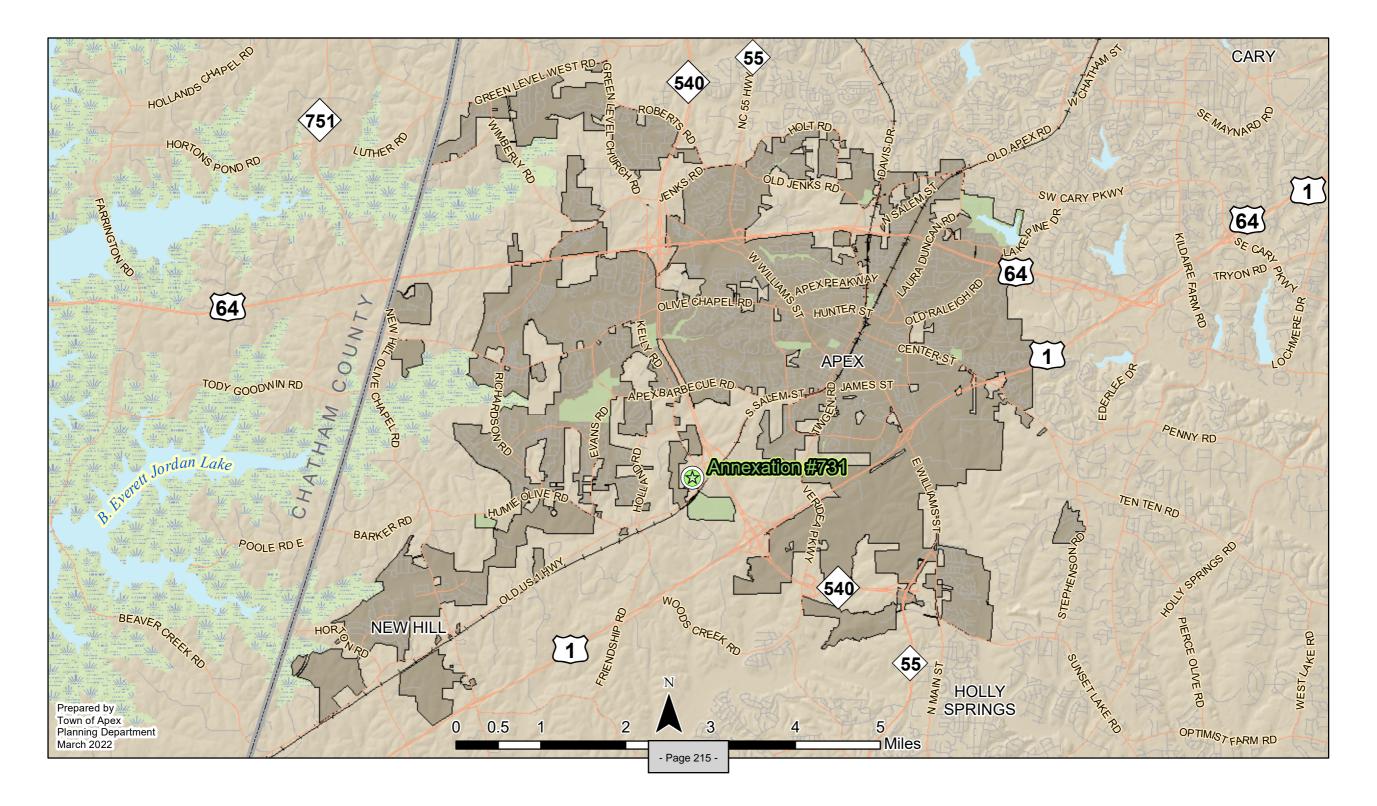
2022-00145913

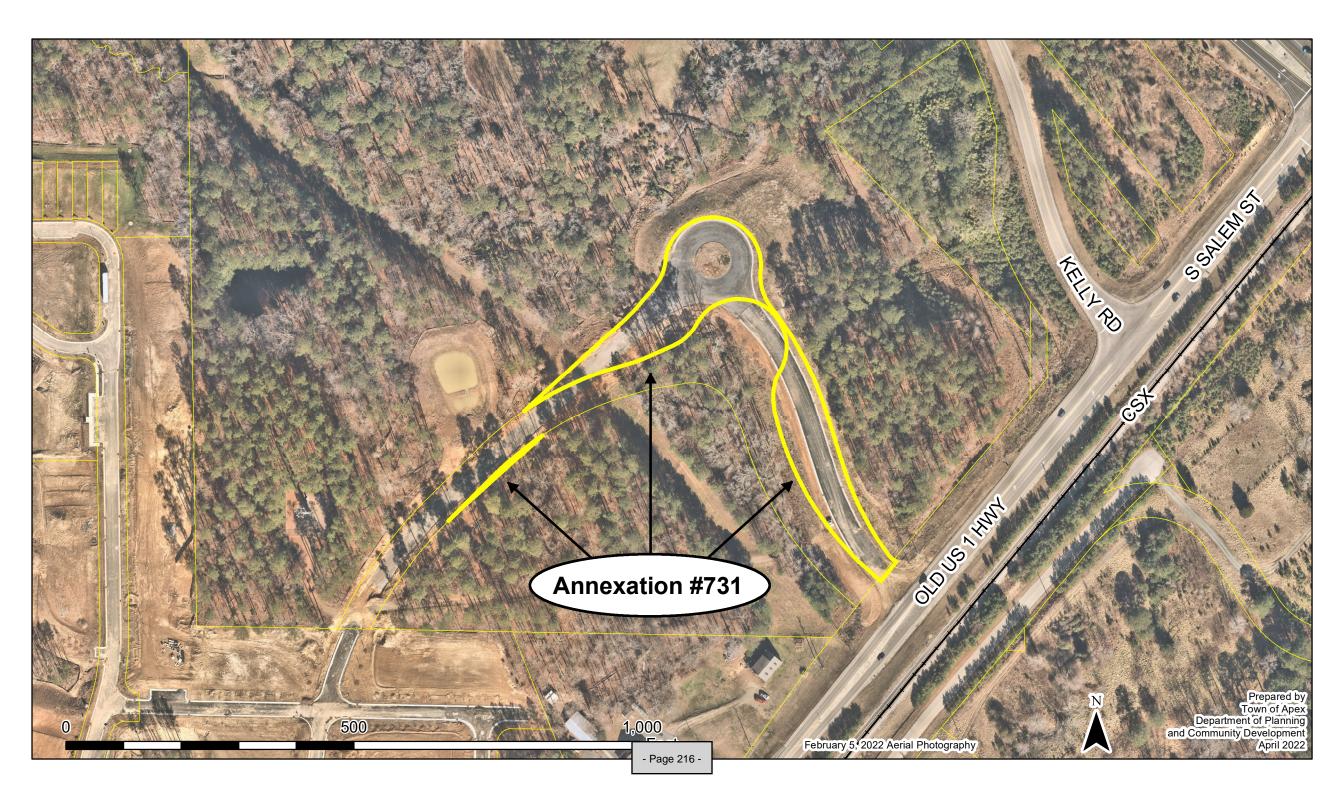
CASHIER Jeri Pederson

DESCRIPTION

Annexation #731 West Village Ph 2 - 2022-00000006

PAYMENT CODE	PROJECT PLANNING CE	EIPT DESCRIPTIO ENTER FEES Ilage Ph 2 - 2022-000		TRANSACTION AMOUNT \$200.00
PAYMENT CODE PPC Payments:		ENTER FEES		TRANSACTION AMOUNT \$200.00
L	Custo	- Page 214 -	Total Amount:	\$200.00
Printed by: Jeri Pederson		Page 1 of 1		02/01/2022 10:47:46 AM





# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:PRESENTATIONMeeting Date:April 26, 2022

# Item Details

Presenter(s):Apex Town Council and Stephanie Mitchell of the Apex Public School FoundationDepartment(s):Apex Town Council and Apex Public School Foundation

**Requested Motion** 

Presentation of the Peak S.T.A.R. Award

Approval Recommended?

N/A

## <u>Item Details</u>

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.

## <u>Attachments</u>

• N/A



# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION Meeting Date: 4/26/2022

Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

Requested Motion

Mayor Gilbert to present proclamation for Think Apex Day 2022

Approval Recommended?

N/A

## <u>Item Details</u>

Mayor Gilbert and Apex Town Council to present proclamation for Think Apex Day 2022

<u>Attachments</u>

• Proclamation



Town of Apex, North Carolina

# PROCLAMATION

## From the Office of the Mayor

## THINK APEX DAY 2022

**WHEREAS,** Think Apex was created in 2014 as an initiative to encourage a local mindset by all parts of the Apex community, including businesses, residents and visitors. It encourages those in and around Apex to support and invest in the local and unique aspects of our community in order to create a stronger and more vibrant economic environment and quality of life. By fostering a local mindset, Think Apex empowers the community to celebrate, engage, play, volunteer, shop, eat and work locally.

**WHEREAS,** Think Apex has a unique web presence that promotes local events, small businesses and an awards ceremony that highlights members of the community who make a large impact.

WHEREAS, the first annual Think Apex awards were presented in 2016.

**WHEREAS**, another component to this growing initiative is Think Apex Day, which will be a day dedicated to giving back to the Apex community by thinking and acting in ways that will positively impact the Town and the people who live here.

**WHEREAS**, citizens can go to the Think Apex web page at <u>www.thinkapex.biz</u> to get more information on Think Apex Day and to register for multiple volunteer opportunities and activities.

**NOW, THEREFORE**, the Apex Town Council does hereby proclaim Saturday, April 30, 2022 as "THINK APEX DAY" in the Town of Apex and encourages all citizens to consider some form of participation, either formal or otherwise, that will further enhance the commitment to our community and to one another.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the Town of Apex, this 26<sup>th</sup> day of April, 2022.

\_Jacques K. Gilbert, Mayor

- Page 219 -

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION Meeting Date: April 26, 2022

# Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Office of the Mayor

Requested Motion

Presentation of Foster Care Awareness Month Proclamation

Approval Recommended?

Yes

## <u>Item Details</u>

Presentation of the Human Trafficking Awareness Month Proclamation.

<u>Attachments</u>

• Proclamation



Town of Apex, North Carolina

# PROCLAMATION

From the Office of the Mayor

## FOSTER CARE AWARENESS MONTH

*WHEREAS,* Every child deserves to grow up in a supportive, loving home where they can thrive and prosper,

**WHEREAS,** In the United States there are over 407,000 children and youth in foster care, and 34 percent were placed with relatives or kin,

**WHEREAS**, In North Carolina, more than 12,000 children are waiting for their "forever home",

**WHEREAS**, In Wake County, more than 400 more beds are needed to care for foster children,

**WHEREAS**, Children available for adoption are currently receiving foster care services. Most of the children waiting to be adopted are school-age children, teenagers, groups of siblings who want to stay together, children with special needs and children of color,

**WHEREAS**, Relational permanency is fundamental to the well-being of children and youth. Maintaining relationships with relatives and kin can help provide a sense of belonging for young people in care

**WHEREAS**, Supporting foster care children, their foster families, biological families, and services that support foster children can change generations, break cycles of abuse, prevent exploitation, and give children the opportunity to thrive,

**NOW, THEREFORE,** I, Jacques Gilbert, Mayor of the Town of Apex, North Carolina, do hereby proclaim the month of May 2022, to be Foster Care Awareness Month.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the Town of Apex, this 12<sup>th</sup> day of April, 2022.

Jacques K. Gilbert, Mayor

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION Meeting Date: April 26, 2022

# Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Office of the Mayor

Requested Motion

Presentation of the Public Service Recognition Week Proclamation

Approval Recommended?

Yes

### <u>Item Details</u>

Presentation of the Public Service Recognition Week Proclamation

<u>Attachments</u>

• Proclamation



Town of Apex, North Carolina

# PROCLAMATION

From the Office of the Mayor

Public Service Recognition Week

*Whereas,* our residents are served every single day by public servants at the federal, state, county, and municipal levels; and

*Whereas*, nearly 550 hard-working, talented people are employed by the Town of Apex, with over 3,600 combined years of government service; and

*Whereas*, in often difficult circumstances, our civil servants work to protect and improve the quality of life for our residents, businesses, and visitors; and

*Whereas*, Public Service Recognition Week has been celebrated the first week of May since 1985 to honor the men and women who serve our nation as federal, state, county, and local government employees;

**NOW, THEREFORE**, 1, Jacques Gilbert, Mayor of the Town of Apex, do hereby, call upon our residents and all patriotic, civic, and educational organizations to observe the week of May 1-7, 2022 as **PUBLIC SERVICE RECOGNITION WEEK** recognizing all public servants, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities.

Jacques K. Gilbert, Mayor

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# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION Meeting Date: April 26, 2022

<u>Item Details</u>

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Office of the Mayor

Requested Motion

Presentation of Civilian Law Enforcement Professionals Week Proclamation

Approval Recommended?

Yes

#### <u>Item Details</u>

Presentation of Civilian Law Enforcement Professionals Week Proclamation

<u>Attachments</u>

• Proclamation



Town of Apex, North Carolina

# PROCLAMATION

## From the Office of the Mayor

## CIVILIAN LAW ENFORCEMENT PROFESSIONALS WEEK 2022

**WHEREAS,** civilian law enforcement professionals play an essential role in coordinating various operations within law enforcement agencies; and

**WHEREAS**, civilian law enforcement professionals are vital contributors in today's law enforcement work environment and key public relations ambassadors in these organizations; and

**WHEREAS**, the work of civilian law enforcement professionals requires advanced knowledge and expertise in communications, computer software, office technology, project management, organization, analysis, customer service, criminal justice systems, community services, and the willingness to learn and accept new challenges; and

**WHEREAS,** much of the work of civilian law enforcement professionals is performed behind the scenes and often goes unrecognized; and

**WHEREAS**, the Apex Police Department and Town of Apex depends on the assistance, expertise, knowledge, and dedication of its civilian law enforcement professionals to serve the citizens of this Town; and

**WHEREAS**, Civilian Law Enforcement Professionals Week will be observed annually in the Town to show appreciation and gratitude for the contributions of our civilian law enforcement professionals.

**NOW, THEREFORE**, I, Jacques Gilbert, Mayor of the Town of Apex, North Carolina, declare the week of April 24<sup>th</sup> through 30<sup>th</sup>, 2022 CIVLIAN LAW ENFORCEMENT PROFESSIONALS WEEK in Apex in honor of the men and women whose diligence and professionalism support the Apex Police Department and assist with keeping our Town and citizens safe.

*IN WITNESS THEREOF,* I have hereunto set my hand and caused the Seal of the Town of Apex, North Carolina to be affixed this the 26th day of April 2022

Jacques K. Gilbert, Mayor

- Page 225 -

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING Meeting Date: April 26, 2022

# Item Details

Presenter(s):Lauren Staudenmaier, Planner IIDepartment(s):Planning and Community Development

### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #21CZ26 Humie Olive Commercial. The applicant, Jeff Roach, Peak Engineering & Design PLLC., seeks to rezone approximately 7.69 acres from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 & 7525 Humie Olive Road.

## Approval Recommended?

The Planning and Community Development Department recommends approval if the following zoning condition is offered, "A maximum of a single point of access shall be provided on each roadway."

The Planning Board held a public hearing on April 11, 2022 and unanimously recommended approval with conditions as proposed by applicant if developer adds the additional condition recommended by staff that "A maximum of a single point of access shall be provided on each roadway."

## <u>Item Details</u>

The properties to be rezoned are identified as PINs 0720993254 & 0720990292.

## <u>Attachments</u>

- Staff Report
- Vicinity Map
- Application







All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

#### **BACKGROUND INFORMATION:**

Location:	0 & 7525 Humie Olive Road				
Applicant/Owner(s):	Jeff Roach, PE, Peak Engineering & Design, PLLC. /David Ray Powell/JVI Building &				
	Development				
	N•				

±7.69 acres
0720993254 & 0720990292
Rural Residential (RR)
Neighborhood Business-Conditional Zoning (B1-CZ)
High Density Residential/Commercial Services
ETJ

#### Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Rural Residential (RR)	Single-family Residential
South:	Rural Residential (RR); Mixed Office-Residential- Retail-Conditional Zoning (MORR #20CZ07); Tech/Flex-Conditional Zoning (TF-CZ #15CZ25)	Single-family Residential; Non-Residential (Cool Pools)
East:	Planned Unit Development-Conditional Zoning (PUD-CZ #21CZ14)	Single-family Residential (future Holland Rd PUD development)
West:	Rural Residential (RR)	Single-family Residential

#### **Existing Conditions:**

The subject properties total ±7.69 acres and are located west of the skewed intersection of Humie Olive Road Old US 1 Highway. Both properties are vacant and mostly wooded.

#### **Neighborhood Meeting:**

The applicant conducted a neighborhood meeting on September 30, 2021. The neighborhood meeting report is attached.

#### 2045 LAND USE MAP:

The 2045 Land Use Map identifies the subject properties as High Density Residential/Commercial Services. The 2045 Land Use Map also shows a Neighborhood Mixed Use (NMU) activity center located in this vicinity. A Neighborhood Mixed Use activity center is for economic development potential estimated to be, but not limited to 100,000 square feet of commercial and 1 to 2 mile trade area. The proposed rezoning to Neighborhood Business-Conditional Zoning (B1-CZ) is consistent with that land use classification.



# PROPOSED ZONING CONDITIONS:

April 26, 2022 Town Council Meeting

#### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

#### **Permitted Uses and Limitations:**

- 1. Accessory apartment (P)
- 2. Day care facility (P)
- 3. Drop-in or short-term day care (P)
- 4. Government service (P)
- 5. Veterinary clinic or hospital (P)
- 6. Vocational school (P)
- 7. Utility, minor (P)
- 8. Wireless support structure (P)
- 9. Wireless communication facility (P)
- 10. Botanical garden (P)
- 11. Entertainment, indoor (P)
- 12. Greenway (P)
- 13. Park, active (P)
- 14. Park, passive (P)
- 15. Youth or day camps (P)
- 16. Bar, nightclub, wine bar, or taproom (S)
- 17. Restaurant, drive-through (P)
- 18. Restaurant, general (P)
- 19. Medical or dental office or clinic (P)
- 20. Medical or dental laboratory (P)
- 21. Office, business or professional (P)
- 22. Hotel or motel (P)
- 23. Artisan Studio (S)
- 24. Barber or beauty shop (P)
- **Conditions:**

- 25. Book store (P)
- 26. Convenience store (P)
- 27. Convenience store with gas sales (P)
- 28. Dry cleaner and laundry service (P)
- 29. Farmer's market (P)
- 30. Financial institution (P)
- 31. Floral shop (P)
- 32. Greenhouse or nursery, retail (P)
- 33. Grocery, general (P)
- 34. Grocery, specialty (P)
- 35. Laundromat (P)
- 36. Pharmacy (P)
- 37. Newsstand or gift shop (P)
- 38. Personal service (P)
- 39. Printing and copying service (P)
- 40. Real estate sales (P)
- 41. Repair services, limited (P)
- 42. Retail sales, general(P)
- 43. Studio for art (P)
- 44. Tailor shop (P)
- 45. Upholstery shop (P)
- 46. Pet services (P)
- 47. Microbrewery (P)
- 1. The predominant exterior building materials shall be high quality materials per UDO § 9.3.5 and shall include brick, wood, stacked stone, other native stone, tinted/textured concrete masonry units, EIFS, aluminum storefronts with anodized or pre-finished colors.
- 2. EIFS or synthetic stucco shall not be used in the first forty inches (40") above grade.
- 3. The building exterior shall be more than one material color.
- 4. The building shall have more than one parapet height.
- 5. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and



treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.

- 6. One (1) sign prohibiting pet waste and reduced fertilization shall be installed near each environmentally sensitive area and SCM.
- 7. A minimum of 75% of the required landscaping will be selected from the Town's Design and Development Manual for pollinator friendly and native flora throughout the project.
- 8. The developer shall provide solar conduit to facilitate future rooftop solar installations within all buildings.
- 9. One (1) pet waste station shall be installed within the common open space area.
- 10. At the time the development plans adjacent to PIN 0720896485 are submitted, a 20' Greenway Easement shall be provided along or within near proximity to the western property boundary of PIN 0720990292 as shown on the Parks, Recreation, Greenways and Open Space master plan map, north to connect to pedestrian improvements on Humie Olive Road in a location coordinated with Parks, Recreation and Cultural Resources staff.
- 11. The exterior lighting for all non-residential buildings and parking lots shall consist entirely of LED fixtures. The developer shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lots.
  - a. The project shall use full cutoff LED fixtures that have a maximum color temperature of 3,000K or less for all exterior lighting, including, but not limited to, parking lot and building mounted fixtures.
- 12. The development shall record a cross-access agreement between parcels identified as PINS 0720-89-6485 & 0720-89-6050 prior to Site Plan Final Plat approval.

#### EAB RECOMMENDATIONS:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on August 19, 2021. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Permit condition that does not allow for tree clearing, SCM, or	Added
infrastructure in either riparian buffer zone	
Signage near environmental sensitive areas to:	Added
Reduce pet waste and eliminate fertilizer near SCM drainage areas	
Plant trees:	Not added
<ul> <li>Deciduous shade trees on southern side of buildings</li> </ul>	
<ul> <li>Evergreen trees as windbreak on northern side of buildings</li> </ul>	
Increase biodiversity	Added
Plant native flora	
Landscaping requires less irrigation and chemical use	Not added
<ul> <li>Warm season grasses for drought-resistance</li> </ul>	
Solar conduit in building design	Added
Convenient electric vehicle charging station	Not added
Timers or light sensors or smart lighting technology	Added
International Dark Sky Association	Added
• Outdoor lighting shielded in a way that focuses lighting on ground	



<ul> <li>Minimizes the emission of blue light to reduce glare</li> <li>Lighting with a color temperature of 3000K or less</li> </ul>	
Recommendation: minimum of 20-kW rooftop solar PV system on each of the larger buildings	Not added
Minimum of a 10-kW rooftop solar PV system for smaller buildings	Not added
Preserve future greenway connection(s)	Added

#### TRANSPORTATION PLANNING CONCERNS:

The subject properties sit inside the two legs of the Y-intersection of Humie Olive Road and Old US 1 Highway, with approximately 900-feet of frontage along each roadway. There are three schools (Apex Friendship Middle and High Schools and the elementary school that is under construction) within a half-mile of the subject properties. The Transportation Plan identifies Humie Olive Road as a 3-lane thoroughfare with an 80-foot right-of-way and Old US 1 Highway as a 4-lane, median-divided thoroughfare with a 110-foot right-of-way. The Bicycle and Pedestrian System Plan Map includes a 10' Side Path on the south side of Humie Olive Road, future bike lanes along Old US 1 Highway, and future greenway along the western property boundary. Given the limited road frontage, provisions for cross-access and connectivity are needed in order to promote and provide safe movements by limiting access on high-traffic-volume roads at poorly aligned intersections. In response, staff requested that the applicant provide the following zoning condition, "A maximum of a single point of access shall be provided on each roadway." That zoning condition was not offered by the applicant. Therefore, staff is unable to support the rezoning without a condition limiting access in order to improve safety.

#### PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on April 11, 2022 and unanimously recommended approval with conditions as proposed by the applicant if developer adds the additional condition recommended by staff that "A maximum of a single point of access shall be provided on each roadway."

#### PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #21CZ26 Humie Olive Commercial if the following zoning condition is offered, "A maximum of a single point of access shall be provided on each roadway."

#### ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

Approval of the rezoning is reasonable because the proposed Neighborhood Business-Conditional Zoning (B1-CZ) district is generally consistent with the 2045 Land Use Plan. The 2045 Land Use Map classifies the subject property as Commercial Services/High Density Residential which includes the B1-CZ district.

From a land use perspective, approval of the rezoning is reasonable and in the public interest because the proposed Neighborhood Business-Conditional Zoning (B1-CZ) district will encourage compatible development of the property, increase the tax base and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map. It will also provide an opportunity for non-residential uses to serve the surrounding area, while providing



flexibility for future development with the surrounding properties. However, from a transportation perspective, the rezoning is not reasonable in the public interest in that it does not meet the needs for the transportation network in this area by not limiting access on these high-traffic-volume roads at a poorly aligned intersection.

#### CONDITIONAL ZONING STANDARDS:

The Town Council shall find the B1-CZ designation demonstrates compliance with the following standards. 2.3.3.F:

#### Legislative Considerations

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning District use's compliance with Sec 4.4 *Supplemental Standards,* if applicable.
- 4) Design minimizes adverse impact. The design of the proposed Conditional Zoning District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning District use is substantially detrimental to adjacent properties.
- 9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

STAFF REPORT Rezoning #21CZ26 Humie Olive Commercial 0 & 7525 Humie Olive Road April 26, 2022 Town Council Meeting



10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



	O AMEND THE OFFICIAL ZONING MAP	lia Deservis Ast	t and may be published	on the Town's websit	e er disslosed te
third parties.	210221		10		
Application	#:	Subm Fee P	hittal Date: 10	1000	
		ree r	aiu	1000	
Project Info	ormation				
Project Nam	Humie Olive Commercial		3		
Address(es)	0 and 7525 Humie Olive Ro	ad			
PIN(s): 0	720-99-3254 & 0720-99-0292				
_	2 			Acreage: 7	.69 acres
Current Zon	<sub>ing:</sub> RR	Proposed	Zoning: B1-CZ		
Current 204	5 LUM Classification(s): Commercia	al Service:	s and High Der	sity Residentia	al
Is the propo	sed rezoning consistent with the 2045 LUI	M Classificati	ion(s)? Yes 🖌	No	]
If any porti	on of the project is shown as mixed use (3	or more stri	ipes on the 2045 Lar	nd Use Map) provid	le the following:
Are	a classified as mixed use:		Acreage	e: N/A	
Are	a proposed as non-residential developmer	nt:	Acreage	e: N/A	
Perc	ent of mixed use area proposed as non-re	sidential:	Percen	t: N/A	
Applicant I	nformation				
Name:	Peak Engineering & Design, P	LLC - attr	n: Jeff Roach, P	?.Е.	n og skille forsen en forsen og forsen af de sen af en sen en
Address:	1125 Apex Peakway				
City:	Арех	State:	NC	Zip:	27502
Phone:	(919) 439-0100	E-mail:	jroach@peake	engineering.co	m
Owner Info	ormation				
Name:	N/F David Ray Powell (-3254)		JVI Building	& Developme	nt (-0292)
Address:	524 Lapis Lane, Cary, NC 2751	19	2509 South	winds Run, Ape	ex, NC 27502
City:		State:		Zip:	
Phone:		E-mail:			1
Agent Info	rmation				
Name:	Peak Engineering & Design, P	LLC - attr	n: Jeff Roach. F	Р.Е.	
Address:	1125 Apex Peakway				
City:	Apex	State:	NC	Zip:	27502
Phone:	(919) 439-0100	E-mail:		engineering.co	
Other cont		E man.	, 0,	0	
	jbarron@morningstarlaw	group.cor	n		
	joey@jviconstruction.cor	-			
	mike42059@usa.com				
		- Page 234	-		

F - Page 234 -

PETITION INFORMATION					
Application #:	21 CZ 26	Submittal Date:	10/1	27	

An application has been duly filed requesting that the property described in this application be rezoned from  $\frac{RR}{L}$  to  $\frac{B1-CZ}{L}$ . It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

#### **PROPOSED USES:**

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

1		21	
2	See attached list of uses	22	
3		23	
4		24	
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## Humie Olive Commercial List of Permitted Uses

Following is a list of the permitted uses within the Humie Olive Commercial property rezoning case #21CZ26:

Accessory apartment Day care facility Drop-in or short-term day care Government service Veterinary clinic or hospital Vocational school Utility, minor Wireless support structure Wireless communication facility Botanical garden Entertainment, indoor Greenway Park, active Park, passive Youth or day camps Bar, nightclub, wine bar, or taproom (S) Restaurant, drive-through Restaurant, general Medical or dental office or clinic Medical or dental laboratory Office, business or professional Hotel or motel Artisan Studio (S) Barber or beauty shop Book store

Convenience store Convenience store with gas sales Dry cleaner and laundry service Farmer's market Financial institution Floral shop Greenhouse or nursery, retail Grocery, general Grocery, specialty

Laundromat Newsstand or gift shop Personal service Pharmacy Printing and copying service Real estate sales Repair services, limited Retail sales, general Studio for art Tailor shop Upholstery shop Pet services

Microbrewery

PETITION INFORMATION				
Application #:	21 (726	_ Submittal Date:	10/1/21	

#### **PROPOSED CONDITIONS:**

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

## See attached list of zoning conditions

#### LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

The 2045 LUM designation for the property is High Density Residential and

Commercial Services. The proposed rezoning seeks to provide commercial uses consistent with this designation. The proposed zoning district, B1-CZ, is consistent with guidance in the Comprehensive Plan for properties with this designation.

2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The proposed rezoning site is near an existing commercial node where Humie Olive intersects with Old US 1 Hwy. The proposed rezoning will be consistent with the ex. non-residential character of the uses at the node. Moreover, some of the property within that hub are zoned B1 already, which is the district sought with this rezoning application.

## Humie Olive Commercial Zoning Conditions

The following conditions shall apply to the Humie Olive Commercial development.

- 1. The predominant exterior building materials shall be high quality materials per UDO § 9.3.5 and shall include brick, wood, stacked stone, other native stone, tinted/textured concrete masonry units, EIFS, aluminum storefronts with anodized or pre-finished colors.
- 2. EIFS or synthetic stucco shall not be used in the first forty inches (40") above grade.
- 3. The building exterior shall be more than one material color.
- 4. The building shall have more than one parapet height.
- 5. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.
- 6. One (1) sign prohibiting pet waste and reduced fertilization shall be installed near each environmentally sensitive area and SCM.
- 7. A minimum of 75% of the required landscaping will be selected from the Town's Design and Development Manual for pollinator friendly and native flora throughout the project.
- 8. The developer shall provide solar conduit to facilitate future rooftop solar installations within all buildings.
- 9. One (1) pet waste station shall be installed within the common open space area.
- 10. At the time the development plans adjacent to PIN 0720896485 are submitted, a 20' Greenway Easement shall be provided along or within near proximity to the western property boundary of PIN 0720990292 as shown on the Parks, Recreation, Greenways and Open Space master plan map, north to connect to pedestrian improvements on Humie Olive Road in a location coordinated with Parks, Recreation and Cultural Resources staff.
- 11. The exterior lighting for all non-residential buildings and parking lots shall consist entirely of LED fixtures. The developer shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lots.
  - a. The project shall use full cutoff LED fixtures that have a maximum color temperature of 3,000K or less for all exterior lighting, including, but not limited to, parking lot and building mounted fixtures.
- 12. The development shall record a cross-access agreement between parcels identified as PINS 0720-89-6485 & 0720-89-6050 prior to Site Plan Final Plat approval.

**PETITION INFORMATION** 

Application #:

216226

Submittal Date: 1011/21

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

New development on the site will comply with supplement use standards to the extent such standards are applicable under UDO Section 4.4.

4) Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

The requested district includes commitments related to the appearance of buildings and the exterior lighting which are meant to ensure a quality development that will not have a negative impact on surrounding properties.

5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

New development on the site will be consistent with the Town's requirements for the same, many of which are meant to minimize a project's impact on the environment. Additionally, the project includes a commitment to provide solar conduit and shielded lighting in order to minimize the development's impacts on the environment.

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

The project will include turn lanes, frontage improvements, and right-of way dedication

in order to address the traffic impacts reasonably associated with the proposed

development at this site. Additionally, the project will include annexation and the

extension of public utilities to the site.

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

The proposed rezoning is consistent with the Town's long range plan for development

in this area. By providing non-residential uses in proximity to an ever-growing

residential area, residents will have convenient access to goods and services.

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21(726

Application #:

Submittal Date: 10/1/21

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

As mentioned above, the proposed site of the rezoning is adjacent to a commercial node. Development consistent with the proposed rezoning will be consistent with existing uses in the area and will compliment those businesses. The project is not detrimental to surrounding properties.

9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

The proposed zoning will facilitate the development of a non-residential center in an area slated for the same in the Town's Comprehensive Plan. Non-residential uses in this area are not anticipated to become a nuisance. At time of site plan, staff will review the project layout to ensure that its design does not create a nuisance.

10) Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

This project will include a much needed extension of public utilities which could help spur more economic activity in this area. This is a benefit for the Town and also for its residents who will benefit from having convenient access to goods and services.

AGENT		TION FORM		
Application #:		21 62 26	Submittal Date:	10/1/21
David Ra	ay Powell		is the owner* of the p	roperty for which the attached
applicat	ion is being	ubmitted:	- C	
	Land Use	Amendment		
7	Rezoning:	For Conditional Zoning and Planne authorization includes express cor Agent which will apply if the applic	nsent to zoning condition	
	Site Plan			
	Subdivisio	ı		
	Variance			
	Other:			
The pro	perty addres	s is: 0 Humie Olive Road		
The age	nt for this pr	piect is: David Ray Powell 2	est Eng & Des	Sigur
-P	A	owner of the property and will be		V
Agent N	2	Peak Engineering & Desig		
Address		1125 Apex Peakway, Ape	x, NC 27502	
	ne Number:	(919) 439-0100		
E-Mail A	ddress:	jroach@peakengineering	.com	
		Signature(s) of Owner(s)*	Rasll Type or print of	name <u>275-pt 7</u> Date
		·	Type or print i	name Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

AFFIDAVIT	OF OWNERSHIP
Allibrati	Of Ownerstill

21 (726

Application #:

Submittal Date: 10/1/2/

The undersigned, \_\_\_\_\_\_ David Ray Powell (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

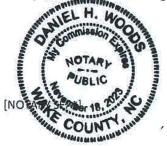
- 1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 0 Humie Olive Road and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on  $\frac{8/23/93}{}$ , Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on  $\frac{8/23/93}{}$ , no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 29th day of Sept (seal) Type or print name

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of <u>WAKE</u>, hereby certify that <u>**DAVID POWELL**</u>, Affiant, <u>ersonally known to me</u> or known to me by said Affiant's presentation of said Affiant's \_\_\_\_\_, personally appeared before me this day and acknowledged the

due and voluntary execution of the foregoing Affidavit.



Notary Public State of North Carolina My Commission Expires:  $\frac{W}{18}/2023$ 

- Page 242 -

# Legal Description of Property of David Ray Powell 0 Humie Olive Road, Apex, NC PIN 0720-99-3254

The area described herein is encompassing of PIN 0720-99-3254 located in Wake County, NC.

At an existing IP located in the southwest corner of the subject property, the common property corner with N/F JVI Building & Development Inc. (PIN 0720-99-0292 and 07011 Pg 1370) and the northern right-of-way line of Old US 1 Highway (referenced as Parcel B on BM 1993 Pg 931 entitled "Boundary Survey for Charles E. Tunstall and Ruth L. Tunstall" dated July 28, 1993), said point being the POINT AND PLACE OF BEGINNING;

THENCE leaving the Old US 1 Highway right-of-way N 01° 48' 39" W 369.23' to an iron pipe found, said iron pipe being the northwest corner of said property located along the southern right-of-way line of Humie Olive Road;

THENCE S 65° 33' 00" E 159.60' along the southern right-of-way line of Humie Olive Road to an iron pipe;

THENCE S 65° 04' 49" E 331.92' along the southern right-of-way of Humie Olive Road to and iron pipe at the intersection with Old US 1 Highway;

THENCE along the northern right-of-way of Old US 1 Highway S 71° 10' 41" W 230.29' to existing iron pipe;

THENCE along the northern right-of-way of Old US 1 Highway with a curve to the south with a radius of 1,933.18', an arc length of 234.31', and a chord description of S 67° 42' 21" W 234.17'to an existing iron pipe; said point being the POINT AND PLACE OF BEGINNING containing 1.82 acres, more or less. Said property is identified as Parcel B on BM 1993 Pg 931 entitled "Boundary Survey for Charles E. Tunstall and Ruth L. Tunstall" dated July 28, 1993 by Benton Dewar & Associated.

The property described heron is subject to all easements, rights-of-ways, and restrictions of record.

Agent	AUTHORIZATIO	IN FORM
Applica	tion #: <u>2</u>	L 7 26         Submittal Date:         10   1 / 2
JVI Building & Development, Inc.		ent, Inc is the owner* of the property for which the attached
applicati	on is being sub	mitted:
	Land Use Am	endment
	au	Conditional Zoning and Planned Development rezoning applications, this thorization includes express consent to zoning conditions that are agreed to by the ent which will apply if the application is approved.
	Site Plan	
	Subdivision	
	Variance	
	Other:	
The prop	erty address is	7525 Humie Olive Road
The agen	it for this proje	t is: Joseph lannone
	🗣 I am the ö	vner of the property and will be acting as my own agent
Agent Na	ame:	Peak Engineering & Design, PLLC (Jeffrey A. Roach, P.E.)
Address:		1125 Apex Peakway, Apex, NC 27502
	ne Number:	(919) 439-0100
E-Mail Address:		jroach@peakengineering.com
		Signature(s) of Owner(s)* <u>Fos V Tannorte</u> Type or print name Date
		Type or print name Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

AFFIDAVIT OF OWNERSHIP	

211720

Application #:

and the second sec

Submittal Date: 10/1/2/

The undersigned, <u>Joseph lannone</u> (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

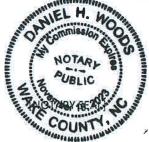
- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>7525 Humie Olive Road</u>
   and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>12/29/17</u>, and recorded in the Wake County Register of Deeds Office on <u>12/2917</u>, in Book <u>17011</u> Page <u>1371</u>.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on 12/29/17 \_\_\_\_\_\_, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on 12/29/17 \_\_\_\_\_\_, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the **29** day of (seal) . TONNONE Type or print name

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of **WAKE**, hereby certify that **TOE IANONE**, Affiant, personally known to me by said Affiant's presentation of said Affiant's \_\_\_\_\_\_, personally appeared before me this day and acknowledged the

due and voluntary execution of the foregoing Affidavit.



Dan Marwood

- Page 245 -

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# Legal Description of Property of JVI Building & Development, Inc. 7525 Humie Olive Road, Apex, NC PIN 0720-99-0292

The area described herein is encompassing of PIN 0720-99-0292 located in Wake County, NC.

At an existing IP located in the southwest corner of the subject property, the common property corner with N/F Matthew Ramsdell & Dianne Denny Olson (DB8356 Pg 225) and the northern right-of-way line of Old US 1 Highway, said point identified by NC Coordinates E 2,028,730.775 and N 708,752.521 (reference as Lot 2b in BM 1974 Pg 89 entitled "Property of Annie M. Sears, Heirs"), said point being the POINT OF BEGINNING;

Thence leaving the Old US 1 Highway right-of-way N 02° 05' 15" W 802.04' to an iron pipe found, said iron pipe being the northwest corner of said property located along the southern right-of-way line of Humie Olive Road;

Thence S 66° 25' 04" E 478.86' along the southern right-of-way line of Humie Olive Road to an iron pipe in the northwest corner of the adjacent N/F David Ray Powell property;

Thence S 01° 49' 29" E 369.20' along the western property line of N/F Powell to an iron pipe on the northern right-of-way of Old US 1 Highway,

Thence along the northern right-of-way of Old US 1 Highway with a curve to the south with a radius of 1,933.18', an arc length of 165.00' and a chord description of S 61° 51' 30" W 164.96'to an existing iron pipe;

Thence along the northern right-of-way of Old US 1 Highway S 59° 24' 45" W 320.56' to an iron pipe found; said point being the POINT AND PLACE OF BEGINNING containing 5.76 acres, more or less. Said property is identified as Lot 2b on BM 1974 Pg 89 entitled "Property of Annie M. Sears, Heirs" by Smith & Smith Surveyors dated January 1974.

The property described heron is subject to all easements, rights-of-ways, and restrictions of record.

## AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #:

21 (226

Submittal Date: 10/1/21

Insert legal description below.

Page intentionally left blank. Legal Descriptions included with Agent Authorization Forms.

# **NOTICE OF NEIGHBORHOOD MEETING**

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

9/15/21

Date

#### Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

0 Humie Olive Road	0720-99-3254	
7525 Humie Olive Road	0720-99-0292	
Address(es)	PIN(s)	

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the <u>Interactive Development Map</u> or the <u>Apex Development Report</u> located on the Town of Apex website at http://www.apexnc.org/180/Planning-Community-Development.

A Neighborhood Meeting is required because this project includes (check all that apply):

Арр	lication Type	Approving Authority
$\checkmark$	Rezoning (including Planned Unit Development)	Town Council
	Major Site Plan	Town Council (QJPH*)
	Special Use Permit	Town Council (QJPH*)
	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)): We are seeking rezoning in order to develop approximately 50,000sf of commercial uses at the intersection of Humie Olive and Old US HWY 1.

Estimated submittal date: Octobe	er 2021
MEETING INFORMATION:	
Property Owner(s) name(s):	David Ray Powell & JVI Building & Development
Applicant(s):	Jason Barron - Attorney for Owners
Contact information (email/phone):	jbarron@morningstarlawgroup.com/919-590-0371
Meeting Address:	https://morningstarlaw.group/09302021mtg
Date/Time of meeting**:	September 30, 2021 from 5:30 to 7:30
MEETING AGENDA TIMES: Welcome: 5:30 - 5:32 Project I	Presentation: 5:32 - 5:35 Question & Answer: 5:35 - 7:30

\*\*Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning and Community Development Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <a href="http://www.apexnc.org/180/Planning-Community-Development">http://www.apexnc.org/180/Planning-Community-Development</a>.

cket & Affidavit

Neighborhood M - Page 248 - Last Updated: June 21, 2021

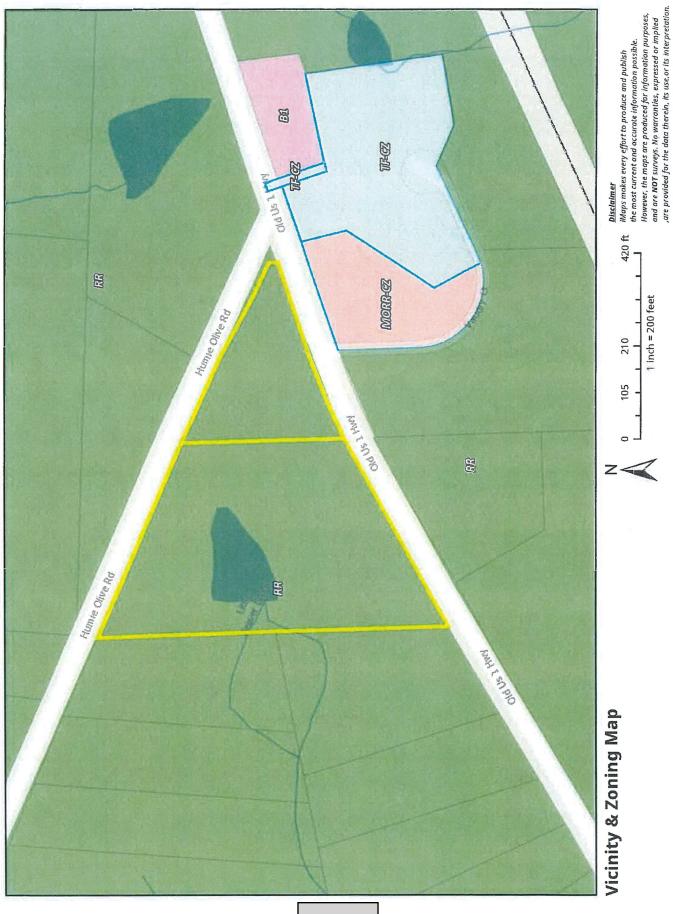
# **PROJECT CONTACT INFORMATION**

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

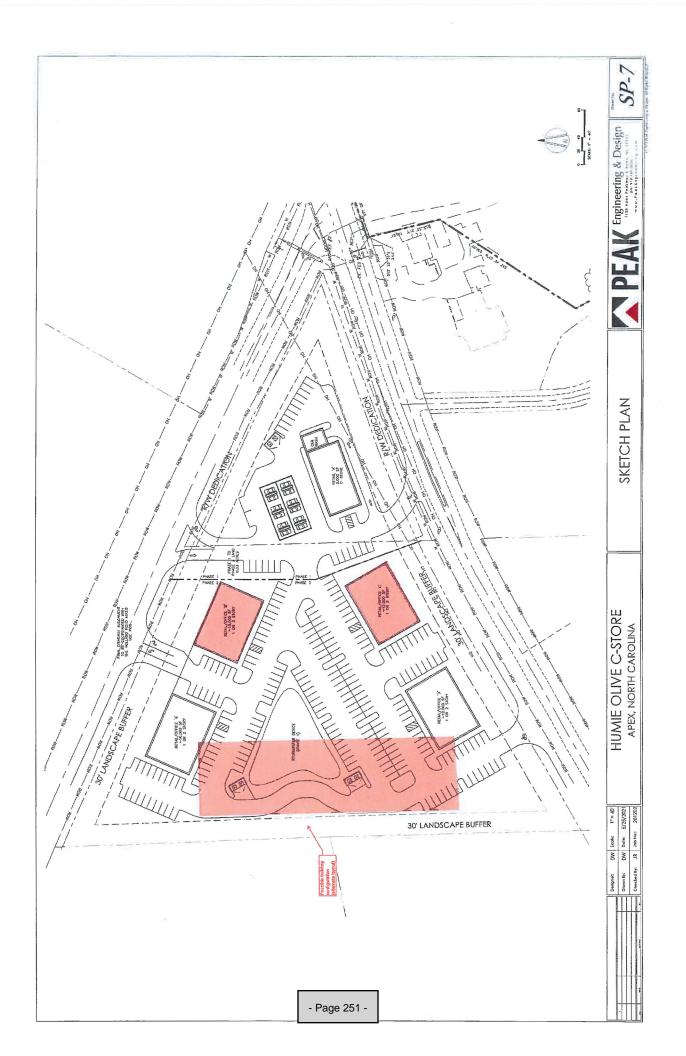
Development Contacts:				
Project Name: Humie Olive Commerci	al zoning: RR			
Location: 0 Humie Olive Road & 7525 Humie Olive Road				
Property PIN(s): 0720-99-3254 & 0720-99-0292 Acrea	ge/Square Feet: 7.69 acres			
Property Owner: David Ray Powell & JVI Building & Development				
Address: 542 Lapis Lane				
City: Cary	State: NC Zip: 27519			
Phone: Email:				
Developer: JVI Building & Development				
Address: 2509 Southwinds Run				
City: Apex State	e: NC Zip: 27502			
Phone: Fax:	Email:			
Engineer: Peak Engineering & Design, PL	LC - attn: Jeff Roach, P.E.			
Address: 1125 Apex Peakway				
City: Apex	State:NC Zip:27502			
Phone: (919) 439-0100 Fax:	Email: jroach@peakengineering.com			
Builder (if known): JVI Building & Developm	nent			
Address:				
City:	_ State: Zip:			
Phone: Fax:	Email:			

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts	
Planning and Community Development Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks and Greenways Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
James Gregg, Utility Engineering Manager (Water & Sewer)	(919) 249-3324
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342



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# SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): JVI Building and Development, Inc. and David Ray Powell				
Applicant(s): Peak Engineering and Morningstar Law Group				
Contact information (email/phone):	jbarron@morningstarlawgroup.com/919.590.0371			
Meeting Format: Virtual per Town's Requirements				
Date of meeting: September 30, 20	21 Time of meeting: <u>5:30pm-7:30pm</u>			

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1: What is the plan for development of the site

Applicant's Response: The applicant's representative shared a draft potential layout of the site which is included herein

Question/Concern #2: What is the proposed buffer to the western boundary

Applicant's Response: the plan is for a 30' perimeter buffer that would seek to preserve as much of the existing mature vegetation as practicable

Question/Concern #3: What is the plan for stormwater

> Applicant's Response: The owners have agreed to engineer for the 25 year storm event, and we anticipate an SCM near the western boundary

Question/Concern #4:

A concern was expressed with respect to potential impacts to groundwater from a gas station

Applicant's Response:

Noted, and we believe that most of the issues with service stations and groundwater is from older underground storage tanks

Instruction Packet & Af - Page 252 - leighborhood Meetings

# SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): <u>JVI Building and Developm</u>	nent, Inc. and David Ray Powell
Applicant(s): Peak Engineering and Morningstar Law	' Group
Contact information (email/phone): jbarron@morning	jstarlawgroup.com/919.590.0371
Meeting Format: Virtual per Town's Requirements	
Date of meeting: September 30, 2021	Time of meeting: 5:30pm-7:30pm

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1: where is sewer coming from

Applicant's Response: The anticipation is that this site can be sewered from a development to the north that will be bringing gravity sewer across Humie Olive

Question/Concern #2:

Would you consider a 6' privacy fence along the western boundary of the site

Applicant's Response:

the applicant agreed to walk the site and determine feasibility of a fence with the lone adjacent neighbor that attended the meeting

Question/Concern #3:

The attendees stated they will not oppose the development and appreciated how transparent the neighborhood meeting was

Applicant's Response:

Question/Concern #4:

Applicant's Response:

ELECTRONIC NEIGHBORHOOD MEETING ATTENDANCE SHEET

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

Meeting Format: Virtual per Town's Requirements	mber 30, 2021 Time of meeting: 5:30pm-7:30pm	nd Development, Ir	Apolicant(s): Peak Engineering and Morningstar Law Group
Virtual per Town	September 30, 2	name(s): JVI B	k Engineering ar
Meeting Format:	Date of meeting: September 30, 2021	Property Owner(s)	Applicant(s): Pea

Please list Electronic Neighborhood Meeting Attendees who provided their name and/or contact information either during the meeting or via phone/email before or after the meeting.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
÷	Matthew and Diane Olson	2404 Old US 1 HWY			
2.		421 Fayetteville Street, Suite 530, Raleigh	919.590.0371	Jason Barron, Morningstar Law Group 421 Fayetteville Street, Suite 530, Raleigh 919.590.0371 jbarron@morningstarlawgroup.com	
'n	Jeff Roach, Peak Engineering & Des	s 1125 Apex Peakway, Apex, NC	(919) 439-0100	jroach@peakengineering.com	
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12.					
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Use	Use additional sheets. if necessary.				

Last Updated: March 25, 2020

#### AFFIDAVIT OF CONDUCTING AN ELECTRONIC NEIGHBORHOOD MEETING AND ISSUES/RESPONSES SUBMITTAL

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

I, \_\_\_\_\_, do hereby declare as follows:

Print Name

- 1. I have conducted an Electronic Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Electronic Neighborhood Meeting.
- 3. The meeting was conducted via <u>Virtual per Town's Requirements</u> (indicate format of meeting) on <u>September 30, 2021</u> (date) from <u>530pm</u> (start time) to <u>730pm</u> (end time).
- 4. I have included the mailing list, meeting invitation, attendance sheet issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

JULIA OGDEN

NOTARY PUBLIC WAKE COUNTY, N.C

 $\langle$ By:

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,	Lialledun, a Notary Public for the above State and
County, on this theday of	) Cturn, 2021.
SEAL	Julea D
	Notary Public

Print Name

My Commission Expires:

- Page 255 -

#### **CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS**

Application #:

Submittal Date:

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

	Owner's Name PIN
1.	LIST PROVIDED BY TOWN
2.	
3.	
4.	
5.	
6.	
7.	
8.	
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10.	
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prop	son Barron, certify that this is an accurate listing of all property owners and rty owners within 300' of the subject property. $16\left(1 2 $ By
COU	TY OF WAKE STATE OF NORTH CAROLINA
	and subscribed before me, <u>Julia Ogden</u> , a Notary Public for the above State and y, on this the <u>day of October</u> , 20 21. Notary Public Notary Public JULIA OGDEN NOTARY PUBLIC WAKE COUNTY, N.C.

Rezoning & 2	ar ar i lin a a conservation es	nt Application
	- Page 256 -	

#### PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 21CZ26 Humie Olive Commercial

Planning Board Meeting Date: April 11, 2022

#### **Report Requirements:**

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

#### **PROJECT DESCRIPTION:**

Acreage:	±7.69 acres
PIN(s):	0720993254 & 0720990292
Current Zoning:	Rural Residential (RR)
Proposed Zoning:	Neighborhood Business-Conditional Zoning (B1-CZ)
2045 Land Use Map:	High Density Residential/Commercial Services
Town Limits:	ETJ

#### **Applicable Officially Adopted Plans:**

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

$\checkmark$	2045 Land Use Map ✓ Consistent	Inconsistent	Reason:
$\checkmark$	Apex Transportation Plan          Image: Consistent	Inconsistent	Reason:
	Parks, Recreation, Open Space	e, and Greenways Plan	Reason:

PE

Rez	ANNING BOARD REPORT TO TOWN COUNCIL zoning Case: 21CZ26 Humie Olive Commercial mning Board Meeting Date: April 11, 2022
The con pro	<b>islative Considerations:</b> applicant shall propose site-specific standards and conditions that take into account the following siderations, which are considerations that are relevant to the legislative determination of whether or not the posed conditional zoning district rezoning request is in the public interest. These considerations do not lude the legislative consideration of any other factor that is relevant to the public interest.
1.	Consistency with 2045 Land Use Plan. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan.         Image: Consistent in the purpose is consisten
2.	Compatibility. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.         Image: Consistent       Inconsistent         Reason:
3.	Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 Supplemental Standards, if applicable.         Image: Consistent in the proposed Conditional Zoning (CZ) District use's compliance compliance is a standards. The proposed Conditional Zoning (CZ) District use's compliance is a standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 Supplemental Standards, if applicable.         Image: Consistent in the proposed Conditional Zoning (CZ) District use's compliance is a standards. The proposed Conditional Zoning (CZ) District use's compliance is a standards.
4.	Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.         Image: Consistent       Inconsistent         Reason:       Inconsistent
5.	Design minimizes environmental impact. The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.         ✓       Consistent       Inconsistent       Reason:

Rezoning C	BOARD REPORT TO ase: 21CZ26 Humie Ol rd Meeting Date: April 11,	ive Commercial	A PEA 1873 N R R
impact school		d services, including roads	ing (CZ) District use's avoidance of having adverse , potable water and wastewater facilities, parks, Reason:
or wel	<i>, safety, and welfare.</i> Th fare of the residents of t onsistent		ning (CZ) District use's effect on the health, safety, Reason:
substa	nental to adjacent prop ntially detrimental to ac onsistent		oposed Conditional Zoning (CZ) District use is Reason:
a nuisa the Co		affic impact or noise, or be	ed Conditional Zoning (CZ) District use constitutes cause of the number of persons who will be using Reason:
compli layout		mposed on it by all other	he proposed Conditional Zoning (CZ) District use applicable provisions of this Ordinance for use, Reason:

#### PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 21CZ26 Humie Olive Commercial

Rezonning Case. 21C220 munite Onve commerce



Planning Board Meeting Date: April 11, 2022

#### Planning Board Recommendation:

Motion:	To recommend approval with conditions as proposed by
	applicant if developer adds the staff recommended condition.
Introduced by Planning Board member:	Mark Steele
Seconded by Planning Board member:	Tim Royal

Approval: the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.

Approval with conditions: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

Conditions as proposed by applicant if developer adds the additional condition recommended by staff that "A maximum of a single point of access shall be provided on each roadway."

*Denial*: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 7 Planning Board Member(s) voting "aye" With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 11th day of April 2022.

Attest:

Menters

Reginald Skinner, Planning Board Chair



Dianne Khin, Director of Planning and Community Development

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POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #21CZ26 Humie Olive Commercial

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: David Ray Powell/JVI Building & Development Authorized Agent: Jeff Roach, P.E., Peak Engineering & Design, PLLC Property Addresses: 0 & 7525 Humie Olive Road Acreage: ±7.69 acres Property Identification Numbers (PINs): 0720993254 & 0720990292 2045 Land Use Map Designation: High Density Residential/Commercial Services Existing Zoning of Properties: Rural Density Residential (RR) Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ) Public Hearing Location: Apex Town Hall Council Chamber, 2<sup>nd</sup> Floor

73 Hunter Street, Apex, North Carolina

#### Planning Board Public Hearing Date and Time: April 11, 2022 4:30 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

# A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

#### Vicinity Map:

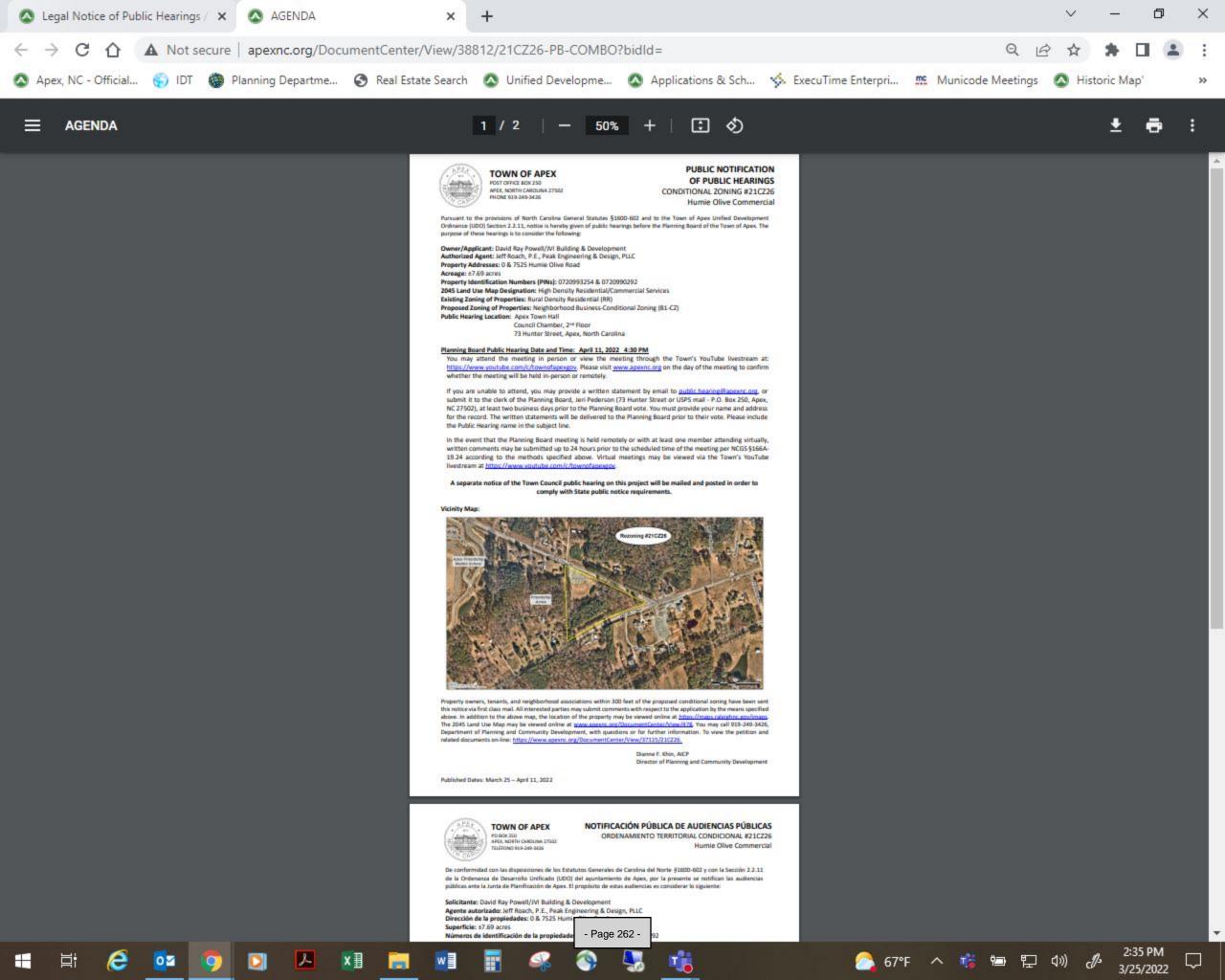


Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/37115/21CZ26">https://www.apexnc.org/DocumentCenter/View/37115/21CZ26</a>.

Published Dates: March 25 – April 11, 2022

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Dianne F. Khin, AICP Director of Planning and Community Development





PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426 NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ26 Humie Olive Commercial

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: David Ray Powell/JVI Building & Development
Agente autorizado: Jeff Roach, P.E., Peak Engineering & Design, PLLC
Dirección de la propiedades: 0 & 7525 Humie Olive Road
Superficie: ±7.69 acres
Números de identificación de la propiedades: 0720993254 & 0720990292
Designación actual en el Mapa de Uso Territorial para 2045: High Density Residential/Commercial Services
Ordenamiento territorial existente de la propiedades: Rural Density Residential (RR)
Ordenamiento territorial propuesto para la propiedades: Neighborhood Business-Conditional Zoning (B1-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

#### Fecha y hora de la audiencia pública de la Junta de Planificación: 11 de abril de 2022 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, o presentarla a la secretaría de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

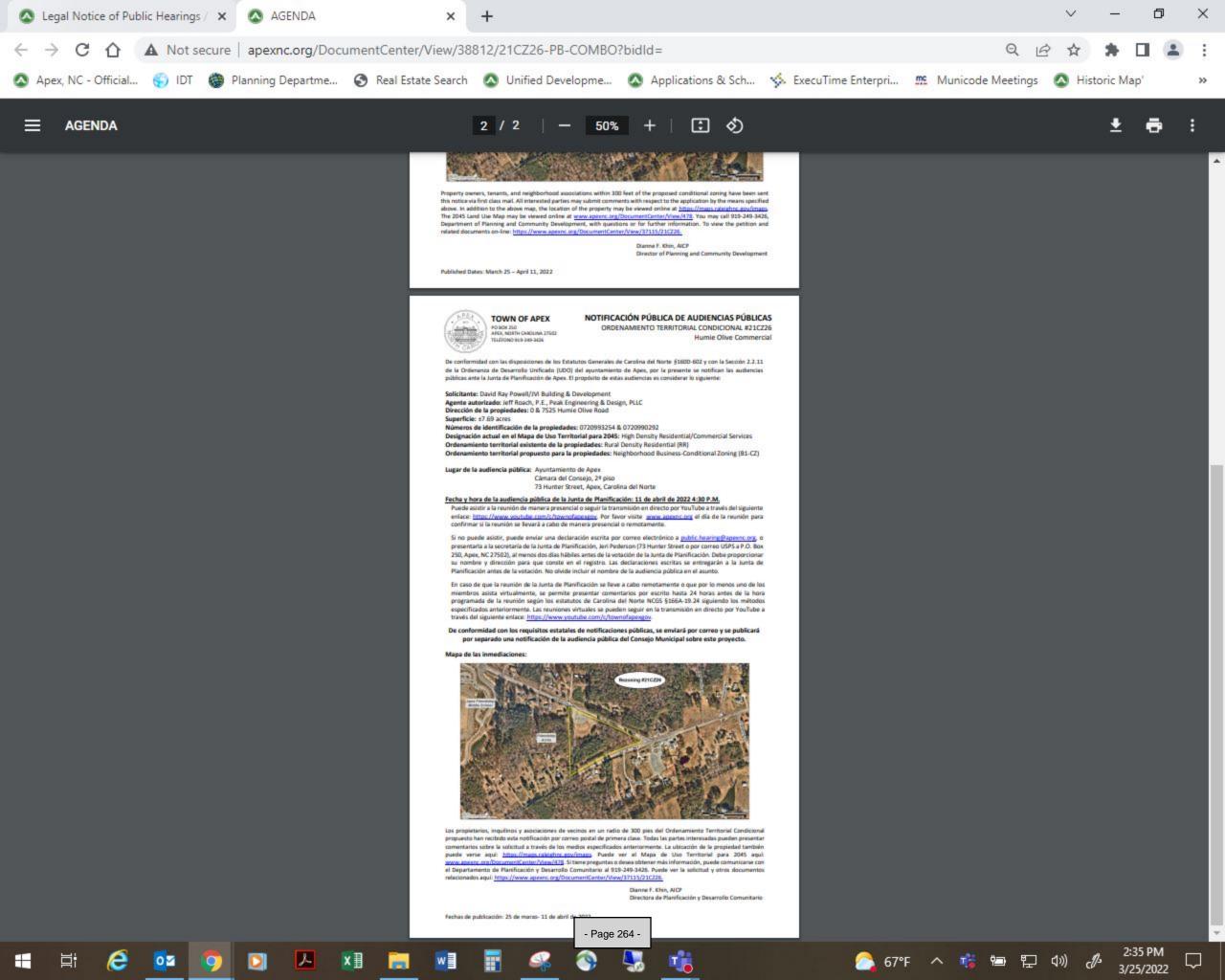
# De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.



Mapa de las inmediaciones:

Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/37115/21CZ26</u>.

Dianne F. Khin, AICP Directora de Planificación y Desarrollo Comunitario





POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

#### **AFFIDAVIT CERTIFYING** Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

**Project Name:** 

Project Location:

Conditional Zoning #21CZ26 Humie Olive Commercial 0 & 7525 Humie Olive Road

Applicant or Authorized Agent:

Jeff Roach, P.E.

Firm:

Peak Engineering & Design, PLLC.

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on March 25, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

3/28/2022

Stiance 7. thin

ctor of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

Jeri Chastain Rederson , a Notary Public for the above

State and County, this the

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ALC: NO	JERI CHASTAIN PEDERSON
	Notary Public
100	Wake County, North Carolina
	My Commission Expires
	March 10, 2024
4.	

Jeli Chastain Pederson Notary Public

My Commission Expires: 3 10 2024

- Page 265 -

28 day of March , 2024.



POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #21CZ26

Humie Olive Commercial

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: David Ray Powell/JVI Building & Development Authorized Agent: Jeff Roach, P.E., Peak Engineering & Design, PLLC Property Addresses: 0 & 7525 Humie Olive Road Acreage: ±7.69 acres Property Identification Numbers (PINs): 0720993254 & 0720990292 2045 Land Use Map Designation: High Density Residential/Commercial Services Existing Zoning of Properties: Rural Density Residential (RR) Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ) Public Hearing Location: Apex Town Hall Council Chamber, 2<sup>nd</sup> Floor

73 Hunter Street, Apex, North Carolina

#### Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

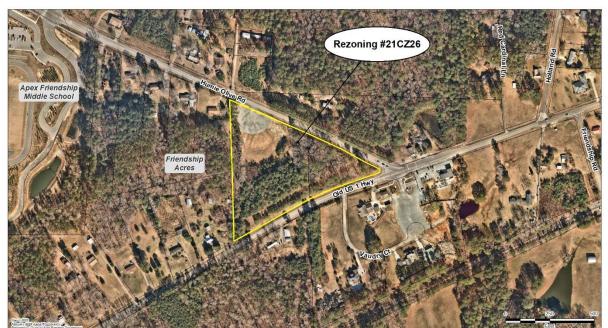
#### Town Council Public Hearing Date and Time: April 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the office of the Town Clerk, (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

#### Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/37115/21CZ26">https://www.apexnc.org/DocumentCenter/View/37115/21CZ26</a>.

Dianne F. Khin, AICP Director of Planning and Community Development

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TOWN OF APEX POST OFFICE BOX 230 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ26 Humie Olive Commercial

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDD) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: David Ray Powell/JVI Building & Development Authorized Agent: Jeff Roach, P.E., Peak Engineering & Design, PLLC Property Addresses: 0 & 7525 Humie Olive Road Acreage: ±7.69 acres Property Identification Numbers (PINs): 0720993254 & 0720990292 2045 Land Use Map Designation: High Density Residential/Commercial Services Existing Zoning of Properties: Rural Density Residential (RR) Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ) Public Hearing Location: Apex Town Hall Council Chamber, 2<sup>nd</sup> Floor

73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

Town Council Public Hearing Date and Time: April 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the office of the Town Clerk, (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

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#### Vicinity Map



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps.">https://maps.raleighnc.gov/imaps.ralei

- Page 267 -

Dianne F. Khin, AICP Director of Planning and Community Development

Published Dates: April 1 - April 26, 2022

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PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

#### NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ26 Humie Olive Commercial

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: David Ray Powell/JVI Building & Development Agente autorizado: Jeff Roach, P.E., Peak Engineering & Design, PLLC Dirección de la propiedades: 0 & 7525 Humie Olive Road Superficie: ±7.69 acres

Números de identificación de la propiedades: 0720993254 & 0720990292 Designación actual en el Mapa de Uso Territorial para 2045: High Density Residential/Commercial Services Ordenamiento territorial existente de la propiedades: Rural Density Residential (RR) Ordenamiento territorial propuesto para la propiedades: Neighborhood Business-Conditional Zoning (B1-CZ)

#### Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

#### Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

#### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de abril, 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, 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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

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# Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/37115/21CZ26.</u>

#### Mapa de las inmediaciones:

Fechas de publicación: 1 de abril-26 de abril 2022

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Dianne F. Khin, AICP Directora de Planificación y Desarrollo Comunitario Attp://www.apexnc.org/DocumentCenter/View/38906/21CZ26-only-remote-info--PN-TC-COMBO?bidld=

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#### 🙆 Legal Notice of Public Hearing... 🙆 apexnc.org



NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS ORDENAMIENTO TERRITORIAL CONDICIONAL #21CZ26 Humie Olive Commercial

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

XI

Solicitante: David Ray Powell/JVI Building & Development Agente autorizado: Jeff Roach, P.E., Peak Engineering & Design, PLLC Dirección de la propiedades: 0 & 7525 Humie Olive Road Superficie: ±7.69 acres Números de identificación de la propiedades: 0720993254 & 0720990292 Designación actual en el Mapa de Uso Territorial para 2045: High Density Residential/Commercial Services Ordenamiento territorial existente de la propiedades: Neighborhood Business-Conditional Zoning (B1-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex Cámara del Consejo, 2º piso

TOWN OF APEX

TELÉFONO 919-249-3426

APEX, NORTH CAROLINA 27502

PO BOX 250

73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

#### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de abril, 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

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#### Mapa de las inmediaciones:

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Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos picionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/37115/21C226</u>.

Dianne F. Khin, AICP

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Directora de Planificación y Desarrollo Comunitario Fechas de publicación: 1 de abril- 26 de abril 2022 - Page 269 -

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POST OFFICE BOX 250 APEX. NORTH CAROLINA 27502 PHONE 919-249-3426

#### AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

Project Name:	Conditional Zoning #21CZ26 Humie Olive Commercial
Project Location:	0 Humie Olive Road, 7527 Humie Olive Road
Applicant or Authorized Agent:	Jeff Roach, PE

Firm:

Peak Engineering & Design, PLLC

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on April 1, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

4/4/2022

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of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

<u>Jeri Chastain Pederson</u>, a Notary Public for the above <u>H</u> day of <u>April</u>, 202 <u>2</u>.

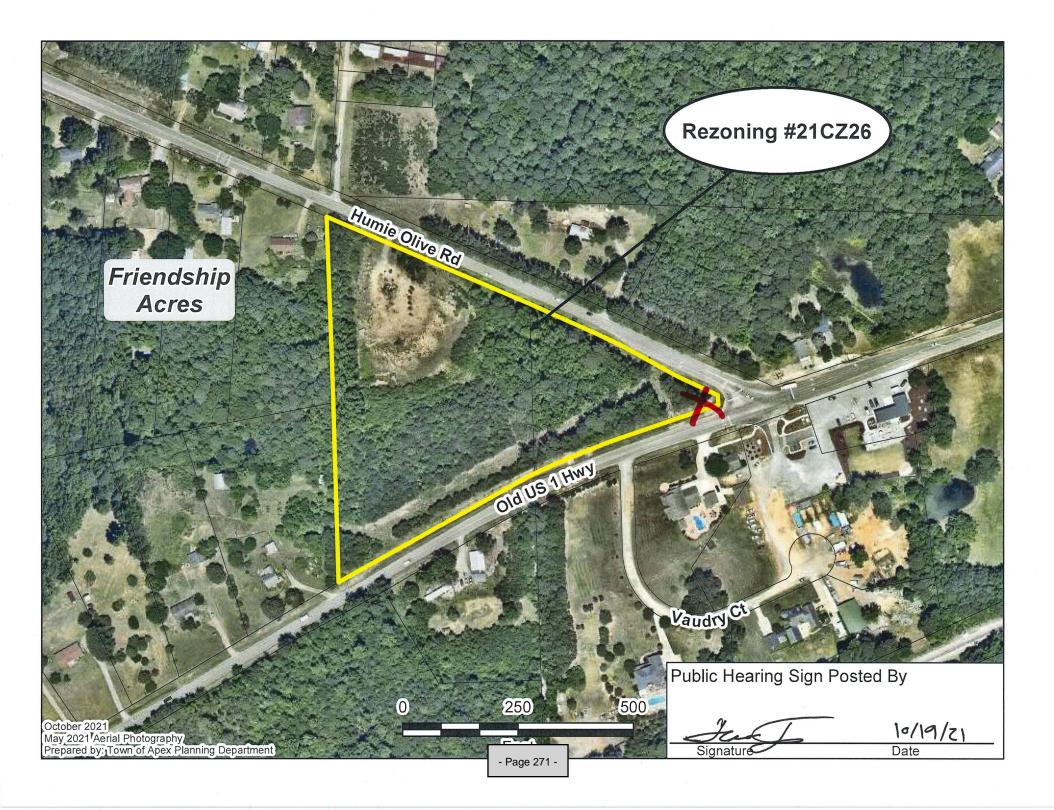
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	JERI CHASTAIN PEDERSON	(
	Notary Public	
	Wake County, North Carolina	7
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My Commission Expires: <u>3 / 10</u> / 2024

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# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING Meeting Date: April 26, 2022

## Item Details

Presenter(s):Amanda Bunce, Current Planning ManagerDepartment(s):Planning and Community Development

#### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #22CZ03 Sweetwater PUD Amendment. The applicant, David Schmidt, ExperienceOne Homes, LLC, seeks to rezone approximately 44.76 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 & 3233 US 64 Hwy W, 0 Core Banks St, and 1051 & 1075 Newland Ave.

#### Approval Recommended?

The Planning and Community Development Department recommends approval only if the applicant withdraws the request to remove the text requiring the reservation of right-of-way for the future interchange.

The Planning Board held a public hearing on April 11, 2022 and unanimously recommended approval with the change as recommended by staff.

#### <u>Item Details</u>

The properties to be rezoned are identified as PINs 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, & 0722544404.

<u>Attachments</u>

- Staff Report
- Vicinity Map
- Application



April 26, 2022 Town Council Meeting



All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

#### **BACKGROUND INFORMATION:**

Location: 3233 US 64 Highway, 0 Core Banks St., 0 US 64 Highway, 1051 & 1075 Newland Ave.
 Applicant: David Schmidt, ExperienceOne Homes, LLC
 Owners: KEPE1 STC, LLC; KEPE1 Holdings, LLC; Sweetwater Lightbridge, LLC

#### **PROJECT DESCRIPTION:**

Acreage: ±44.76 PINs: 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404 Current Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) Proposed Zoning: Planned Unit Development-Conditional Zoning (PUD-CZ) 2030 Land Use Map: Mixed Use: High Density Residential/Office Employment/Commercial Services Town Limits: Inside Town Limits

#### Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ31); Neighborhood Business (B1); Rural Residential (RR)	US 64 Hwy W; Westford PUD; Convenience Store; Large Lot Residential
South:	Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ21)	Core Banks Street; Sweetwater Residential section: Single Family, Townhomes, & Amenity Center
East:	Tech/Flex (TF); Light Industrial (LI); Rural Residential (RR)	64 Business Park and Self-Storage; Vacant
West:	Planned Unit Development-Conditional Zoning (PUD-CZ #15CZ32); Planned Commercial (PC)	Landscape Business; Smith Farm PUD (future mixed-use section)

#### **EXISTING CONDITIONS:**

The properties to be rezoned were originally rezoned to Planned Unit Development-Conditional Zoning on April 21, 2015 with the most recent revisions being approved on October 16, 2018. The subject properties on the east side of Richardson Road contain a day care, the mixed use development that is under construction, and two parcels for future development. The parcels on the west side of Richardson Road are mostly wooded with the exception of a former pond site and a construction trailer.

#### **NEIGHBORHOOD MEETING:**

The applicant conducted a neighborhood meeting on January 25, 2022. The neighborhood meeting report is attached.

#### 2045 LAND USE MAP:

The 2045 Land Use Map classifies the properties subject to this rezoning as Mixed Use: High Density Residential/Office Employment/Commercial Services. The proposed amendments to the PUD-CZ zoning are consistent with that classification.



#### PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing the changes shown below with this PUD amendment. Deletions are shown with strikethrough and additions are shown in bold.

#### 1. Changes to Section 6: Design Controls

The following language was changed for the Nonresidential/Mixed Use Areas

Office: A minimum of 80,000 55,000 square feet of office will be provided in this section.

#### 2. Change to Section 11: Public Facilities.

<u>Roadway:</u> Internal Streets will be designed to Town of Apex public roads standards. The proposed development roadway system will be in accordance with the Apex Thoroughfare and Collector Street Plan. A functional alignment for the future Richardson Road thoroughfare will be created with the input from NCDOT and Town of Apex from its intersection with US 64 to the edge of the project area. The ultimate cross-section for the future Richardson Road will be 4 lane median divided facility on a 100-foot public right-of-way. In the initial phases of the development, the developer will construct a 2-lane median divided road. The final design will be determined at Master Subdivision Plan. The intersection of the future Richardson Road and US Highway 64 will comply with the NCDOT US 64 corridor plan, with interim measures. to accommodate the ultimate design for the interchange.

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2. The developer shall propose a conceptual design for the future interchange at US 64 if offered as an alternative to the interchange recommended in the US 64 Corridor Study. Reservation of future public right of way for the interchange shall be determined based on Town of Apex and NCDOT review and approval of the interchange concept(s) if not based on the US 64 Corridor Study. This reservation shall be included in development plans and occur at the time of platting parcels for development adjacent to US 64. Surplus parking and related facilities (lighting, landscaping, and storm drainage, etc.) can be constructed within the reservation area; with the understanding that these improvements may be removed in the future. The developer shall make the necessary provisions to accommodate future loss of parking by appropriate site planning including addition of a 50' Type A Buffer behind the reservation area.

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3. New Section 17: Environmental Advisory Board. The following language has been added:

**1.** At least one (1) pet waste station shall be installed near the Hotel if the Hotel permits pets.

#### EAB RECOMMENDATIONS:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on January 20, 2022. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Construct a bus stop if the stop is desirable and recommended by Town staff	Not added
and transit providers after coordination.	
Include energy efficient lighting in building design.	Not added

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April 26, 2022 Town Council Meeting

EAB Suggested Condition	Applicant's Response
<ul> <li>Lower maximum foot-candles outside of buildings.</li> <li>Install timers or light sensors or smart lighting technology.</li> <li>Incorporate natural lighting techniques into building design.</li> <li>Include International Dark Sky Association compliance standards.</li> </ul>	Not added
Outdoor lighting shall be shielded in a way that focuses lighting to the ground.	Not added
Lighting that minimizes the emission of blue light to reduce glare shall be used.	Not added
Lighting with a color temperature of 3000K or less shall be used for outs installations.	Not added
Add 100-kW of solar PV on the rooftop of the hotel conference center and groc stores over 35,000 sq. feet.	Not added
Install pet waste stations nearby the hotel if the hotel permits pets.	Added
<ul><li>Implement green infrastructure:</li><li>Plant rain gardens.</li><li>Implement xeriscaping in design.</li></ul>	Not added
Install pervious pavements where practicable (e.g. when parking maximums are exceeded).	Not added

Note: Long Range Planning staff would not recommend a condition for the developer to provide a transit stop as part of the rezoning amendments for Sweetwater PUD as we have no transit route planned to serve this area on the Transit Plan map.

#### **APEX TRANSPORTATION PLAN:**

The proposed PUD amendment is not consistent with the Apex Transportation Plan which shows a future interchange at Richardson Road and Highway 64 consistent with NCDOT's US 64 Corridor Study. Staff requested that the Sweetwater PUD contain text reserving right-of-way for this future interchange when the initial Sweetwater PUD rezoning was submitted in 2014 and the PUD was subsequently approved with this reservation. In 2017, the PUD was amended to allow surplus parking and related facilities like lighting and storm drainage to be located within the reservation area in order to allow for use of the land until such time the right-of-way is purchased by NCDOT.

The main concern from staff is that removal of the reservation for the interchange would allow construction of buildings and critical site elements close to US 64 that eventually would have to be bought out and removed when the interchange is constructed. Development in the area needed as right-of-way will likely result in design constraints and/or higher impacts and costs of construction related to demolition of improvements including buildings and parking. In addition to the added cost to a state project would be the disruption to citizen's lives and businesses that the community has to deal with when the interchange project moves forward. Citizens and businesses ultimately blame the Town for allowing development in areas that should not have been developed.

#### PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of rezoning #22CZ03 Sweetwater PUD Amendment only if the applicant withdraws the request to remove the text requiring the reservation of right-of-way for the future interchange.



#### PLANNING BOARD RECOMMENDATION:

The Planning Board heard this rezoning at the April 11, 2022 meeting and unanimously recommended approval if the applicant withdraws the request to remove the text requiring the reservation of right-of-way for the future interchange.

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#### ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

While the proposed rezoning does not affect consistency with the 2045 Land Use Map, the proposed rezoning to amend the current PUD-CZ zoning district is not reasonable in that the request to remove the reservation of right-of-way for the interchange is not consistent with the Apex Transportation Plan and US 64 Corridor Study.

The proposed rezoning is not in the public interest because the amendments to the existing PUD conditions to remove the reservation of right-of-way for the interchange will likely result in design constraints and/or higher costs and higher impacts of construction related to demolition of improvements including buildings and parking.

# PLANNED UNIT DEVELOPMENT DISTRICT AND CONDITIONAL ZONING STANDARDS: *Standards*

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

1. Planned Unit Development (PUD-CZ) District

In approving a Planned Development (PD) Zoning District designation for a PUD-CZ, the Town Council shall find the PUD-CZ district designation and PD Plan for PUD-CZ demonstrates compliance with the following standards:

- a) Development parameters
  - (i) The uses proposed to be developed in the PD Plan for PUD-CZ are those uses permitted in Sec. 4.2.2 *Use Table.*
  - (ii) The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed use areas as specified on the 2045 Land Use Map. The location of uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.
  - (iii) The dimensional standards in Sec. 5.1.3 Table of Intensity and Dimensional Standards, Planned Development Districts may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.

April 26, 2022 Town Council Meeting



- (iv) The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details*, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Apex Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.
- (v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-desac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.
- (vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.
- (vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.
- b) *Off-street parking and loading*. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.3 *Off-Street Parking and Loading*, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the PUD-CZ is submitted as part of the PD Plan that is determined to be suitable for the PUD-CZ, and generally consistent with the intent and purpose of the off-street parking and loading standards.
- c) *RCA*. The PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.1.2 Resource Conservation Area, except that the percentage of RCA required under Sec. 8.1.2 may be reduced by the Town Council by no more than 10% provided that the PD Plan for PUD-CZ includes one or more of the following:
  - (i) A non-residential component;
  - (ii) An overall density of 7 residential units per acre or more; or
  - (iii) Environmental measures including but not limited to the following:
    - a. The installation of a solar photovoltaic (PV) system on a certain number or percentage of single-family or townhouse lots or on a certain number or percentage of multifamily, mixed-use, or nonresidential buildings. All required solar installation shall be completed or under construction prior to 90% of the building permits being issued for the approved number of lots or buildings. For single-family or townhouse installations, the lots on which these homes are located shall be identified on the Master Subdivision Plat, which may be amended;
    - b. The installation of a geothermal system for a certain number or percentage of units within the development; or
    - c. Energy efficiency standards that exceed minimum Building Code requirements (i.e. SEER rating for HVAC).

STAFF REPORT Rezoning #22CZ03 Sweetwater PUD Amendment

#### April 26, 2022 Town Council Meeting



- d) *Landscaping*. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.
- e) Signs. Signage in the PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.7 Signs, except that the standards can be varied if a master signage plan is submitted for review and approval concurrent with the PD plan and is determined by the Town Council to be suitable for the PUD-CZ and generally consistent with the intent and purpose of the sign standards of the UDO. The master signage plan shall have design standards that are exceptional and provide for higher quality signs than those in routine developments and shall comply with Sec. 8.7.2 *Prohibited Signs*.
- f) *Public facilities.* The improvements standards and guarantees applicable to the public facilities that will serve the site shall comply with Article 7: *Subdivision and* Article 14: *Parks, Recreation, Greenways, and Open Space.* 
  - (i) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site transportation circulation system. The on-site transportation circulation system shall be integrated with the off-site transportation circulation system of the Town. The PD Plan for PUD-CZ shall be consistent with the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details* and show required right-of-way widths and road sections. A Traffic Impact Analysis (TIA) shall be required per Sec. 13.19.
  - (ii) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, and are efficiently integrated into off-site potable water and wastewater public improvement plans. The PD Plan shall include a proposed water and wastewater plan.
  - (iii) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads shall be planned and programmed for the development proposed in the PD Plan for PUD-CZ, and the development is conveniently located in relation to schools and police protection services.
  - (iv) The PD Plan shall demonstrate compliance with the parks and recreation requirements of Sec. Article 14: *Parks, Recreation, Greenways, and Open Space* and Sec. 7.3.1 *Privately-owned Play Lawns* if there is a residential component in the PUD-CZ.
- g) Natural resource and environmental protection. The PD Plan for PUD-CZ demonstrates compliance with the current regulatory standards of this Ordinance related to natural resource and environmental protection in Sec. 6.1 Watershed Protection Overlay District, Sec. 6.2 Flood Damage Prevention Overlay District, and Sec. 8.1 Resource Conservation.
- h) *Storm water management.* The PD Plan shall demonstrate that the post-development rate of on-site storm water discharge from the entire site shall not exceed pre-development levels in accordance with Sec. 6.1.7 of the UDO.
- i) *Phasing.* The PD Plan for PUD-CZ shall include a phasing plan for the development. If development of the PUD-CZ is proposed to occur in more than one phase, then guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

April 26, 2022 Town Council Meeting

j) *Consistency with 2045 Land Use Map.* The PD Plan for PUD-CZ demonstrates consistency with the goals and policies established in the Town's 2045 Land Use.

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NO

k) *Complies with the UDO.* The PD Plan for PUD-CZ demonstrates compliance with all other relevant portions of the UDO.

#### Legislative Considerations

The Planning Board shall find the PUD-CZ designation demonstrates compliance with the following standards. Sec. 2.3.3.F:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 *Supplemental Standards,* if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



# Rezoning #22CZ03

age Rd

Stratford at Abbington

Townes at Westford

Tata 2 8 1000 8 10

64

# Timken Forest Dr

Sweetwater

1,000

PLANNED	UNIT DEVELOPMENT APPLICATION				
This documer third parties.	nt is a public record under the North Carolina Public	c Records Ac	t and may be published o	on the Town's website	e or disclosed to
Application	#: <u>22CZ03</u>	_	Submittal Date:	2-1-22	
Fee Paid	\$ 600.00	_	Check #	Visa	
PETITION 1	TO AMEND THE OFFICIAL ZONING DISTRIC	СТ МАР			
Project Nar	ne: Sweetwater PUD				
Address(es)	:3233 US 64 Highway, 0 Core Banks St., 0	US 64 High	way, 1051 Newland Ave	e., 1075 Newland Ave	e. Apex, NC 27523
PIN(s) 0	722-45-3275, 0722-45-6374, 0722-	45-8740,	0722-55-0034, 0	)722-54-4876,	0722-54-4404
_				Acreage:4	4.76 AC
Current Zor	ning: PUD-CZ	Propo	osed Zoning: PUI	D-CZ	
Current 204	45 LUM Designation: Community	Mixed U	lse (CMU		
Is the prop	osed rezoning consistent with the 2045 LUN	l Classificat	tion(s)? Yes 🗖	No	
If any porti	ion of the project is shown as mixed use (3 c	or more str	ipes on the 2045 Lan	d Use Map) provid	e the following:
Ar	ea classified as mixed use:		Acreage:	44.76 AC	
Ar	ea proposed as non-residential developmen	t:	Acreage:	44.76 AC	
Pe	rcent of mixed use area proposed as non-re	sidential:	Percent:	100%	
Applicant I	nformation				
Name:	ExperienceOne Homes, LLC				
Address:	PO Box 5509				
City:	Cary	State:	NC	Zip:	27512
Phone:	(919) 991-1428	E-mail:	Dschmidt@E1	Homes.com	
Owner Info	ormation				
Name:	See attached list				
Address:					
City:		State:		Zip:	
Phone:		E-mail:			
Agent Info	rmation				
Name:	CE Group, Inc - Mitch Craig				
Address:	301 Glenwood Avenue, Suite 22	20			
City:	Raleigh	State:	NC	Zip:	27603
Phone:	(919) 367-8790	E-mail:	Mitch@CEGro	upInc.com	
Other conta	acts:	_			

PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS:

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments. The PD text and plan should demonstrate how the standards of Sec. 2.3.4.F are met be the proposed rezoning.

#### **LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING**

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) Consistency with 2045 Land Use Map. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

The proposed residential and non-residential uses are consistent with the uses as defined by the

Community Mixed Use category in the 2045 Land Use Map. CMU encourages the integration of residential and non-residential mixed-use uses.

2) Compatibility. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The land areas surrounding the Sweetwater PUD are a mixture of retail, residential (single family,

townhome, apartments) and commercial. This PUD combines most of the surrounding uses into one project.

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 Supplemental Standards, if applicable.

The Sweetwater PUD complies with the regulations in section 4.4 of the Town of Apex UDO as

applicable for townhomes, multi-family or apartment, day care, and commercial uses, to the extent these regulations do not conflict with the PUD regulations.

#### **PLANNED UNIT DEVELOPMENT APPLICATION**

Application #:

22CZ03

Submittal Date:

2-1-22

#### **PETITION PROCESS INFORMATION**

4) Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

The architectural for the Sweetwater PUD will reflect the residential and non-residential scale and character of traditional Apex building Styles.

Service bays of non-residential uses will be located in the rear of structures. Variation in colors and materials will be considered

to create visually engaging designs. Roof lines and materials will be varied to create visual interest and avoid repetition. Trash,

parking and loading and odors will be screened from adjacent uses as required by the UDO and as set forth in the PUD regulations.

5) *Design minimizes environmental impact*. The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

The Sweetwater PUD will use exterior of the property to the extent practicable for RCA. This PUD will comply

with all built upon area, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.7.

The commercial portion of the project will include multiple Electric Vehicle (EV) charging stations. This PUD will

#### contain greater than 25% RCA.

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

Public water and sewer facilities have been extended to the project and will be installed interior

to the project by the Developer. The proposed PUD will meet all Public Facilities requirements

in UDO Section 2.3.4(F)(1)(f).

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

The proposed PUD will improve the public health by providing all uses in a compact area,

including residential, office, retail, commercial, medical and restaurants. A resident theoretically

would not have to leave the development in order to eat, sleep, shop, work and go to the doctor.

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

The Sweetwater PUD has had a positive impact on the adjacent properties. The uses

proposed in the PUD will/have enhanced the character of the adjacent properties and offer

uses that compliment the adjacent properties.

#### **PETITION PROCESS INFORMATION**

9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

The proposed PUD will not constitute a hazard due to traffic or noise as the traffic impacts will be

mitigated by the road improvements shown in the PUD, TIA, etc. Other potential negative impacts

are mitigated to the maximum extent practical by the design guidelines in the PUD documents.

10) Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

The Sweetwater PUD will comply with all other relevant portions of the Ordinance (UDO).

PIN	Real Estate ID	Owner	Mail Address 1	Mail Address 2	Deed Book	Deed Page	Deed Acres	Site Address	City	Owner Email	Owner Email
0722-55-0034	148944	KEPE1 STC, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51-55	18.33	3233 US 64 HWY W	APEX	EK@Kaled.com	Dschmidt@E1Homes.com
0722-54-4876	120755	KEPE1 STC, LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	51-55	5.9	1051 NEWLAND AVE	APEX	EK@Kaled.com	Dschmidt@E1Homes.com
0722-54-4404	476653	SWEETWATER LIGHTBRIDGE LLC	PO BOX 5509	CARY NC 27512-5509	17764	1056	1.38	1075 NEWLAND AVE	APEX		Dschmidt@E1Homes.com
0722-45-3275	436595	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056-2060	13.43	0 CORE BANKS ST	APEX	EK@Kaled.com	Dschmidt@E1Homes.com
0722-45-8740	444531	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056-2060	0.59	0 US 64 HWY W	APEX	EK@Kaled.com	Dschmidt@E1Homes.com
0722-45-6374	436584	KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056-2060	1.79	0 US 64 HWY W	APEX	EK@Kaled.com	Dschmidt@E1Homes.com

#### **DEVELOPMENT NAME APPROVAL APPLICATION**

Application #: 22CZ03

Submittal Date:

Fee for Initial Submittal: No Charge

Fee for Name Change after Approval: \$500\*

#### Purpose

To provide a consistent and clearly stated procedure for the naming of subdivisions and/or developments and entrance roadways (in conjunction with *Town of Apex Address Policy*) so as to allow developers to define and associate the theme or aesthetics of their project(s) while maintaining the Town's commitment to preserving the quality of life and safety for all residents of Apex proper and extraterritorial jurisdiction.

#### Guidelines

- ✓ The subdivision/development name shall not duplicate, resemble, or present confusion with an existing subdivision/development within Apex corporate limits or extraterritorial jurisdiction except for the extension of an existing subdivision/development of similar or same name that shares a continuous roadway.
- ✓ The subdivision/development name shall not resemble an existing street name within Apex corporate limits or extraterritorial jurisdiction unless the roadway is a part of the subdivision/development or provides access to the main entrance.
- ✓ The entrance roadway of a proposed subdivision/development shall contain the name of the subdivision/development where this name does not conflict with the Town of Apex Road Name Approval Application and Town of Apex Address Policy guidelines.
- ✓ The name "Apex" shall be excluded from any new subdivision/development name.
- ✓ Descriptive words that are commonly used by existing developments will be scrutinized more seriously in order to limit confusion and encourage distinctiveness. A list of commonly used descriptive words in Apex's jurisdiction is found below.
- ✓ The proposed subdivision/development name must be requested, reviewed and approved during preliminary review by the Town.
- ✓ A \$500.00 fee will be assessed to the developer if a subdivision/development name change is requested after official submittal of the project to the Town.\*

\*The imposed fee offsets the cost of administrative changes required to alleviate any confusion for the applicant, Planning staff, other Town departments, decision-making bodies, concerned utility companies and other interested parties. There is no charge for the initial name submittal.

#### **Existing Development Titles, Recurring**

	Residential	Non-Residential
10 or more	Creek, Farm(s), Village(s),	Center/Centre
6 to 9	Crossing(s), Park, Ridge, Wood(s)	Commons, Park
3 to 5	Acres, Estates, Glen(s), Green <sup>•</sup> , Hills	Crossing(s), Plaza, Station, Village(s)

•excludes names with Green Level

Planned Unit Develoment

	. age <u>-</u> e.	
Planned Unit Devel	oment-conutional	Zoning Applicati

DEVELOPMENT NAME APPROVAL APPLICATIO	N

22CZ03 Application #:

Submittal Date:

#### **Proposed Subdivision/Development Information**

Description of location: South of US 64 on the east and west sides of Richardson Road

US 64 Highway and Richardson Road Nearest intersecting roads:

Wake County PIN(s): 0722-45-3275, 0722-45-6374, 0722-45-8740, 0722-55-0034, 0722-54-4876, 0722-54-4404

Township: White Oak

**Contact Information (as appropriate)** 

Town of Apex Planning Department Staff

Contact person: Mitch Craig	
Phone number: (919) 367-8790	Fax number: N/A
Address: 301 Glenwood Avenue, Suite 220	Raleigh, NC 27603
E-mail address: Mitch@CEGroupInc.com	
Owner: See Attached List	
Phone number:	Fax number:
Address:	
Proposed Subdivision/Development Name	
1 <sup>st</sup> Choice: Sweetwater	
2 <sup>nd</sup> Choice <i>(Optional)</i> :	
Town of Apex Staff Approval:	

Last Updated: June 13, 2016

Date

#### **STREET NAME APPROVAL APPLICATION**

Application #: 22CZ03

#### Submittal Date:

Wake County Approval Date: \_\_\_\_\_

#### Guidelines:

- No names duplicating or sounding similar to existing road names
- Avoid difficult to pronounce names
- No individuals' names
- Avoid proper names of a business, e.g. Hannaford Drive
- Limit names to 14 characters in length
- No directionals, e.g. North, South, East, West
- No punctuation marks, e.g. periods, hyphens, apostrophes, etc.
- Avoid using double suffixes, e.g. Deer Path Lane
- All names must have an acceptable suffix, e.g. Street, Court, Lane, Path, etc.
- Use only suffixes which are Town of Apex approved
- Town of Apex has the right to deny any street name that is determined to be inappropriate

#### Information:

Description of location: South of US 64 on the east and west sides of Richardson Road

Nearest intersecting roads: US 64 Highway and Richardson Road

Wake County PIN(s): 0722-45-3275, 0722-45-6374, 0722-45-8740, 0722-55-0034, 0722-54-4876, 0722-54-4404

Township: White Oak

#### **Contact information (as appropriate)**

Contact person:	Mitch Craig		
Phone number:	(919) 367-8790	Fax number:	N/A
Address: 301 G	lenwood Avenue, Suite 220 Rale	eigh, NC 2760	3
E-mail address:	Mitch@CEGroupInc.com		
Owner: See A	ttached List		
Phone number:		Fax number:	
Address:			
F-mail address:			

#### **STREET NAME APPROVAL APPLICATION**

Application #: 22CZ03

Submittal Date:

# of roads to be named: 8

Please submit twice as many road names as needed, with preferred names listed first. Proposed road names should be written exactly as one would want them to appear. Town of Apex Planning Department staff will send all approved street names to the Wake County GIS Department for county approval. Please allow several weeks for approval. Upon approval Wake County GIS – Street Addressing will inform you of the approved street names.

Example: <u>Road Name</u> <u>Suffix</u>

Hunter Street

1	All Roads were previously approved as noted below:	_ 11
2	Newland Avenue	12
3	Harrells Drive	
4	Lawnview Lane	
5	Rennert Place	
6	Stokesdale Avenue	10
7	Richfield Drive	47
8	Moncure Place	
9		
10		
то	WN OF APEX STAFF APPROVAL	
Том	vn of Apex Staff Approval	Date
GIS Plea	<b>KE COUNTY STAFF APPROVAL:</b> certifies that names indicated by che ase disregard all other names.	eckmark 🗹 are approved.
Con	nments:	
Wa	ke County GIS Staff Approval	Date
	- Page 28	289 -

#### TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: 22CZ03

Submittal Date:

#### Town of Apex 73 Hunter Street P.O. Box 250 Apex, NC 27502 919-249-3400 WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

#### Sweetwater Commercial PUD Amendment

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

**KEPE1** Holdings, LLC

Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

#### ACCEPTED:

CUSTON	IER:KEPE1 Holdings, LLC	TOWN OF APEX		
BY:	Edward Jaleps Authorized Agent	BY:	Authorized Agent	
DATE: _	1/18/2022	DATE:		

#### TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #:

22C703

Submittal Date:

#### Town of Apex 73 Hunter Street P.O. Box 250 Apex, NC 27502 919-249-3400 WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

#### Sweetwater Commercial PUD Amendment

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

#### KEPE1 STC, LLC

Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

#### ACCEPTED:

CUSTON	AER:KEPE1 STC, LLC - Ed Kalikow	TOWN OF APEX		
BY:	Confanto	BY:		
	Authorized Agent		Authorized Agent	
DATE:	126 2022	DATE:		

#### TOWN OF APEX UTILITIES OFFER AND AGREEMENT

Application #: 22CZO3

Submittal Date:

#### Town of Apex 73 Hunter Street P.O. Box 250 Apex, NC 27502 919-249-3400

WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

Sweetwater Commercial PUD Amendment

(the "Premises")

The Town of Apex offers to provide you with electric utilities on the terms described in this Offer & Agreement. If you accept the Town's offer, please fill in the blanks on this form and sign and we will have an Agreement once signed by the Town.

Sweetwater Lightbridge, LLC

Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

The sale, delivery, and use of electric power by Customer at the Premises shall be subject to, and in accordance with, all the terms and conditions of the Town's service regulations, policies, procedures and the Code of Ordinances of the Town.

Customer understands that the Town, based upon this Agreement, will take action and expend funds to provide the requested service. By signing this Agreement the undersigned signifies that he or she has the authority to select the electric service provider, for both permanent and temporary power, for the Premises identified above.

Any additional terms and conditions to this Agreement are attached as Appendix 1. If no appendix is attached this Agreement constitutes the entire agreement of the parties.

Acceptance of this Agreement by the Town constitutes a binding contract to purchase and sell electric power.

Please note that under North Carolina General Statute §160A-332, you may be entitled to choose another electric supplier for the Premises.

Upon acceptance of this Agreement, the Town of Apex Electric Utilities Division will be pleased to provide electric service to the Premises and looks forward to working with you and the owner(s).

ACCEPTED:	
CUSTOMER: Sweetwater Lightbridge, LLC	TOWN OF APEX
BY: Just chrut mer. Authorized Agent	BY:Authorized Agent
DATE: 1-25-2022	DATE:

AGENT	AUTHORIZATI	ON FORM		
Application #: _2		22CZ03	Submittal Date:	
	KEPE1 H	Holdings, LLC	is the owner* of the property f	or which the attached
applicat	ion is being sul	bmitted:		
	au	or Conditional Zoning and Planne	ed Development rezoning applica nsent to zoning conditions that a ication is approved.	
	Site Plan			
	Subdivision			
	Variance			
	Other:	New Sector Contraction of the Sector Se		
The property address is: 0 Core Banks, 0 US 64 Highway W				·····
The age	nt for this proje	ect is: Joseph M. Craig, CE Gr	oup, Inc.	
I am the owner of the property and will be acting as my own agent				
Agent Name: Joseph M. Craig				
Address: 301 Glenwood Avenue, Suite		220, Raleigh, NC 27603		
Telephone Number: (919) 367-8790			<u>, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</u>	
E-Mail A		Mitch@CEGroupInc.com		
		Signature(s) of Owner(s)*	Type or print name MMM, MGR. Type or print name	1) 18 2022 Date
Attach ac	ditional sheets i	if there are additional owners.		

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

Planned Unit Develo - Page 293 -

AGENT	T AUTHORIZATI	ON FORM		
Applica	ation #:	22CZ03	Submittal Date:	
	KEPE1	STC, LLC	is the owner* of the property f	or which the attached
applicat	tion is being sul	omitted:	-	
	Land Use An	nendment		
	a		d Development rezoning applicansent to zoning conditions that a cation is approved.	
	Site Plan			
	Subdivision			
	Variance			
	Other:			
The pro	perty address i	s: 3233 US 64 Highway, 10	051 Newland Avenue	
The age	ent for this proj	ect is: Joseph M. Craig, CE Gro	oup, Inc.	
I am the owner of the property and will be acting as my own agent				
Agent Name: Joseph M. Craig				
Address: 301 Glenwood Avenue, Suite 2		220, Raleigh, NC 27603		
Telephone Number: (919) 367-8790				
E-Mail Address: Mitch@CEGroupInc.com				
		Signature(s) of Owner(s)*		
		Edward Kalikow		1/26/2022
		Jandel	Type or print name	Date
		David Schmidt		1/26/2022
			Type or print name	Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

Planned Unit Develoment-Conditional Zoning Application

AGEN	T AUTHORIZAT	ION FORM		
Application #: 22CZ03		Submittal Date:		
	Sweetwater Lig	htbridge, LLC	_ is the owner* of the property f	for which the attached
applicat	tion is being su	bmitted:		
	Land Use Ar	nendment		
7	a	or Conditional Zoning and Planne uthorization includes express con gent which will apply if the appli	nsent to zoning conditions that a	•
	Site Plan			
	Subdivision			
	Variance			
	Other:	·		
The pro	perty address	is: 1075 Newland Avenue		
The agent for this project is: Joseph M. Craig, CE Group, Inc.				
	🗆 I am the	owner of the property and will be	e acting as my own agent	
Agent N	lame:	Joseph M. Craig		
Address: 301 Glenwood Avenue, Suite		301 Glenwood Avenue, Suite 2	220, Raleigh, NC 27603	
Telephone Number: (919) 367-8790		(919) 367-8790		
E-Mail A	Address:	Mitch@CEGroupInc.com		
		Signature(s) of Owner(s)*	Type or print name	1-19-20-22 Date
			Type or print name	Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

#### AFFIDAVIT OF OWNERSHIP

Application #: <u>22CZ03</u>

Submittal Date:

 The undersigned,
 Edward Kalikow
 (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>0 Core Banks Street, 0 US 64 Highway</u> and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>11/10/2021</u>, and recorded in the Wake County Register of Deeds Office on <u>11/12/2021</u>, in Book <u>18792</u> Page <u>2056-2060</u>.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on <u>11/10/2021</u> Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on <u>11/10/2021</u>, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 26 day of Januara (seal)

Edward Kalikow

Type or print name

NEW YORK STATE OF NORTH CAROLINA COUNTY OF NOSSau

I, the undersigned, a Notary Public in and for the County of <u>NASSAU</u>, hereby certify that <u>Edward Kalkows</u>, Affiant personally known to me or known to me by said Affiant's presentation of said Affiant's \_\_\_\_\_\_, personally appeared before me this day and acknowledged the

due and voluntary execution of the foregoing Affidavit.

JENNIFER J. GRIM Notary Public State Of New York No. 01GR6323464 Qualified In Nassau County Commission Expires April 20, 20

Notary Public State of North Carolina New York My Commission Expires: 4 20 2.023

[NOTARY SEAL]

#### **AFFIDAVIT OF OWNERSHIP**

Application #: 22CZ03 Submittal Date:

The undersigned, \_\_\_\_\_Edward Kalikow (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>3233 US 64 HWY, 1051 Newland Ave.</u> and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>11/10/2021</u>, and recorded in the Wake County Register of Deeds Office on <u>11/10/2021</u>, in Book <u>018792</u> Page <u>51-55</u>.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on <u>11/10/2021</u>, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on <u>11/10/2021</u>, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 26th day of January (seal) dward

Type or print name

#### NEW YOCK STATE OF NORTH CAROLINA COUNTY OF NOSSau

I, the undersigned, a Notary Public in and for the County of <u>NASSAU</u>, hereby certify that <u>Edward Kalkow</u>, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's \_\_\_\_\_\_, personally appeared before me this day and acknowledged the

due and voluntary execution of the foregoing Affidavit.

JENNIFER J. GRIM Notary Public State Of New York No. 01GR6323464 Qualified In Nassau County Commission Expires April 20, 20 23

Notary Public

State of North Carolina New yosk My Commission Expires: 4120/2023

[NOTARY SEAL]

AFFIDAVIT OF O	WNERSHIP	
Application #:	22CZ03	Submittal Date:

The undersigned, \_\_\_\_\_\_David Schmidt (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- 1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>1075 Newland Avenue</u> and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>2/26/20</u>, and recorded in the Wake County Register of Deeds Office on <u>2/27/20</u>, in Book <u>017764</u> Page <u>01056-01059</u>.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on  $\frac{2/27/20}{2}$ , Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on  $\frac{2/27/20}{2}$ , no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 25th day of hours 20 22 Type or print name

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of <u>Nake</u>, hereby certify that <u>David Schmid</u>, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's <u>NC Driver's License</u>, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

JANE W. JARMON NOTARY PUBLIC WAKE COUNTY, N.C. My Commercian Entres 09-28-2022.

[NOTARY SEAL]

Notary/Public State of North Carolina My Commission Expires: 09-28:2022

BK018791PG02386

WAKE COUNTY, NC TAMMY L. BRUNNER REGISTER OF DEEDS PRESENTED & RECORDED ON 11-10-2021 AT 16:01:47

BOOK: 018791 PAGE: 02386 - 02388

### NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: <u>\$N/A</u>

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  $10^{4/2}$  day of November, 2021, by and between:

GRANTOR	GRANTEE
KEP APEX, LLC,	KEPE1 GLOBAL, LLC,
a North Carolina limited liability company	a North Carolina limited liability company
c/o The Kalikow Group	c/o The Kalikow Group
7001 Brush Hollow Road, Suite 200	7001 Brush Hollow Road, Suite 200
Westbury, NY 11590	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 instruments recorded in Book 16739, Page 1798, and Book 16739, Page 1802, Wake County Registry.

Submitted electronically by "Weatherspoon & Voltz LLP"			
in compliance with North Carolina stat and the terms of the submitter agreeme			

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.

> KEP APEX, LLC, a North Carolina limited liability company

Edward M. Kalikow, By:

#### STATE OF NEW YORK COUNTY OF NOSSOUL

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**, 2021

J.Gnim

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, 20.

#### 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.

WAKE COUNTY, NC TAMMY L. BRUNNER REGISTER OF DEEDS PRESENTED & RECORDED ON 11-10-2021 AT 16:42:26

BOOK: 018792 PAGE: 00051 - 00055

#### NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: <u>\$N/A</u>

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 lot = day of November, 2021, by and between:

GRANTOR	GRANTEE
KEPE1 GLOBAL, LLC,	KEPE1 STC, LLC,
a North Carolina limited liability company	a North Carolina limited liability company
c/o The Kalikow Group	c/o The Kalikow Group
7001 Brush Hollow Road, Suite 200	7001 Brush Hollow Road, Suite 200
Westbury, NY 11590	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.

Submitted electronically by "Weatherspoon & Voltz LLP"			
in compliance with North Carolina statu and the terms of the submitter agreemer	- Page 302 - ake County Register of Deeds.		

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  $\prod$  includes or  $\bigotimes$  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

0 Bv: Edward M. Kalikow, Manager

David Schmidt, Manager

#### STATE OF NEW YORK COUNTY OF WASSAN

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, 2021

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, 20.

4

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  $\Box$  includes or  $\boxtimes$  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 Bv: David Schmidt, Manager

# STATE OF NEW YORK

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
My commission expires:	Printed Name
[Official seal]	

۰,

#### STATE OF NORTH CAROLINA 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: <u>David Schmidt</u>.

Date: October 5, 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.

## LAND DESCRIPTION FOR REZONING PROPERTY OF EXPERIENCEONE HOMES, LLC KEPE1 STC, LLC

#### LYING AND BEING IN WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

COMMENCING AT A POINT, SAID POINT BEING THE NORTH EASTERN MOST PROPERTY CORNER OF KEPE1 STC, LLC AS RECORDED IN DEED BOOK 18792 PAGE 51 LYING ON THE SOUTHERN MARGIN OF US HIGHWAY 64) AND BEING A COMMON CORNER WITH 64 WEST BUSINESS CONDOS AS RECORDED IN DEED BOOK 8609 PAGE 1464; HAVING NORTH CAROLINA GRID COORDINATES OF NORTHING: 725,901.98' EASTING: 2,025,327.66' AS SHOWN IN BOOK OF MAPS 2016 PAGE 588; POINT IS HEREBY KNOW AS **THE POINT OF BEGINNING.** 

THENCE LEAVING MARGIN OF US 64 HIGHWAY IN A SOUTHERLY DIRECTION ALONG SAID COMMON LINE OF 64 WEST BUSINESS CONDOS PROPERTY S 01° 32' 52" W FOR A DISTANCE 687.66 FEET TO A POINT; SAID POINT BEING A COMMON CORNER WITH HWY 64 HOLDINGS; THENCE. S 88° 31' 32" E FOR A DISTANCE OF 190.35 FEET TO A POINT: THENCE. S 32° 00' 30" E FOR A DISTANCE OF 333.97 FEET TO A POINT; THENCE, S 00° 50' 49" E FOR A DISTANCE OF 414.52 FEET TO A POINT; SAID POINT LYING ALONG THE COMMON BOUNDARY OF THE ANS TRUST PROPERTY AT THE CENTERLINE OF CHANTICLAIR DRIVE; THENCE ALONG THE CENTER OF SAID DRIVE, S 27° 32' 58" W FOR A DISTANCE OF 176.79 FEET TO A POINT; THENCE, S 27° 37' 14" W FOR A DISTANCE OF 111.78 FEET TO A POINT; SAID POINT BEING THE CENTERLINE OF A ROUND-A-BOUT IN CORE BANKS STREET; THENCE ALONG SAID STREET, N 76° 56' 05" W FOR A DISTANCE OF 160.47 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, WITH A RADIUS OF 1000.00 FEET HAVING CHORD BEARING AND OF N 80° 40' 51" W FOR A DISTANCE OF 135.75' FEET TO A POINT; THENCE, N 84° 34' 21" W FOR A DISTANCE OF 209.33 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT, WITH A RADIUS OF 1000.00 FEET HAVING CHORD BEARING AND OF N 73° 28' 23" W FOR A DISTANCE OF 385.03' FEET TO A POINT; THENCE, N 61° 45' 27" W FOR A DISTANCE OF 253.57 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, WITH A RADIUS OF 700.00 FEET HAVING CHORD BEARING AND OF N 76° 06' 06" W FOR A DISTANCE OF 346.63' FEET TO A POINT; THENCE, S 89° 33' 47" W FOR A DISTANCE OF 7.59 FEET TO A POINT; SAID POINT BEING THE INTERSECTION OF CORE BANKS STREET AND THE COMMON BOUNDARY LINE OF STALEY C. SMITH AND AARON E. SMITH JR.; THENCE IN A NORTHERLY DIRECTION ALONG SAID COMMON LINE, N 00° 26' 13" W FOR A DISTANCE OF 1102.81 FEET TO A POINT; SAID POINT BEING A COMMON CORNER OF SKJD HOLDINGS. LLC AND LYING ON THE SOUTHERN MARGIN OF US 64 HIGHWAY; THENCE WITH SAID MARGIN, N 82° 54' 21" E FOR A DISTANCE OF 1231.79 FEET TO A POINT; SAID POINT BEING THE POINT AND PLACE OF BEGINNING, HAVING AN AREA OF 1,949,585 SQUARE FEET OR 44.76 ACRES MORE OR LESS.

BEING A PORTION OF PROPERTY ACQUIRED BY OWNERS IN DEED BOOK 16739 PAGE 1802 AND DEED BOOK 16823 PAGE 2446 OF THE WAKE COUNTY REGISTRY.



## Wake County Residential Development Notification

Developer Company Information			
Company Name	KEP Apex, LLC / Experience One Homes, LLC.		
Company Phone Number	(516) 876-4800 / (919) 991-1428		
Developer Representative Name	Ed Kalikow / David Schmidt		
Developer Representative Phone Number	(516) 876-4800 / (919) 991-1428		
Developer Representative Email	Ed@Kaled.com / DSchmidt@E1Homes.com		

New Residential Subdivision Information					
Date of Application for Subdivision	02/01/2022				
City, Town or Wake County Jurisdiction	Town of Apex				
Name of Subdivision	Sweetwater				
Address of Subdivision (if unknown enter nearest cross streets)	US Highway 64 & Richardson Road				
REID(s)	436595, 436584, 444531, 148944, 120755, 476653				
PIN(s)	0722-45-3275, 0722-45-6374, 0722-45-8740, 0722-55-0034, 0722-54-4876, 0722-54-4404				

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

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

Please send any questions about this form to:

studentassignment-gisgroup@wcpss.net

Projected Dates Information					
Subdivision Completion Date	August 2022				
Subdivision Projected First Occupancy Date	March 2023				

	Lot by Lot Development Information																
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Squar Rai	e Foot nge	Price	Range	,	Anticipate	ed Compl	etion Uni	ts & Date	25
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family																	
Townhomes																	
Condos																	
Apartments	230		18	120	92			650	1,350	\$1,600	\$2,200	2023	115	2024	115		
Other																	

- Page 308 -

## NOTICE OF NEIGHBORHOOD MEETING

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

#### 01/07/2022

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at 3233 US 64 Highway, 0 Core Banks St., 0 US 64 Highway, 0722-45-3275, 0722-45-6374, 0722-45-8740, 0722-55-0034,

1051 Newland Ave., 1075 Newland Ave. Apex, NC 27523	0722-54-4876, 0722-54-4404
Address(es)	PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the <u>Interactive Development Map</u> or the <u>Apex Development Report</u> located on the Town of Apex website at <u>http://www.apexnc.org/180/Planning-Community-Development</u>.

A Neighborhood Meeting is required because this project includes (check all that apply):

Арр	lication Type	Approving Authority
~	Rezoning (including Planned Unit Development)	Town Council
	Major Site Plan	Technical Review
		Committee (staff)
	Special Use Permit	Board of Adjustment
		(QJPH*)
	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review
	Residential master subdivision Flan (excludes exempt subdivisions)	Committee (staff)

\*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)): <u>The Owners of the Sweetwater Commercial properties would like to rezone the property in ord</u> to remove two (2) of the conditions outlined in the previous rezonings (16CZ21, 17CZ21 & 18CZ21).

Estimated submittal date: 02/01/	2022
MEETING INFORMATION:	
Property Owner(s) name(s):	See Attached List
Applicant(s):	Mitch Craig - CE Group, Inc.
Contact information (email/phone):	Mitch@CEGroupInc.com/(919) 367-8790
Meeting Address:	Halle Cultural Arts Center (237 N. Salem St. Apex, NC 27502)
Date/Time of meeting**:	January 25, 2022 6:30 pm - 8:30 pm

Welcome: <u>6:30-6:45 pm Project Presentation</u>: <u>6:45-7:15 pm</u> Question & Answer: <u>7:15-8:30 pm</u> \*\*Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning and Community Development Department at 919-249-3426. You may also find information about the Apex Planning Department and ongoing planning efforts at <u>http://www.apexnc.org/180/Planning-Community-Development</u>.

Packet & Affidavit

#### - Page 309 -Neighborhood Needing metrode

Last Updated: December 21, 2021

## **PROJECT CONTACT INFORMATION**

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

Development Contacts:	
Project Name: Sweetwater Commercial PL	UD Amendment Zoning: PUD-CZ
Location: 3233 US 64 Highway, 0 Core Banks St., 0 US 6	64 Highway, 1051 Newland Ave., 1075 Newland Ave. Apex, NC 27523
Property PIN(s): (272-45-8374, 0722-45-8374, 0722-55-8034, 0722-55-4874, 0722-55-56-56-56-56-56-56-56-56-56-56-56-56-	age/Square Feet: ~ 41.42 AC
Property Owner: See Attached List	
Address:	
City:	State: Zip:
Phone: Email:	
Developer: ExperienceOne Homes	, LLC David Schmidt
Address: PO Box 5509	
City: Apex State	ie: <u>NC</u> Zip: <u>27523</u>
Phone: (919) 991-1428 Fax: N/A	Email:DSchmidt@E1Homes.com
Engineer: CE Group, Inc - Mitch C	raig, PE
Address: 301 Glenwood Avenue, S	Suite 220
city: Raleigh	State: NC Zip: 27603
Phone: (919) 367-8790 Fax: N/A	Email: Mitch@CEGroupInc.com
Builder (if known): N/A	
Address:	
City:	State: Zip:
Phone: Fax:	Email:

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts	
Planning and Community Development Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks and Greenways Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Traffic Engineering Manager	(919) 249-3358
Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537
James Gregg, Utility Engineering Manager (Water & Sewer)	(919) 249-3324
Electric Utilities Division	
Rodney Smith, Electric Technical Services Manager	(919) 249-3342

#### Providing Input to Town Council:

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

#### Private Agreements and Easement Negotiation:

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <a href="http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4d">http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4d</a> <a href="http://apexn2795">a27d9e795</a>

#### **Documentation:**

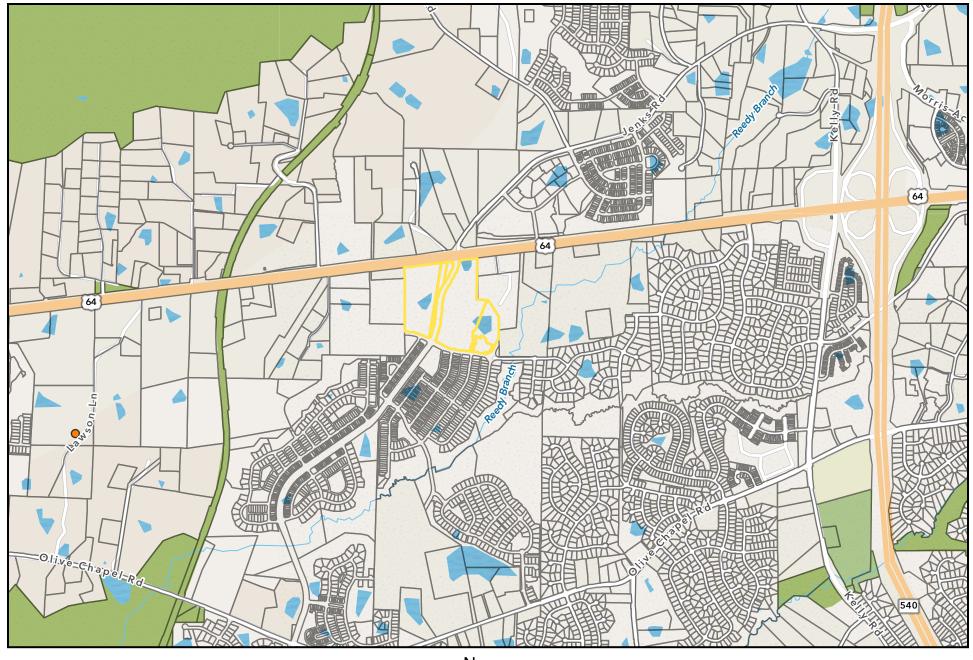
Neighbors to a requested new development and/or rezoning are strongly encouraged to fully document (such as through dated photographs) the condition of their property before any work is initiated for the new development. Stormwater controls installed on developed property are not designed to and will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

## **COMMON CONSTRUCTION ISSUES & WHO TO CALL**

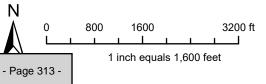
This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

or disclosed to third parties.		
Noise & Hours of Construction:	Non-Emergency Police	919-362-8661
Noise from tree removal, grading,	, excavating, paving, and building structures	is a routine part of the
construction process. The Town gen	erally limits construction hours from 7:00 a.m. t	to 8:30 p.m. so that there
are quiet times even during the c	onstruction process. Note that construction o	utside of these hours is
allowed with special permission from	m the Town when it makes more sense to have	the construction occur at
	In addition, the Town limits hours of blasting	
-	Report violations of construction hours and othe	
Non-Emergency Police phone numb	•	· · · · · · · · · · · · · · · · · · ·
Construction Traffic:	James Misciagno	919-372-7470
	eavy throughout the development process, inc	
	dirt coming in and/or out of the site, construction	_
	shalt and concrete trucks come in to pave, e	
	ed to try to prevent as much dirt from leaving t	
-		•
	n require they clean the street (see "Dirt in the	-
Road Damage & Traffic Control:	Water Resources – Infrastructure Inspect	
-	damage, roadway improvements, and traffic o	
	or traffic control, blocked sidewalks/paths are all c	
	rastructure Inspections at 919-249-3427. The Tow	in will get NCDOT Involved
if needed.	New Freeman Delies	040 202 0004
Parking Violations:	Non-Emergency Police	919-362-8661
	here should be no construction parking in neighb	-
	ht-of-way is allowed, but Town regulations prohib	
	angles. Trespassing and parking complaints shoul	a be reported to the Non-
Emergency Police phone number at 9		040 070 7470
Dirt in the Road:	James Misciagno	919-372-7470
	ne existing roads due to rain events and/or vehic	
Dirt on Properties or in Streams:	no. He will coordinate the cleaning of the roadway James Misciagno	919-372-7470
Dift off Properties of in Streams.		anny.Smith@ncdenr.gov
Sodimont (dirt) can loave the site and	Danny Smith <u>Da</u> get onto adjacent properties or into streams and st	
	221 01110 aualetti di odei lies of titlo sli eattis and si	really burlets, it is typically
transported off site by rain events. T		ingno at 010 272 7470 co
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that he can coordinate the appropria	hese incidents should be reported to James Misc ate repairs with the developer. Impacts to the st	-
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Neighborhood Means margaret & Affidavit



Sweetwater PUD - Vicinity Map



<u>Disclaimer</u> iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied , are provided for the data therein, its use, or its interpretation.

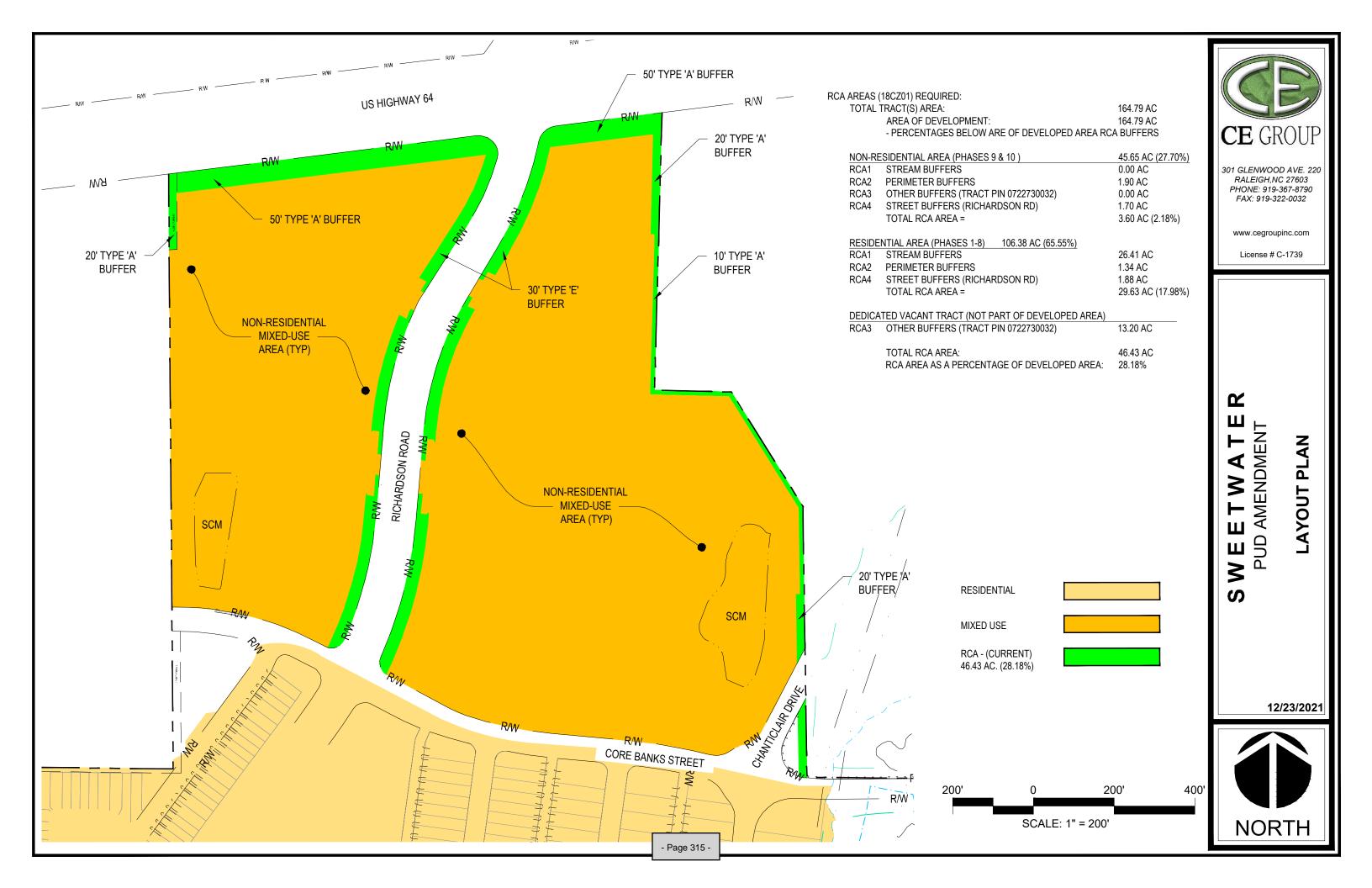
## **Sweetwater PUD Amendment**

Proposed Rezoning Changes

December 23, 2021

The PUD will retain all of the conditions from rezoning #16CZ21, #17CZ21 and #18CZ01 except:

- Section 11: Public Facilities Roadways #2: The developer shall propose a conceptual design for the future interchange at US 64 if offered as an alternative to the interchange recommended in the US 64 corridor study. Reservation of future public right-of-way for the interchange shall be determined based on Town of Apex ad NCDOT review and approval of the interchange concept(s) if not based on the US 64 Corridor Study. This reservation shall be included in development plans and occur at the time of platting parcels for development adjacent to US 64.
- 2. Office: A minimum of 80,000 square feet of office will be provided in this section.
  - This requirement is requested to be reduced to 55,000 sf instead of 80,000 sf



PIN R	eal Estate ID Owner	Mail Address 1	Mail Address 2	Deed Book	Deed Page	Deed Acres Site Address	City
0722-55-0034	148944 KEP APEX LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	16739	1802	18.33 3233 US 64 HWY W	APEX
0722-54-4876	120755 KEP APEX LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	16739	1798	5.9 1051 NEWLAND AVE	APEX
0722-54-4404	476653 SWEETWATER LIGHTBRIDGE LLC	PO BOX 5509	CARY NC 27512-5509	17764	1056	1.38 1075 NEWLAND AVE	APEX
0722-45-3275	436595 KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056	13.43 0 CORE BANKS ST	APEX
0722-45-8740	444531 KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056	0.59 0 US 64 HWY W	APEX
0722-45-6374	436584 KEPE1 HOLDINGS LLC	7001 BRUSH HOLLOW RD STE 200	WESTBURY NY 11590-1743	18792	2056	1.79 0 US 64 HWY W	APEX

## **NEIGHBORHOOD MEETING SIGN-IN SHEET**

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

Meeting Address:	Halle Cultural Arts Center (237 N. Salem St. Apex, NC 27502)				
Date of meeting:	01/25/2022	Time of meeting: <u>6:30-8:30 pm</u>			
Property Owner(s)	name(s): See Attached List				
Applicant(s): Mitc	h Craig - CE Group, Inc.				

Please <u>print</u> your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Wendy Raposo	1122 Russet Lane Apex, NC	(508) 287-3006		X
2.	Gennell Kessler	1110 Russet Lane Apex, NC	(919) 389-5239		X
3.					
4.					
5.					
6.					
7.					
8.			· · · · · · · · · · · · · · · · · · ·		
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

## SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s)	name(s): See Attached L	ist
	h Craig - CE Group, In	
Contact informatio	n (email/phone): Mitch@C	EGroupInc.com/(919) 367-8790
		er (237 N. Salem St. Apex, NC 27502)
Date of meeting:	01/25/2022	Time of meeting: 6:30-8:30 pm

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1:

Is there going to be an overpass @ US-64 and Richardson Road

Applicant's Response:

The NCDOT has a plan for one in their long range plan but there are no designs in the works for it. The PUD Amendment is being submitted in order to remove the area of reservation that is intended for this future interchange.

Question/Concern #2:

Are the Michigan Lefts (Superstreet) on US 64 going to be signalized.

Applicant's Response:

A design for these signals has been approved by the Town and the NCDOT.

The NCDOT will control when these can be installed. The Town has requested the improvements to US 64 and Richardson Road be completed before the first CO in Sweetwater.

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

## AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

, Joseph M. Craig , do hereby declare as follows:

Print Name

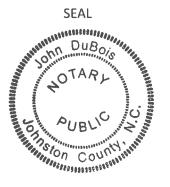
- 1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- 2. The meeting invitations were mailed to the Apex Department of Planning and Community Development, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
- 3. The meeting was conducted at 
   Halle Cultural Arts Center (Apex, NC) (location/address)

   on \_\_\_\_\_\_01/25/2022 (date) from \_\_\_\_\_\_6:30 (start time) to \_\_\_\_\_8:30 (end time).
- 4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

STATE OF NORTH CAROLINA

Bv:

Sworn and subscribed	before m	ne, John	DuBois		, a Notary Pul	olic for the above State and
County, on this the	\ <sup>sr</sup> _da	ay of February	, 20	22		



**Notary Public** 

Print Name

1/21/2023 My Commission Expires:

Packet & Affidavit



#### Sweetwater PUD Amendment

Proposed Rezoning Changes

March 22, 2022

(Limited to Mixed-Use Portion of Project – North of Core Banks Street Only)

The PUD will retain all of the conditions from rezoning #16CZ21, #17CZ21 and #18CZ01 except:

I. <u>Revision to Section 6:</u>

#### **Section 6: Design Controls**

#### NONRESIDENTIAL/MIXED-USE AREAS:

**Residential:** Maximum 230 units: 2<sup>nd</sup> story and above only (no other residential permitted in this section).

**Office**: A minimum of 80,000 55,000 square feet of office will be provided in this section.

II. <u>Revision to Section 11:</u>

### Section 11: Public Facilities

<u>Water and Sanitary Sewer</u>: All lots will be served by Town of Apex public sanitary sewer and water. Refer to PD Plan Sheet 3 for conceptual connections to infrastructure within adjacent development and roadways in accordance with the minimum criteria of the Town of Apex Standards and Specifications. The utility design shall meet the requirements of the Town of Apex Utilities Master Plan. Concurrently with the Town of Apex construction plan review, the Town of Cary will only review and approve the sewer connection directly connecting to Reedy Branch outfall. Developer shall construct all water and sewer infrastructure for any specific phase prior to approval of the first plat for that specific phase.

<u>Roadway</u>: Internal Streets will be designed to Town of Apex public roads standards. The proposed development roadway system will be in accordance with the Apex Thoroughfare and Collector Street Plan. A functional alignment for the future Richardson Road thoroughfare will be created with the input from NCDOT and Town of Apex from its intersection with US 64 to the edge of the project area. The ultimate cross-section for the future Richardson Road will be 4 lane median divided facility on a 100-foot public right-of-way. In the initial phases of the development, the developer will construct a 2-lane median divided road. The final design will be determined at Master Subdivision Plan. The intersection of the future Richardson Road and US Highway 64 will comply with the NCDOT US 64 corridor plan, with interim measures. to accommodate the ultimate

design for the interchange. The developer will be responsible for construction of the interim measures deemed appropriate for by the Traffic Impact Analysis and NCDOT design criteria. Traffic calming devices, such as roundabouts, neighborhood traffic mini-circles and neckdown traffic facilities, will be incorporated at various locations within the proposed street network system. Based on neighborhood input and concurrences with Staff, a proposed traffic circle with directional islands will be located on Timken Forest Drive and the proposed street to the portion of the residential subdivision located adjacent to Abbington Subdivision.

Refer to PD Plan Sht-2 for proposed access points and planned/future connectivity access points shown are conceptual and will be finalized at the subdivision plan stage based on review of the Traffic Impact Analysis findings and recommendations. These findings and recommendations are:

- The developer shall construct Richardson Road, serving as the major north-south thoroughfare south of US 64, on a minimum 100-foot public right-of-way as a median divided two-lane shoulder section thoroughfare or similar to be determined at the time of the subdivision and site plan submittal, allowing for future expansion to four-lane divided when needed. Developer shall construct Richardson Road and the required collector streets (except for the final lift of asphalt) prior to the first building permit.
- 2. The developer shall propose a conceptual design for the future interchange at US 64 if offered as an alternative to the interchange recommended in the US 64 Corridor Study. Reservation of future public right of way for the interchange shall be determined based on Town of Apex and NCDOT review and approval of the interchange concept(s) if not based on the US 64 Corridor Study. This reservation shall be included in development plans and occur at the time of platting parcels for development adjacent to US 64. Surplus parking and related facilities (lighting, landscaping, and storm drainage, etc.) can be constructed within the reservation area; with the understanding that these improvements may be removed in the future. The developer shall make the necessary provisions to accommodate future loss of parking by appropriate site planning including addition of a 50' Type A Buffer behind the reservation area.
- 3. The developer shall construct a superstreet with left turn crossovers and downstream U-Turns on US 64 at the intersection of Richardson Road and Jenks Road based on the recommendations in the TIA and the US 64 Corridor Study subject to final approval. Final approval of storage lengths, lane geometry, and installation of traffic signals is subject to Town of Apex and NCDOT review and approval at the time of site and/or subdivision plans. The developer shall construct improvements according to the Town of Apex and NCDOT during site and subdivision plan approval. Developer shall construct these US 64 improvements prior to the first building permit: the signal will be installed when warranted.
- 4. The developer shall monitor the superstreet intersections on US 64 during the development of Phase 1 (residential) and install traffic signals when warranted if not determined to be a responsibility of others prior to that time. Traffic signals at one or more locations on the superstreet may be warranted prior to build-out of Phase 1. This requirement does not prevent other developers from studying and installing traffic signals

and/or additional turning lanes if determined to be necessary improvements by other as part of other development approvals. If not installed in prior years, the developer shall install traffic signals and additional lanes recommended in the TIA as needed to serve site traffic during Phase 2 subject to Town of Apex and NCDOT review and approval.

- 5. The developer shall remove the concrete diverter island on Beaver Creek Commons Drive at Kelly Road and restripe as a through-left lane prior to first plat.
- 6. The developer shall provide traffic calming features in the horizontal design and layout of the street(s) connecting the proposed development and Stratford at Abbington subject to Town of Apex review and approval at the time of subdivision plans.

<u>Alleys</u>: The alleys will be constructed in accordance with Town of Apex Standards and Specifications.

<u>Sidewalks</u>: Sidewalks shall be provided on both sides of all streets and cul-de-sacs within the subdivision.

The following is a new condition that is being added with this rezoning:

#### I. <u>New Section 17: Environmental Advisory Board</u>

1. At least one (1) pet waste station shall be installed near the Hotel if the Hotel permits pets.



OWNERS SWEETWATER LIGHTBRIDGE, LLC	
	PO BOX 5509 CARY, NC 27512
KEP APEX, LLC	
	7001 BRUSH HOLLOW ROAD STE 200 WESTBURY, NY 11590
KEPE1 HOLDINGS, LLC	
	7001 BRUSH HOLLOW ROAD STE 200 WESTBURY, NY 11590
DEVELOPERS	
DAVID SCHMIDT LANNY CALDWELL COREY SCHMIDT	ExperienceOne Homes, LLC POST OFFICE BOX 5509 CARY, NC 27512 PHONE: 919-991-1402
ENGINEER	
MITCH CRAIG, PE LICENCE# 034332	CE GROUP, INC. 301 GLENWOOD AVE STE 220 RALEIGH. NC 27603

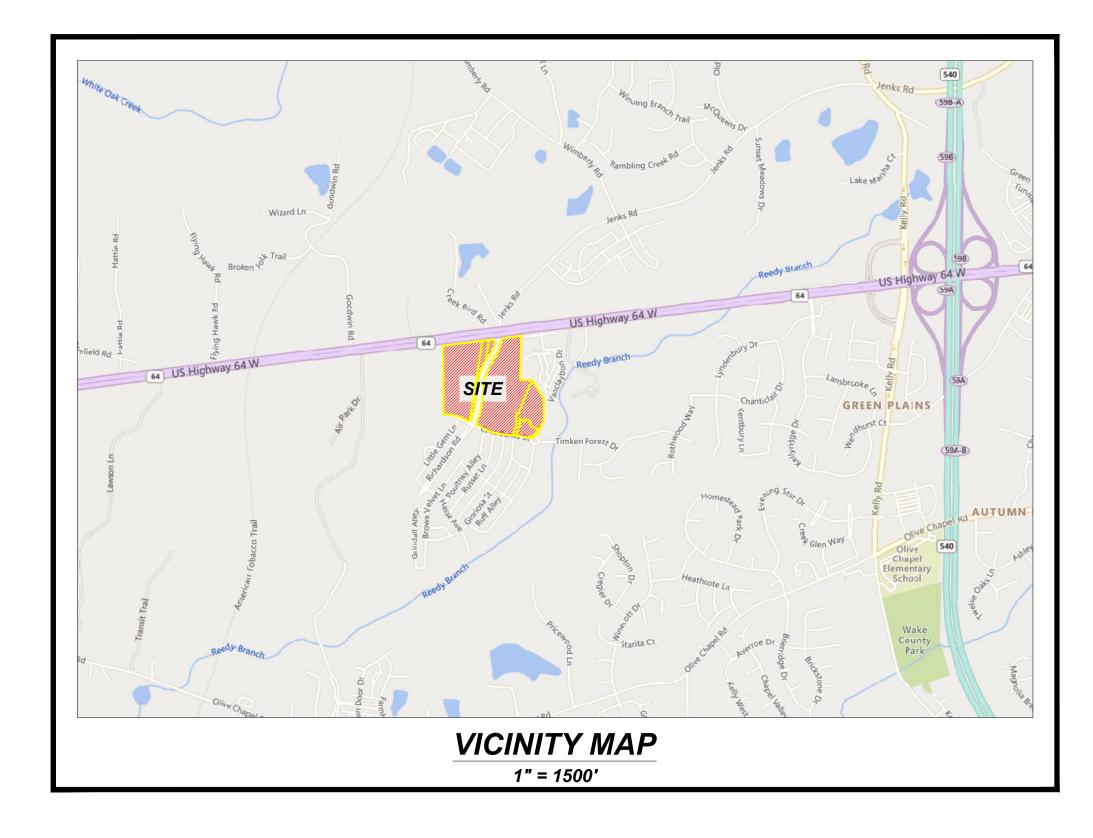
PHONE: 919-367-8790

- THIS PROJECT WAS REVIEWED BY THE PRCR ADVISORY COMMISSION ON DECEMBER 10, 2014 AND UNANIMOUSLY RECOMMENDS DEDICATION OF THE NECESSARY PUBLIC GREENWAY EASEMENTS AND CONSTRUCTION OF THE PUBLIC GREENWAY CONSISTENT WITH THE PRGOS MASTER PLAN. THE DEVELOPER WILL RECEIVE CREDIT FOR CONSTRUCTING THE GREENWAY AGAINST THE SUBDIVISION PARKS AND RECREATION FEES.
- **REQUIRED ROADWAY IMPROVEMENTS:**
- A. THE DEVELOPER SHALL CONSTRUCT RICHARDSON ROAD, SERVING AS THE MAJOR NORTH-SOUTH THOROUGHFARE SOUTH OF US 64, ON A MINIMUM 100 FOOT PUBLIC RIGHT OF WAY AS A MEDIAN DIVIDED TWO-LAN SHOULDER SECTION THOROUGHFARE OR SIMILAR TO BE DETERMINED AT THE TIME OF SUBDIVISION AND SITE PLAN SUBMITTAL, ALLOWING FOR FUTURE EXPANSION TO FOUR-LANE DIVIDED WHEN NEEDED. DEVELOPER SHALL CONSTRUCT RICHARDSON ROAD AND THE REQUIRED COLLECTOR STREETS EXCEPT FOR THE FINAL LIFT OF ASPHALT PRIOR TO THE FIRST BUILDING PERMIT.
- B. THE DEVELOPER SHALL PROPOSE A CONCEPTUAL DESIGN FOR THE FUTURE INTERCHANGE AT US 64 IF OFFERED AS AN ALTERNATIVE TO THE INTERCHANGE RECOMMENDED IN THE US 64 CORRIDOR STUDY. RESERVATION OF FUTURE PUBLIC RIGHT OF WAY FOR THE INTERCHANGE SHALL BE DETERMINED BASED ON TOWN OF APEX AND NCDOT REVIEW AND APPROVAL OF THE INTERCHANGE CONCEPT(S) IF NOT BASED ON US 64 CORRIDOR STUDY. THIS RESERVATION SHALL BE INCLUDED IN DEVELOPMENT PLANS AND OCCUR AT THE TIME OF PLATTING PARCELS FOR DEVELOPMENT ADJACENT TO US 64. SURPLUS PARKING AND RELATED FACILITIES (LIGHTING, LANDSCAPING, AND STORM DRAINAGE, ETC.) CAN BE CONSTRUCTED WITHIN THE RESERVATION AREA; WITH THE UNDERSTANDING THAT THESE IMPROVEMENTS MAY BE REMOVED IN FUTURE. THE DEVELOPER SHALL MAKE NECESSARY PROVISIONS TO ACCOMMODATE FUTURE LOSS
- OF PARKING BY APPROPRIATE SITE PLANNING INCLUDING ADDITION OF A 50' TYPE A BUFFER BEHIND THE RESERVATION AREA. THE DEVELOPER SHALL CONSTRUCT A SUPERSTREET WITH LEFT TURN CROSSOVERS AND DOWNSTREAM U-TURNS ON US 64 AT THE INTERSECTION OF RICHARDSON ROAD AND JENKS ROAD BASED ON TOWN OF APEX AND NCDOT REVIEW AND APPROVAL OF THE INTERSECTION OF RICHARDSON ROAD AND JENKS ROAD BASED ON THE RECOMMENDATIONS IN THE TIA AND THE US 64 CORRIDOR STUDY SUBJECT TO FINAL APPROVAL. FINAL APPROVAL OF STORAGE LENGTHS, LANE GEOMETRY, AND INSTALLATION OF TRAFFIC SIGNALS IS SUBJECT TO TOWN OF APEX AND NCDOT REVIEW AND APPROVAL AT THE TIME OF SITE AND/OR SUBDIVISION PLANS. THE DEVELOPER SHALL CONSTRUCT IMPROVEMENTS ACCORDING TO THE TOWN OF APEX TIA REVIEW LETTER DATED JANUARY 2, 2015, OR AS OTHERWISE APPROVED BY TOWN OF APEX AND NCDOT DURING SITE AND SUBDIVISION PLAN APPROVAL. DEVELOPER SHALL CONSTRUCT THESE US 64
- IMPROVEMENTS PRIOR TO THE FIRST BUILDING PERMIT: THE SIGNAL WILL BE INSTALLED WHEN WARRANTED. D. THE DEVELOPER SHALL MONITOR THE SUPERSTREET INTERSECTIONS ON US 64 DURING DEVELOPMENT OF PHASE 1 RESIDENTIAL AND INSTALL TRAFFIC SIGNALS WHEN WARRANTED IF NOT DETERMINED TO BE A RESPONSIBILITY OF OTHERS PRIOR TO THAT TIME. TRAFFIC SIGNALS AT ONE OR MORE LOCATIONS ON THE SUPERSTREET MAY BE WARRANTED PRIOR TO BUILD-OUT OF PHASE1. THIS REQUIREMENT DOES NOT PREVENT OTHER DEVELOPERS FROM STUDYING AND INSTALLING TRAFFIC SIGNALS AND/OR ADDITIONAL TURNING LANES IF DETERMINED TO BE NECESSARY IMPROVEMENTS BY OTHERS AS PART OF OTHER DEVELOPMENT APPROVALS. IF NOT INSTALLED IN PRIOR YEARS, THE DEVELOPER SHALL INSTALL TRAFFIC SIGNALS AND ADDITIONAL LANES RECOMMENDED IN THE TIA AS NEEDED TO SERVE SITE TRAFFIC DURING PHASE 2 SUBJECT TO TOWN OF APEX AND NCDOT REVIEW AND APPROVAL.
- E. THE DEVELOPER SHALL REMOVE THE CONCRETE DIVERTER ISLAND ON BEAVER CREEK COMMONS DRIVE AT KELLY ROAD AND RE-STRIPE AS A THROUGH-LEFT LAN PRIOR TO FIRST PLAT.
- F. THE DEVELOPER SHALL PROVIDE TRAFFIC CALMING FEATURES IN THE HORIZONTAL DESIGN AND LAYOUT OF THE STREET(S) CONNECTING THE PROPOSED DEVELOPMENT AND STRATFORD AT ABBINGTON SUBJECT TO TOWN OF APEX REVIEW AND APPROVAL AT THE TIME OF SUBDIVISION PLANS.
- WATER AND SEWER IMPROVEMENTS: DEVELOPER SHALL CONSTRUCT ALL WATER AND SEWER INFRASTRUCTURE FOR ANY SPECIFIC PHASE PRIOR TO APPROVAL OF THE FINAL PLAT FOR THAT SPECIFIC PHASE.



# **SWEETWATER PUD AMENDMENT PLANS** APEX, NC **JANUARY 2, 2018** REVISED: SEPTEMBER 18, 2018 REVISED: FEBRUARY 1, 2022 **REVISED: MARCH 11, 2022**

www.cegroupinc.com License # C-1739



LAND USE SUMMARY	
RESIDENTIAL	
ACREAGE 106.38 + 13.20 AC. =	119 58 AC
PROPOSED UNITS	410
TOTAL DWELLING UNITS	640
PROPOSED DENSITY (SINGLE FAMILY, TOWNHOMES, APARTMENTS	) 3.09 DU/AC
NON-RESIDENTIAL/MIXED USE AREAS	
ACREAGE	45.65 AC
APARTMENTS	230
MAX BUILDING HEIGHT	52 FT
WATERSHED PROTECTION DISTRICT:	PRIMARY
FLOODPLAIN:	
THERE IS FEMA FLOODPLAIN LOCATED ON THE SUBJECT PROPERT	Y PER
FIRM MAP #3720072200J, PANEL 0722J	
EFFECTIVE MAY 2, 2006	

# SITE SUMMARY

RCA A	REAS (	16CZ21, 17CZ21, 18CZ01) REQUIRED:	
-	TOTAL T	RACT(S) AREA:	164.79 AC
		AREA OF DEVELOPMENT:	164.79 AC
		- PERCENTAGES BELOW ARE OF DEVELOPED AREA RCA	A BUFFERS
r		SIDENTIAL AREA (PHASES 9 & 10 )	45.65 AC (2
-	RCA1	STREAM BUFFERS	0.00 AC
		PERIMETER BUFFERS	1.90 AC
	-	OTHER BUFFERS (TRACT PIN 0722730032)	0.00 AC
		STREET BUFFERS (RICHARDSON RD)	1.70 AC
		TOTAL RCA AREA =	3.60 AC (2.
_			
-		NTIAL AREA (PHASES 1-8) 106.38 AC (65.55%)	
F	RCA1	STREAM BUFFERS	26.41 AC
F	-	PERIMETER BUFFERS	1.34 AC
F	RCA4	STREET BUFFERS (RICHARDSON RD)	1.88 AC
		TOTAL RCA AREA =	29.63 AC (1
Г		TED VACANT TRACT (NOT PART OF DEVELOPED AREA)	
-	RCA3	OTHER BUFFERS (TRACT PIN 0722730032)	13.20 AC
		TOTAL RCA AREA:	46.43 AC
		RCA AREA AS A PERCENTAGE OF DEVELOPED AREA:	28.18%

## **EXISTING EXHIBIT INFORMATION** PROVIDED BY WITHERS RAVENEL

4	<b>REVISED PER COMMENTS DATED 2/18/22</b>	03/11/22
3	OWNER REVISIONS	02/01/22
2	<b>REVISED PER COMMENTS DATED 2/19/18</b>	09/07/18
1	<b>REVISED PER COMMENTS DATED 1/22/18</b>	02/09/18
NO.	REVISION	DATE

## AREA OF PUD MODIFICATION:

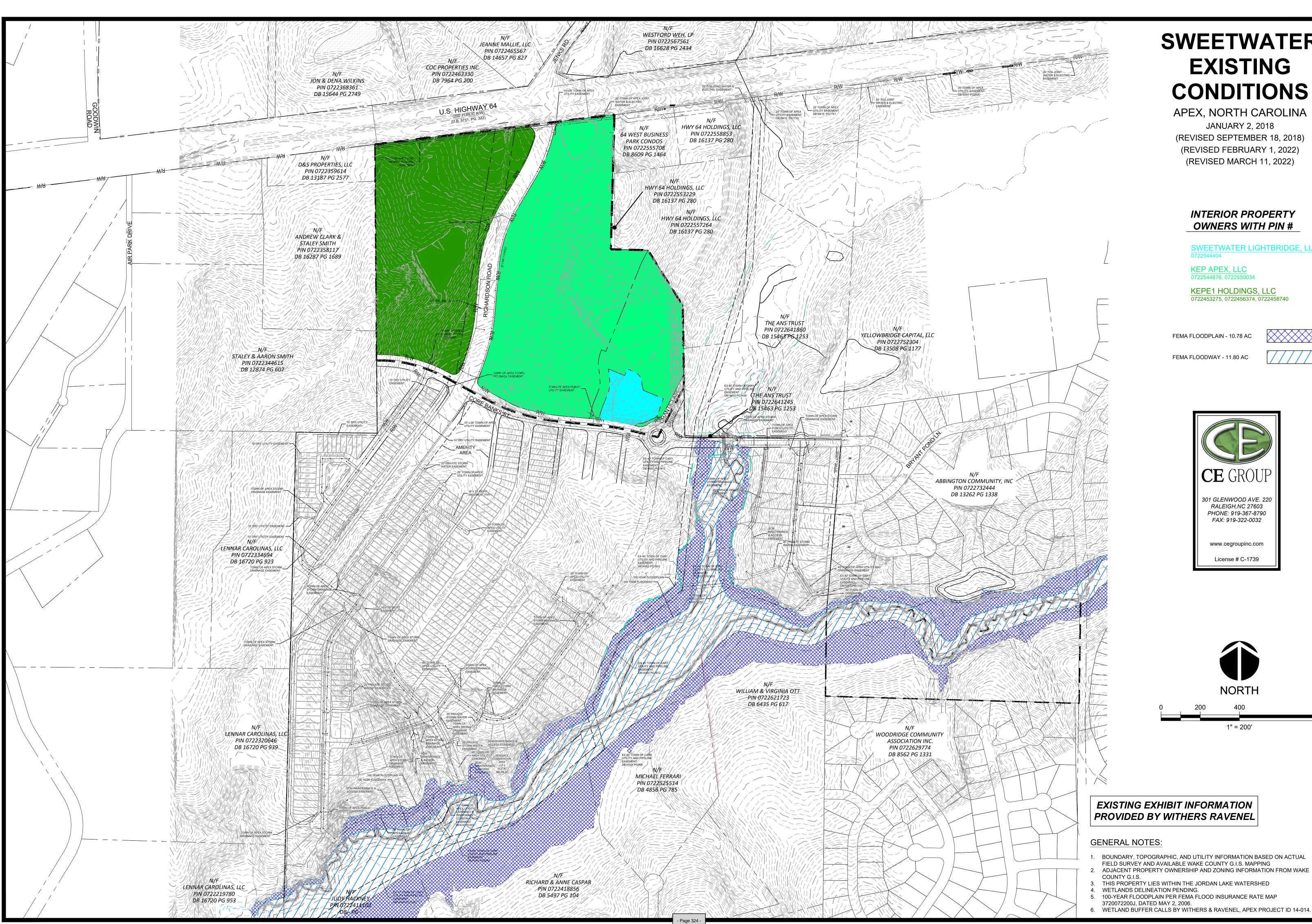
SWEETWATER LIGHTBRIDGE, LLC 0722544404	
KEP APEX, LLC 0722544876, 0722550034	41.42 AC.
KEPE1 HOLDINGS, LLC 0722453275, 0722456374, 0722458740	

(17.98%)

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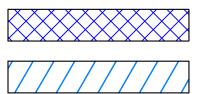
## **OVERALL PUD INFORMATION:**

MIXED USE DESIGNATED AREA= AREA IN R.O.W. = TOTAL MIXED USE DESIGNATED AREA=	45.65 AC 4.23 AC 41.42 AC
0722730032* = *PARCEL LOCATED OUTSIDE OF MIXED USED DESIGNATED AREA	13.20 AC.
TOTAL ACRES FOR ZONING=	164.79 AC.
CURRENT ZONING:	PUD-CZ
PROPOSED ZONING:	PUD-CZ
WATERSHED:	PRIMARY
HISTORIC STRUCTURES:	NONE



# **SWEETWATER** CONDITIONS

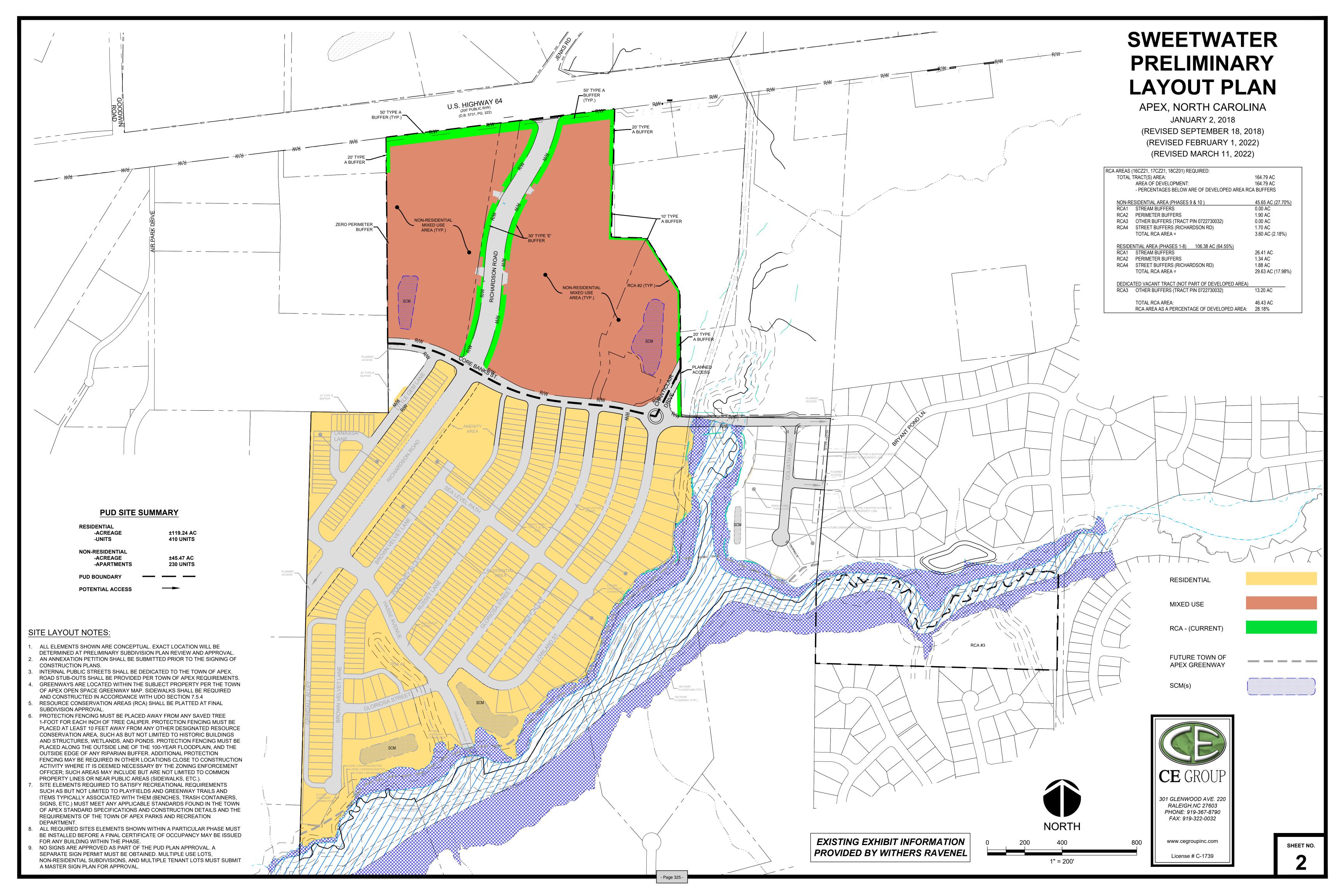
SWEETWATER LIGHTBRIDGE, LLC

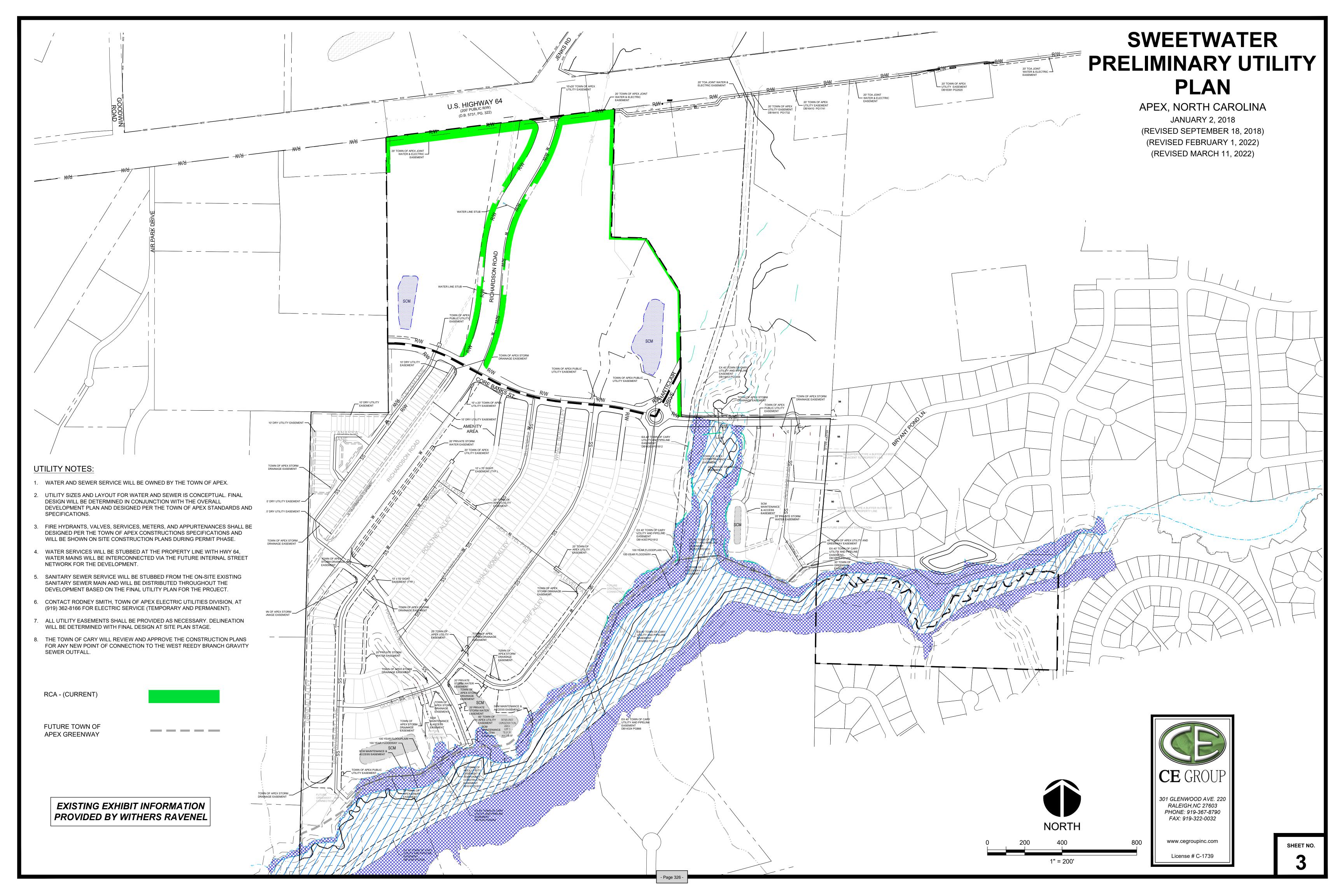




- BOUNDARY, TOPOGRAPHIC, AND UTILITY INFORMATION BASED ON ACTUAL

SHEET NO.





# PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ03 Sweetwater PUD Amendment

Planning Board Meeting Date: April 11, 2022

### **Report Requirements:**

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

### **PROJECT DESCRIPTION:**

Acreage:	44.76
PIN(s):	0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404
Current Zoning:	Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01)
Proposed Zoning:	Planned Unit Development-Conditional Zoning (PUD-CZ)
2045 Land Use Map:	Mixed Use: High Density Residential/Office Employment/Commercial Services
Town Limits:	Inside

### **Applicable Officially Adopted Plans:**

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

	2045 Land Use Map ✓ Consistent	Inconsistent	Reason:	
<b>√</b>	Apex Transportation Plan ✓ Consistent	Inconsistent	Reason:	
<b>V</b>	Parks, Recreation, Open Space	, and Greenways Plan	Reason:	
			-	

PE

# PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ03 Sweetwater PUD Amendment Planning Board Meeting Date: April 11, 2022 Legislative Considerations: The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. 1. Consistency with 2045 Land Use Plan. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan. ✓ Consistent Inconsistent Reason: 2. Compatibility. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses. ✓ Consistent Inconsistent Reason: 3. Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 *Supplemental Standards*, if applicable. ✓ Consistent Inconsistent Reason: Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's 4. minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance. Inconsistent ✓ Consistent Reason: 5. Design minimizes environmental impact. The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources. ✓ Consistent Inconsistent Reason:

Rez	ANNING BOARD REPORT TO TOWN COUNCIL oning Case: 22CZ03 Sweetwater PUD Amendment ning Board Meeting Date: April 11, 2022	A PE + 1873 Z A PE + 1873 Z A PE + 1873 Z A PE +
6.	Impact on public facilities. The proposed Conditional Zor impacts on public facilities and services, including road schools, police, fire and EMS facilities. Consistent Inconsistent	
7.	Health, safety, and welfare. The proposed Conditional Zo or welfare of the residents of the Town or its ETJ. ✓ Consistent Inconsistent	oning (CZ) District use's effect on the health, safety, Reason:
8.	Detrimental to adjacent properties. Whether the p substantially detrimental to adjacent properties. ✓ Consistent Inconsistent	roposed Conditional Zoning (CZ) District use is Reason:
9.	Not constitute nuisance or hazard. Whether the propos a nuisance or hazard due to traffic impact or noise, or be the Conditional Zoning (CZ) District use. ✓ Consistent Inconsistent	
10.	Other relevant standards of this Ordinance. Whether to complies with all standards imposed on it by all other layout, and general development characteristics. ✓ Consistent Inconsistent	

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ03 Sweetwater PUD Amendment

Planning Board Meeting Date: April 11, 2022



### Planning Board Recommendation:

Motion:	To recommend approval with conditions recommended by
	staff in the staff report.
Introduced by Planning Board member:	Ryan Akers
Seconded by Planning Board member:	Mark Steele

Approval: the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.

Approval with conditions: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

Conditions as recommended by staff in the staff report.

*Denial*: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 7 Planning Board Member(s) voting "aye" With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 11th day of April 2022.

Attest:

Menters

Reginald Skinner, Planning Board Chair



Dianne Khin, Director of Planning and Community Development

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# **TOWN OF APEX**

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #22CZ03

Sweetwater PUD Amendment

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: David Schmidt, ExperienceOne Homes, LLC

Authorized Agent: Mitch Craig, CE Group, Inc.

**Property Addresses:** 3233 US 64 Highway, 0 Core Banks St., 0 US 64 Highway, 1051 & 1075 Newland Ave. **Acreage:** ±44.76 acres

Property Identification Numbers (PINs): 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404

**2045 Land Use Map Designation:** Mixed Use: High Density Residential/Office Employment/Commercial Services **Existing Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) **Proposed Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

### Planning Board Public Hearing Date and Time: April 11, 2022 4:30 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

### Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38185">https://www.apexnc.org/DocumentCenter/View/478</a>.

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# TOWN OF APEX



PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426 NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ03 Sweetwater PUD Amendment (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: David Schmidt, ExperienceOne Homes, LLC

Agente autorizado: Mitch Craig, CE Group, Inc.

**Dirección de las propiedades:** 3233 US 64 Hwy, 0 Core Banks St., 0 US 64 Highway, 1051 & 1075 Newland Ave. **Superficie:** ±44.76 acres

**Números de identificación de las propiedades:** 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404

**Designación actual en el Mapa de Uso Territorial para 2045:** Mixed Use: High Density Residential/Office Employment/Commercial Services

**Ordenamiento territorial existente de las propiedades:** Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

### Fecha y hora de la audiencia pública de la Junta de Planificación: 11 de abril de 2022 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, o presentarla a la secretaría de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

# De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

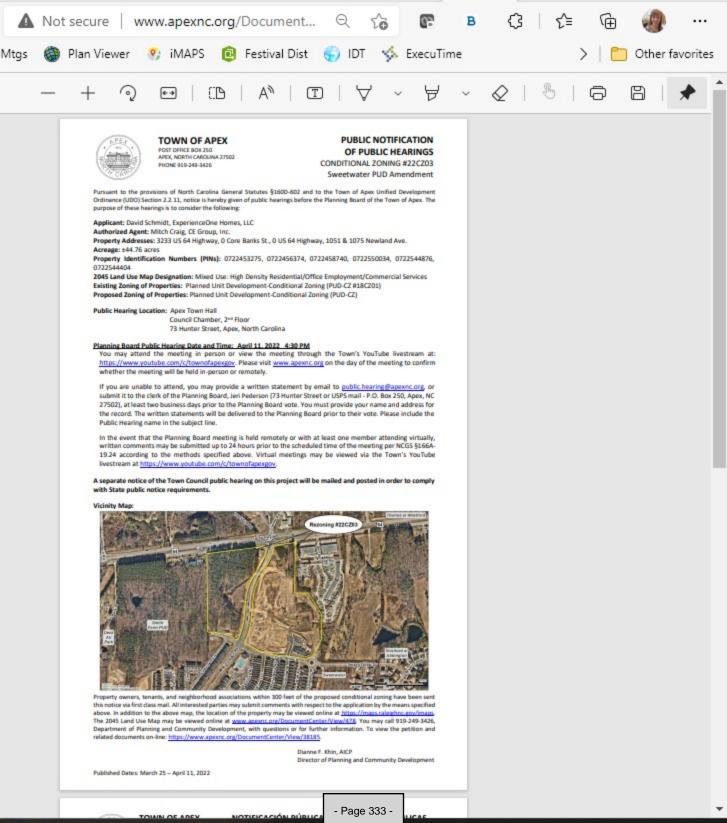
### Mapa de las inmediaciones:

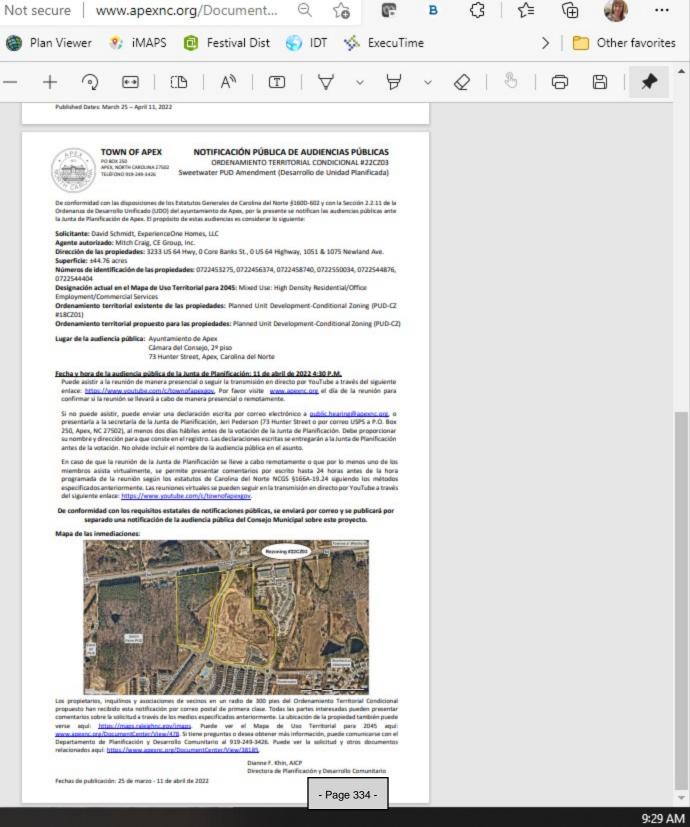


Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <a href="https://mww.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <a href="https://www.apexnc.org/DocumentCenter/View/38185">https://www.apexnc.org/DocumentCenter/View/478</a>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <a href="https://www.apexnc.org/DocumentCenter/View/38185">https://www.apexnc.org/DocumentCenter/View/478</a>.

### Dianne F. Khin, AICP

Directora de Planificación y Desarrollo Comunitario





3/25/2022



## TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

Project Name:	Conditional Zoning #22CZO3 Sweetwater PUD Amendment
Project Location:	0 & 3233 US 64 Hwy W, 0 Core Banks St, 1051 & 1075 Newland Ave
Applicant or Authorized Agent:	Mitch Craig
Firm:	CE Group, Inc.

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on March 25, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

3 28 2022

ector of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

Jeri Chastain Pederson, a Notary Public for the above

State and County, this the

JERI CHASTAIN PEDERSON	
E CONTRACTE DERSON	V
Wake County, North Carolina	
My Commission United Villa	
A Wy COMMISSION Expires	
March 10, 2024	
10, 2024	

Jen	Chastain Rederson	
0-	Notary Public	

My Commission Expires: 3/10/2024

- Page 335 -

28 day of March , 2022.



TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #22CZ03

Sweetwater PUD Amendment

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: David Schmidt, ExperienceOne Homes, LLC

Authorized Agent: Mitch Craig, CE Group, Inc.

**Property Addresses:** 3233 US 64 Highway, 0 Core Banks St., 0 US 64 Highway, 1051 & 1075 Newland Ave. **Acreage:** ±44.76 acres

**Property Identification Numbers (PINs):** 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404

**2045 Land Use Map Designation:** Mixed Use: High Density Residential/Office Employment/Commercial Services **Existing Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01) **Proposed Zoning of Properties:** Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

### Town Council Public Hearing Date and Time: April 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

### Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38185">https://www.apexnc.org/DocumentCenter/View/478</a>.



### Dianne F. Khin, AICP Director of Planning and Community Development





PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426 NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ03

Sweetwater PUD Amendment (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: David Schmidt, ExperienceOne Homes, LLC.

Agente autorizado: Mitch Craig, CE Group, Inc.

**Dirección de las propiedades:** 3233 US 64 Highway, 0 Core Banks St, 0 US 64 Highway, 1051 & 1075 Newland Ave **Superficie:** ±44.76 acres

**Números de identificación de las propiedades:** 0722453275, 0722456374, 0722458740, 0722550034, 0722544876, 0722544404

**Designación actual en el Mapa de Uso Territorial para 2045:** Mixed Use: High Density Residential/Office Employment/Commercial Services

**Ordenamiento territorial existente de las propiedades:** Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ01)

Ordenamiento territorial propuesto para las propiedades: Planned Unit Development-Conditional Zoning (PUD-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de abril de 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, 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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

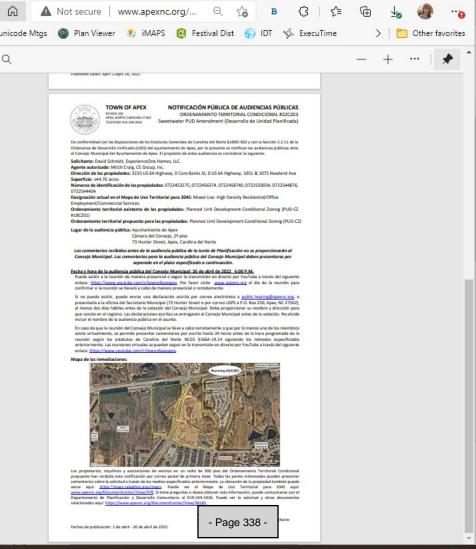
### Mapa de las inmediaciones:



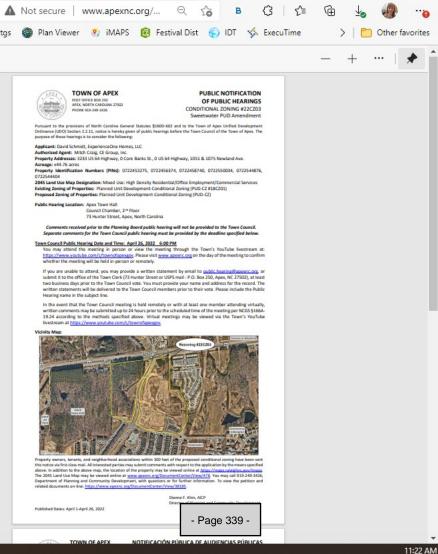
Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/38185</u>.

Dianne F. Khin, AICP pirectora de Planificación y Desarrollo Comunitario

- Page 337 -



11:23 AM 4/1/2022



4/1/2022



# TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# **AFFIDAVIT CERTIFYING** Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

Project Name:	Conditional Zoning #22CZ03 Sweetwater PUD Amendment
Project Location:	0 & 3233 US 64 Hwy W, 0 Core Banks St, 1051 & 1075 Newland Ave
Applicant or Authorized Agent:	Mitch Craig
Firm:	CE Group, Inc.

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on April 1, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

4/4/2022

ector of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

Jeri Chastain Pederson, a Notary Public for the above 4 day of <u>April</u>, 202 2.

State and County, this the

1	
	JERI CHASTAIN PEDERSON
	Notary Public
No.	Wake County, North Carolina
and the second	My Commission Carolina
	My Commission Expires
A	March 10, 2024
214	

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0	Notary Public	
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My Commission Expires: 3/10/2024

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# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:PUBLIC HEARINGMeeting Date:April 26, 2022

# <u>Item Details</u>

Presenter(s):Lauren Staudenmaier, Planner IIDepartment(s):Planning and Community Development

### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #22CZ04 804 & 808 Wimberly Road and Ordinance. The applicant, Zak Shipman, Shipman Engineering, PLLC., seeks to rezone approximately 5.84 acres from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 804 & 808 Wimberly Road.

## Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board held a public hearing on April 11, 2022 and unanimously recommended approval with the conditions offered by the applicant.

### Item Details

The properties to be rezoned are identified as PINs 0723230271 & 0723232326.

### <u>Attachments</u>

- Staff Report
- Vicinity Map
- Application







All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

### **BACKGROUND INFORMATION:**

Location:804 & 808 Wimberly RoadApplicant/Owners:Zak Shipman, PE, Shipman Engineering, PLLC. /Abel & Jessica Figueroa

### PROJECT DESCRIPTION:

Acreage:	±5.84 acres
PINs:	0723230271 & 0723232326
Current Zoning:	Wake County Residential-80W (R-80W)
Proposed Zoning:	Rural Residential-Conditional Zoning (RR-CZ)
Current 2045 Land Use Map:	Rural Density Residential
Town Limits:	Outside ETJ (annexation is required at time of rezoning)

### Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Wake County Residential-80W (R-80W)	Single-family Residential
South:	Planned Unit Development-Conditional Zoning (PUD-CZ #16CZ23)	Single-family Residential (Castleberry Estates Subdivision)
East:	Wake County Residential-80W (R-80W); Planned Unit Development Conditional Zoning (PUD-CZ #15CZ26)	Single-family Residential Wimberly Road
West:	Wake County Residential-80W (R-80W)	Vacant

### **Existing Conditions:**

The subject properties total ±5.84 acres and are located on the west side of Wimberly Road and north of the Castleberry Estates subdivision. There are residential structures located on both properties.

### Neighborhood Meeting:

The applicant conducted a neighborhood meeting on January 10, 2022. The neighborhood meeting report is attached.

### WCPSS Coordination:

A Letter of Impact from Wake County Public School System (WCPSS) was received for this rezoning and is included in the staff report packet. WCPSS indicates that school at elementary and middle grade level within the current assignment area for the proposed rezoning/development are anticipated to have insufficient capacity for future students; transportation to schools outside of the current assignment area should be anticipated. School expansion or construction within the next five years may address concerns at middle grade levels.



### 2045 LAND USE MAP:

The 2045 Land Use Map identifies the subject property as Rural Density Residential. The proposed rezoning to Rural Residential-Conditional Zoning (RR-CZ) is not consistent with that land use classification. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to Low Density Residential per NCGS 160D-605(a).

### **PROPOSED ZONING CONDITIONS:**

### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

### **Permitted Uses and Limitations:**

- 1. Single-family (P)
- 2. Accessory apartment (P)

### **Conditions:**

- 1. A maximum of 0.75 dwelling units per acre are permitted.
- 2. A minimum front setback of 65 feet from the current Wimberly Road right-of-way for all residences.
- 3. Outdoor lighting shall be full cut-off and shielded to prevent glare and light spillover to minimize the impact on neighboring residential properties. LED fixtures shall be used and the lighting temperature shall be a maximum of 3,000k.
- 4. The project shall install light timers, motion sensors, or other smart technology for all exterior lighting for the residences.
- 5. All single family detached homes shall be pre-configured with conduit for a solar energy system.
- 6. An additional 25 feet of riparian buffer shall be observed on the existing stream on the rear of the lot if it is intermittent, or 50 feet of buffer if it is ephemeral.
- 7. Vinyl siding is not permitted; however vinyl windows, decorative elements, and trim are permitted.
- 8. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
- 9. Eaves shall project at least 12 inches from the wall of the structure.
- 10. Garage doors shall have windows or decorative details on them.
- 11. Garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
- 12. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
- 13. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- 14. Front porches shall be a minimum of 6 feet deep.
- 15. The number of private driveways accessing Wimberly Road shall not be increased from the existing two (2) driveways.
- 16. The visible side of a home on a corner lot facing the public street shall contain at least three





decorative elements such as, but not limited to:

- a. Windows
- b. Bay Window
- c. Recessed Window
- d. Trim around the windows
- e. Two or more building materials
- f. Decorative Brick/Stone
- g. Decorative Trim

- h. Decorative Shake
- i. Decorative air vents on gable
- j. Decorative gable
- k. Column
- I. Portico
- m. Dormer

### EAB RECOMMENDATIONS:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on January 20, 2022. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
An additional 25-feet of riparian buffer shall be observed on the existing stream on the rear of the lot if it is intermittent or 50-feet of buffer if it is ephemeral.	Added
Exterior lighting color temperature of 3000k or less	Added
All exterior lighting includes timers or light sensors	Added
Include solar conduit in a new building design	Added

### PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on April 11, 2022 and unanimously recommended approval with conditions as proposed by the applicant.

### PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #22CZ04 with the conditions as offered by the applicant.

### ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map designates the subject properties as Rural Density Residential. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to Low Density Residential per NCGS 160D-605(a). The current density of the properties to be rezoned is greater than the one (1) unit per five (5) acres supported by the current LUM classification. Furthermore, the density of the Castleberry Estates subdivision to the south is one (1) unit per acre as it was rezoned before the density supported by the Rural Density Residential land use classification was reduced with the adoption of Advance Apex. The proposed rezoning is reasonable as the applicant has proposed a density of 0.75 units per acre which is lower than the subdivision to the south.

The proposed rezoning is reasonable and in the public interest because it will permit single-family residential development consistent and compatible with the surrounding area. In addition, the proposed rezoning will allow the properties to connect to Town water and sewer services.



### CONDITIONAL ZONING STANDARDS:

The Town Council shall find the RR-CZ designation demonstrates compliance with the following standards. 2.3.3.F:

### Legislative Considerations

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning District use's compliance with Sec 4.4 *Supplemental Standards,* if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning District use is substantially detrimental to adjacent properties.
- 9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



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PETITION 1	TO AMEND THE OFFICIAL ZONING MAP				
	nt is a public record under the North Carolina Publi	c Records Ac	t and may be published o	n the Town's website	e or disclosed to
third parties. Application	#: 22 CZ04	Subm	ittal Date: 2/1/22		
		Fee P	aid:		
Project Info	ormation				
Project Nan	ne: 804 & 808 Wimberly Road Rezo	ning			
Address(es)	804 & 808 Wimberly Road				
PIN(s): 0	723230271 & 0723232326				
				Acreage: 5.	84
Current Zon	<sub>ing:</sub> R-80W (Wake Co.)	Proposed	Zoning: RR-CZ		
Current 204	5 LUM Classification(s): Rural Density	Resident	ial		
Is the prope	osed rezoning consistent with the 2045 LUM	Classificat	ion(s)? Yes	No 🗸	ĺ
	~		· · ·		
	ion of the project is shown as mixed use (3 o	or more str	ipes on the 2045 Land	Use Map) provid	e the following:
Are	a classified as mixed use:		Acreage:		
Are	a proposed as non-residential development	:	Acreage:		
Perc	cent of mixed use area proposed as non-res	idential:	Percent:	, 	
Applicant I	nformation				
Name:	Abel and Jessica Figueroa				
Address:	808 Wimberly Road				
City:	Арех	State:	NC	Zip:	27523
Phone:	(919) 960-3791	_ E-mail:	abel@artisanqua	lityroofing.com	
Owner Info	ormation				
Name:	Abel and Jessica Figueroa		-		
Address:	808 Wimberly Road		9 		
City:	Apex	State:	NC	Zip:	27523
Phone:	(919) 960-3791	– E-mail:	abel@artisanqua	lityroofing.com	
Agent Info	rmation				
Name:	Zak Shipman, PE-Shipman Enginee	ering, PLL	.C		
Address:	137 Middlegreen Place				
City:	Holly Springs	State:	NC	Zip:	27540
Phone:	(919) 900-0006	– E-mail:	zak@shipmanen		
Other cont	acts:	_	-		
	-				
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PETITION INFORMATION					
Application #:	22CZ04	Submittal Date:	2/1/22		

An application has been duly filed requesting that the property described in this application be rezoned from <u>R-80W (Wake Co.)</u> to <u>RR-CZ</u>. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

### **PROPOSED USES:**

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

1	Single Family	21
2	Accessory apartment	22
3		23
4		24
5		25
6		26
7		27
8		28
9		29
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12		32
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18		38
19		39
20		40

### **PETITION INFORMATION**

Application #:

22CZ04

Submittal Date: 2/1/22

### **PROPOSED CONDITIONS:**

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

Please see the attached proposed conditions sheet.

### LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. Use additional pages as needed.

1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

The 2045 LUM shows this as Rural Density Residential, or 1 DU per 5 acres or 0.20 DU/Acre density.

Our proposal to zone this as Rural Residential and cap the development at a maximum of 4

dwelling units, with a proposed density of 0.68 un/acre max density.

2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

The existing land area around this property is more rural in nature, however significant development is ongoing in the areas

surrounding the property. The Point at Lake Castleberry, Castleberry Trails, and Lake Castleberry developments

are located to the north and feature single family development at much higher densities. Our proposed

density of 0.68 units per acre is much more in line with the 2045 LUM and the surrounding character of residences on Wimberly.

### **PETITION INFORMATION**

Application #:

22CZ04

Submittal Date: 2/1/22

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.

The proposed development and recombination is for single family detached residences and complies

with all the applicable Supplemental Standards noted in Section 4.4.

4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

The project does not create any adverse impact on adjacent lands for the following reasons. We

are proposing a recombination of the site to move lot lines around without adding additional lots.

The result will be that the second lot, which is currently vacant, will be adjusted such that a residence

can be built with greater setbacks to adjacent properties and more opportunity to preserve existing features, vegetation, etc.

5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

The proposed zoning district allows for construction of single family residential units while protecting

environmental resources. No stream, riparian buffer, or wetland impacts are proposed, and the second residence

will be constructed in such a way to preserve a significant portion of the existing vegetation on

the site.

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

The proposed zoning district creates minimal impact on public facilities and services. Two new

single family residences will be connected to the public water and gravity sewer infrastructure.

There are currently two existing lots on record here, and we are not proposing any new lots at this time. Therefore

we believe impact to parks, schools, and emergency services are negligible.

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

The proposed zoning district does not create adverse effects on the health, safety, and welfare of the

residents of the Town. There are currently two lots recorded in this area, and our intent is to

retain two lots and connect to Town services in a manner consistent with existing development in this area.

### **PETITION INFORMATION**

Application #:

22CZ04 Submittal Date: 2/1/22

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

We do not believe the proposed zoning district is detrimental to adjacent properties. Development as an

RR-CZ district allows for orderly construction of the second residence while maintaining significant

existing vegetation, buffers, setbacks, and other screening from adjacent property using the existing

tree cover.

9) Not constitute nuisance or hazard. Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

The proposed zoning district does not create a nuisance due to noise or other impacts. Since there

are two lots on record and we are not creating any additional lots, traffic and noise levels should

remain consistent with current levels associated to the property.

10) Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

We believe that the intent and standards of the Ordinance are met by using the RR-CZ zoning

district in this location. Development of the lots meets the applicable provisions of the ordinance for

layout, Town services, environmental considerations, etc.

### 804 & 808 Wimberly Road Rezoning Petition-Proposed Conditions

- 1. A maximum of 0.75 dwelling units per acre are permitted.
- 2. A minimum front setback of 65 feet from the current Wimberly Road right-of-way for all residences.
- 3. Outdoor lighting shall be full cut-off and shielded to prevent glare and light spillover to minimize the impact on neighboring residential properties. LED fixtures shall be used and the lighting temperature shall be a maximum of 3,000k.
- 4. The project shall install light timers, motion sensors, or other smart technology for all exterior lighting for the residences.
- 5. All single family detached homes shall be pre-configured with conduit for a solar energy system.
- 6. An additional 25 feet of riparian buffer shall be observed on the existing stream on the rear of the lot if it is intermittent, or 50 feet of buffer if it is ephemeral.
- 7. Vinyl siding is not permitted; however vinyl windows, decorative elements, and trim are permitted.
- 8. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
- 9. Eaves shall project at least 12 inches from the wall of the structure.
- 10. Garage doors shall have windows or decorative details on them.
- 11. Garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
- 12. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
- 13. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- 14. Front porches shall be a minimum of 6 feet deep.
- 15. The number of private driveways accessing Wimberly Road shall not be increased from the existing two (2) driveways.
- 16. The visible side of a home on a corner lot facing the public street shall contain at least three decorative elements such as, but not limited to:
  - a. Windows
  - b. Bay Window
  - c. Recessed Window
  - d. Trim around the windows
  - e. Two or more building materials
  - f. Decorative Brick/Stone
  - g. Decorative Trim
  - h. Decorative Shake
  - i. Decorative air vents on gable
  - j. Decorative gable
  - k. Column
  - I. Portico
  - m. Dormer

AGENT	AUTHORIZATI	ON FORM
Applica	ation #:	Submittal Date:
Abel and	Jessica Figue	roa is the owner* of the property for which the attached
applicat	ion is being sul	pmitted:
	Land Use An	nendment
r	a	r Conditional Zoning and Planned Development rezoning applications, this uthorization includes express consent to zoning conditions that are agreed to by the gent which will apply if the application is approved.
	Site Plan	
	Subdivision	
	Variance	
	Other:	
The prop	perty address is	s: 804 & 808 Wimberly Road
The age	nt for this proje	ect is:Shipman Engineering, PLLC
	🗆 I am the o	wner of the property and will be acting as my own agent
Agent N	ame:	Zak Shipman, PE
Address	:	137 Middlegreen Place, Holly Springs, NC 27540
Telepho	ne Number:	(919) 900-0006
E-Mail A	ddress:	zak@shipmanengineering.com
	<	Signature(s) of Owner(s)* Abel Figueroa Jessica Figueroa Type or print name 1/4/22 Type or print name 1/4/22 Date Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.

### AFFIDAVIT OF OWNERSHIP

Application #:

22CZ04

Submittal Date: 2/1/22

The undersigned, Abel and Jessica Figueroa (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 804 & 808 Wimberly Road, Apex, NC 27523 and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated <u>September 2, 2015</u>, and recorded in the Wake County Register of Deeds Office on <u>September 17, 2015</u>, in Book <u>016154</u> Page <u>00548-00550</u>.
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on <u>September 2, 2015</u>, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on <u>September 2, 2015</u>, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the H day of Jay (seal) 12109 SSICA Type or print name

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of  $\_$  wake, hereby certify that  $\_$  <u>Abel Figueroa</u>, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's <u>Jessica Figueroa</u>, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



begninder 10 C

Notary Public State of North Carolina My Commission Expires: Nov, 9 = 2026

- Page 355 -

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

Application #:

22CZ04

Submittal Date: 2/1/22

Insert legal description below.

A portion of that certain parcel of land, situated in White Oak Township, Wake County, State of North Carolina, Recorded in Deed Book 16154 Page 548 in the Wake County Registry, and more particularly described as follows:

### Lot #1

Beginning at a point in the southeastern corner of the lot situated at 808 Wimberly Road, Apex, North Carolina, said point being an Iron Pipe Found at the Right of Way of Wimberly Road, and being the Point and Place of BEGINNING. Thence from said point N 88°36'02" W 653.72 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 50°05'13" W 14.38 feet to a Computed Point, thence from said point N 19°58'44" W 41.06 feet to a Computed Point, thence from said point N 09°04'28" W 41.51 feet to a Computed Point, thence from said point N 31°25'34" W 38.28 feet to a Computed Point, thence from said point N 15°13'02" W 37.28 feet to a Computed Point, thence from said point N 41°43'58" W 23.91 feet to a Computed Point, thence from said point N 00°40'17" W 46.42 feet to a Computed Point, thence from said point N 03°19'31"W 36.43 feet to a Computed Point, thence from said point N 05°18'36"E 48.53 feet to a Computed Point, thence from said point N 13°30'07"W 21.02 feet to a Computed Point, thence from said point N 21°46'00"E 31.17 feet to a Computed Point, thence from said point S 71°16'22"E 11.45 feet to a Computed Point, thence from said point N 15°56'21"E 10.81 feet to a Computed Point, thence from said point N 83°01'58"E 180.69 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 40°20'30"E 312.47 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 84°24'39"E 154.87 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 69°24'36"E 99.34 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 20°35′24″E 226.73 feet to an Iron Pipe Found and being the Point and Place of BEGINNING containing 174,327 square feet and 4.00 acres.

### Lot #2

Beginning at a point in the northeastern corner of the lot situated at 804 Wimberly Road, Apex, North Carolina, said point being an Iron Pipe Found at the Right of Way of Wimberly Road, and being the Point and Place of **BEGINNING**. Thence from said point S 25°21′11″ E 77.64 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 20°35′24″ E 172.44 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 69°24′36″ W 99.34 feet to an Iron Pipe Found, thence from said Iron Pipe Found S 84°24′39″ W 154.87 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 40°20′30″ W 312.47 feet to an Iron Pipe Found, thence from said Iron Pipe Found N 83°01′58″ E 358.16 feet to an Iron Pipe Found and being the Point and Place of **BEGINNING** containing 80,240 square feet and 1.84 acres.



# Wake County Residential Development Notification

Please complete each

		section of this form and
	Developer Company Information	submit with vour
Company Name	Abel and Jessica Figueroa	annlication
Company Phone Number	(919) 960-3791	
Developer Representative Name	Zak Shipman, PE-Shipman Engineering, PLLC	Town of Anex staff will
Developer Representative Phone Number	(319) 900-0006	enter this information
Developer Representative Email	zak@shipmanengineering.com	into the online W/CDSS
		form.

	New Residential Subdivision Information	sion Information
	Date of Application for Subdivision	12/16/21
	City, Town or Wake County Jurisdiction	Apex
	Name of Subdivision	804 & 808 Wimberly Road
	Address of Subdivision (if unknown enter nearest cross streets)	808 Wimberly Road
	REID(s)	0182266 & 0440404
-	PIN(s)	0723232326 & 0723230271
Pag		
je 35	P	Projected Dates Information
57 -	Subdivision Completion Date	Fall, 2022

Fall, 2022

Subdivision Projected First Occupancy Date

Please send any questions

about this form to:

studentassignment-gis-

group@wcpss.net

Type       Total#of       Tot						E	ot by Lo	t Devel	opment /	Lot by Lot Development Information	u							
Image: Marcel in the image in the image.         Image in the image.         Image in the image.         Image in the image in the image in the image in the image.         Image: Image in the image.         Image in the image.         Image in the image.         Image in the image i	Unit Type	Total # of Units	Senior Living	oibut2	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Squarc Rar	e Foot nge	Price R	ange	4	nticipate	d Comple	etion Unit	s & Date	s
Family         Family         Fa         V         V         V         X1.2M         X1.2M         X1.5M         X1.2M         X1.5M         X1.2M         Z022         Z112         Z022         Z112         Z022         Z112         Z112         Z1122									Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Iomes         Iomes <th< th=""><th>Single Family</th><th></th><th></th><th></th><th></th><th></th><th></th><th>2</th><th>6000</th><th>7000</th><th>\$1.2M</th><th>\$1.5M</th><th>2022</th><th>2</th><th></th><th></th><th></th><th></th></th<>	Single Family							2	6000	7000	\$1.2M	\$1.5M	2022	2				
s         l <thl>         l         l         l</thl>	Townhomes																	
ments         20CZ04         22CZ04         21/122         21/122	Condos																	
20CZ04 22CZ04 2/1/22 2/1/22	Apartments																	
	Other	20CZ04	22CZ04	2/1/22		2/1/22												

Revised 08/10/2018

728 WIMBERLY RD	0723230517	DEMARTINO, ROBERT	726 WMBERLY RD	728 WMBERLY RD APEX NC 27523-6764
815 WIMBERLY RD	0723238124	DOWNS, LEE TRUSTEE DOWNS, JANET P TRUSTEE	2601 PICKETT RD APT 3047	DURHAM NC 27705-5608
804 WIMBERLY RD	0723232326	FIGUEROA, ABEL L. FIGUEROA, JESSICA	804 WMBERLY RD	APEX NC 27523-6765
717 WIMBERLY RD	0723236877	GUADAGNO, MICHAEL G TRUSTEE MICHAEL G GUADAGNO LIVING TRUST	717 WIMBERLY RD	APEX NC 27523-9677
905 WIMBERLY RD	0723229734	HOFFMAN, BRADFORD CLIFF HOFFMAN, CHELSEA DANIELLE	204 ECHO CREEK PL	APEX NC 27539-4182
8625 CASTLEBERRY RD	0723134513	JOHNSON, WILLIAM R III JOHNSON, SHERRY W	3511 NC 55 HWY	CARY NC 27519-8371
704 WMBERLY RD	0723138845	LAMBERT, MATTHEW EDWARD LAMBERT, ANITA W	704 WMBERLY RD	APEX NC 27523-6764
8639 CASTLEBERRY RD	0723111191	MARCOM, TEMPIE M	B637 CASTLEBERRY RD	APEX NC 27523-9695
ROS WIMMERI Y RD	0723237376	MONACO, SYLVIA S MONACO, MICHAEL A	805 WIMBERLY RD	APEX NC 27523-9678
A621 CASTI FRERRY RD	0723136582	SUTTON, DON SCOTT JR	8621 CASTLEBERRY RD	APEX NC 27523-9695
729 MMRERLY RD	0723237553	THALHAMER. CRAIG A THALHAMER. DEBRA MARTIN	729 WIMBERLY RD	APEX NC 27523-9677
D WIMBERLY RD	0723224206	TOLL SOUTHEAST LP COMPANY INC	250 GIBRALTAR RD	HORSHAM PA 19044-2323
D GREEN LEVEL WEST RD	0723434927	WEDDINGTON OWNERS ASSOCIATION INC	11010 RAVEN RIDGE RD	RALEIGH NC 27614-8837
		APEX TOWN OF	PO BOX 250	APEX NC 27502-0250
		Current Tenant	8625 Castleberry RD	APEX NC 27523
		Current Tenant	8639 Castleberry RD	APEX NC 27523
		Current Tenant	808 Wimberly RD	APEX NC 27523
		Current Tanant	815 Wimberly RD	APEX NC 27523

-

Copy of 804\_and\_808\_Wimberly\_RD\_Rezoning\_Notification\_List.xls

# NOTICE OF NEIGHBORHOOD MEETING

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

12/16/21

Date

### Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

804 Wimberly Road	0723232326	
808 Wimberly Road	0723230271	
Address(es)	PIN(s)	

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the <u>Interactive Development Map</u> or the <u>Apex Development Report</u> located on the Town of Apex website at http://www.apexnc.org/180/Planning-Community-Development.

A Neighborhood Meeting is required because this project includes (check all that apply):

App	lication Type	Approving Authority
$\checkmark$	Rezoning (including Planned Unit Development)	Town Council
	Major Site Plan	Town Council (QJPH*)
	Special Use Permit	Town Council (QJPH*)
	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)): We are proposing annexation and rezoning of the two lots into the Town of Apex Corporate limits for the purpose

of submitting a recombination plat to adjust lot lines. Additionally we are proposing to extend Town sewer service

to provide service for the two lots. A total of 2 residential units are proposed.

Estimated submittal date: February, 2022

MEETING INFORMATION:	
Property Owner(s) name(s):	Abel and Jessica Figueroa
Applicant(s):	Zak Shipman, PE-Shipman Engineering, PLLC
Contact information (email/phone):	zak@shipmanengineering.com / (919) 900-0006
Meeting Address:	Virtual
Date/Time of meeting**:	January 10, 2021, 5:00 pm to 7:00 pm
MEETING AGENDA TIMES	

### **MEETING AGENDA TIMES:**

Welcome: 5:00 pm Project Presentation: 5:15 pm

Question & Answer: 5:30 pm

\*\*Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning and Community Development Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <a href="http://www.apexnc.org/180/Planning-Community-Development">http://www.apexnc.org/180/Planning-Community-Development</a>.

# **PROJECT CONTACT INFORMATION**

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

Development Contacts:					
Project Name: 804 & 808 Wimberly Road Rezoning Zoning: RR-CZ					
Location: 808 & 804 Wimberly Road					
Property PIN(s): 0723232326 & 0723230271 Acreage/Square Feet: 5.84					
Property Owner: Abel and Jessica Figueroa					
Address: 808 Wimberly Road					
City: Apex		State: NC	Zip: 27523		
Phone: (919) 960-3791 Email: abel@artisanqualityroofing.com					
Developer: Abel and Jessica F	igueroa		· · · · · · · · · · · · · · · · · · ·		
Address: 808 Wimberly Road					
<sub>City:</sub> Apex	States	NC	Zip: 27523		
Phone: (919) 960-3791	Fax:		Email: abel@artisanqualityroofing.com		
Engineer: Shipman Engineering, PLLC- Zak Shipman, PE					
Address: 137 Middlegreen Plac	e				
City: Holly Springs		State: NC	Zip: 27540		
Phone: (919) 900-0006	Fax:		Email: zak@shipmanengineering.com		
Builder (if known):					
Address:					
City:		State:	Zip:		
Phone:	Fax:		Email:		

Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts	
Planning and Community Development Department Main Number	
(Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department	
Angela Reincke, Parks and Greenways Planner	(919) 249-7468
Public Works - Transportation	
Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department	
Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation &	(919) 249-3537
Erosion Control)	
James Gregg, Utility Engineering Manager (Water & Sewer)	(919) 249-3324
Electric Utilities Division	
Rodney Smith, Electric Technical Services Manager	(919) 249-3342

**NEIGHBORHOOD MEETING SIGN-IN SHEET** 

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

Meeting Address: Virtual			
Date of meeting: Jan. 10, 2021		Time of meeting: 5:00 pm-7:00 pm	5:00 pm-7:00 pm
Property Owner(s)	el and Jessica Figueroa		
Applicant(s): Zak	Applicant(s): Zak Shipman, PE-Shipman Engineering, PLLC	PLLC	

Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. must include all known participants and request the information below.

	NIAME/ORGANIZATION	ADDRFSS	PHONE #	EMAIL	SEND PLANS
					& UPDATES
÷	Zak Shipman-Shipman Engineering	137 Middlegreen Place, Holly Springs, NC 27540			
2.	Scott & Martha Sutton	8621 Castleberry Road, Apex, NC 27523			×
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6					
10.					
11.					
12.					
13.					
14.					
Use	Use additional sheets, if necessary.				

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Page 8 of 10

# SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): Abel and Jessica Figueroa				
Applicant(s): Zak Shipman, PE-Shipman Engineering, PLLC				
Contact information (email/phone):	zak@shipmanengineering.com / (919) 900-0006			
Meeting Address: Virtual				
Date of meeting: Jan. 10, 2021	Time of meeting: <u>5:00 pm-7:00 pm</u>			

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1:

From Scott Sutton-will location of sewer block him from extending Town sewer to his property in the future

Applicant's Response:

No, it would not. Gravity sewer can be extended up the existing stream to the Sutton property

and connect into the manhole at Castleberry Estates. We would be willing to connect the applicant

with Sutton to discuss. Mr. Sutton was not ready to do anything with sewer currently.

Question/Concern #2:

From Mr. Sutton: Do we know where house on Lot 2 would go?

Applicant's Response:

We are not entirely sure at the moment, but we suspect the house on Lot 2 would have a similar front setback

as the existing house so they sit roughly at the same depth from Wimberly.

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

# AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

## L Abel Figueroa

Print Name

\_\_\_\_\_, do hereby declare as follows:

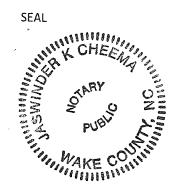
- 1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 Neighborhood Meeting.
- 2. The meeting invitations were mailed to the Apex Department of Planning and Community Development, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.

3.	The meeting was conducted at _	VIRTUAL-	200M		_(locat	ion/address)
	on JAN 10, 2022	(date) from	5:00 pm	_(start time) to	3 pm	(end time).

- 4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me, Abel Frqueroq, a Notary Public for the above State and County, on this the U day of En 2022.



CG Notary Public

sunder Print Name

Νου My Commission Expires: 2026

## PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ04 804 & 808 Wimberly Road

Planning Board Meeting Date: April 11, 2022

#### **Report Requirements:**

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

±5.84 acres		
0723230271 & 0723232326		
Wake County Residential-80V	<i>N</i> (R-80W)	
Rural Residential-Conditional	Zoning (RR-CZ)	
Rural Density Residential		
045 Land Use Map Designatio	on will change to: Low Density Residential	
Outside ETJ (annexation is rec	quired at time of rezoning)	
he project is consistent or inco	- · · · ·	IS,
Inconsistent	Reason:	
pace, and Greenways Plan	Reason:	
- Page 364 -	Dianning Roard Poport to Town Council	<b>•</b>
	0723230271 & 0723232326 Wake County Residential-80 Rural Residential-Conditional Rural Density Residential <b>045 Land Use Map Designatic</b> Outside ETJ (annexation is re <b>d Plans:</b> the project is consistent or incu- ave a check mark next to the Inconsistent	0723230271 & 0723232326 Wake County Residential-80W (R-80W) Rural Residential-Conditional Zoning (RR-CZ) Rural Density Residential O45 Land Use Map Designation will change to: Low Density Residential Outside ETJ (annexation is required at time of rezoning) d Plans: he project is consistent or inconsistent with the following officially adopted plan ave a check mark next to them.  Inconsistent Reason: Space, and Greenways Plan Inconsistent Reason:

PE

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# PE PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ04 804 & 808 Wimberly Road Planning Board Meeting Date: April 11, 2022 Legislative Considerations: The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest. 1. Consistency with 2045 Land Use Plan. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan. ✓ Consistent Reason: Inconsistent 2. Compatibility. The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses. ✓ Consistent Inconsistent Reason: Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use's compliance 3. with Sec. 4.4 *Supplemental Standards*, if applicable. ✓ Consistent Inconsistent Reason:

Design minimizes adverse impact. The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
 ✓ Consistent

5. *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

Inconsistent

Reason:

- Page 365 -

Rez	ANNING BOARD REPORT TO TOWN COUNCIL oning Case: 22CZ04 804 & 808 Wimberly Road ning Board Meeting Date: April 11, 2022
6.	Impact on public facilities. The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.         Impact on public facilities and services including roads.         Impact on public facilities and services.         Impact on public facilities.
7.	Health, safety, and welfare. The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.         Image: State of the Consistent in the consistent in the consistent in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant in the constant in the constant in the constant is constant.
8.	Detrimental to adjacent properties.       Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.         Image: Consistent inconsistent inconsinconsistent inconsinconsistent inconsistent inconsistent inconsis
9.	Not constitute nuisance or hazard. Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use. Consistent Inconsistent Reason:
10.	Other relevant standards of this Ordinance. Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.         Image: Imag

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ04 804 & 808 Wimberly Road

Planning Board Meeting Date: April 11, 2022



#### **Planning Board Recommendation:**

Motion:	To recommend approval with conditions as presented.
Introduced by Planning Board member:	Ryan Akers
Seconded by Planning Board member:	Keith Braswell

Approval: the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.

Approval with conditions: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

Conditions as proposed by applicant.

*Denial*: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With <u>7</u> Planning Board Member(s) voting "aye"

With <u>0</u> Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the

11th day of April

2022.

Attest:

Members

Reginald Skinner, Planning Board Chair



Dianne Khin, Director of Planning and Community Development

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# TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #22CZ04

# 804 & 808 Wimberly Road

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: Abel & Jessica Figueroa Authorized Agent: Zak Shipman, P.E., Shipman Engineering, PLLC Property Addresses: 804 & 808 Wimberly Road Acreage: ±5.84 acres Property Identification Numbers (PINs): 0723230271 & 0723232326 2045 Land Use Map Designation: Rural Density Residential Existing Zoning of Properties: Wake County Residential-80W (R-80W) Proposed Zoning of Properties: Rural Residential-Conditional Zoning (RR-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

#### Planning Board Public Hearing Date and Time: April 11, 2022 4:30 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

# A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

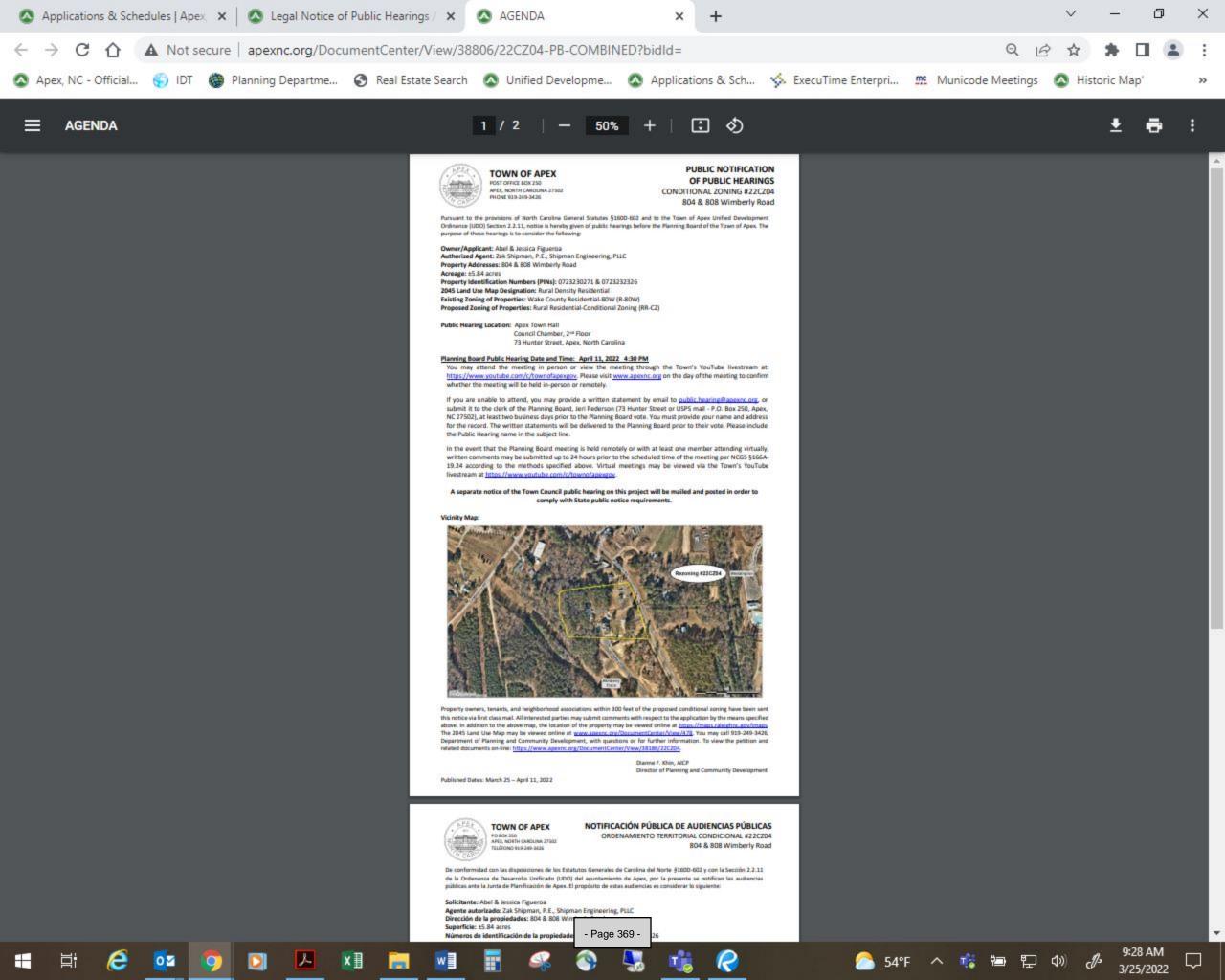
Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38186/22CZ04">https://www.apexnc.org/DocumentCenter/View/478</a>.



#### Dianne F. Khin, AICP Director of Planning and Community Development





TOWN OF APEX PO BOX 250

APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

# NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

**ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ04** 804 & 808 Wimberly Road

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: Abel & Jessica Figueroa Agente autorizado: Zak Shipman, P.E., Shipman Engineering, PLLC Dirección de la propiedades: 804 & 808 Wimberly Road Superficie: ±5.84 acres Números de identificación de la propiedades: 0723230271 & 0723232326 Designación actual en el Mapa de Uso Territorial para 2045: Rural Density Residential Ordenamiento territorial existente de la propiedades: Wake County Residential-80W (R-80W) Ordenamiento territorial propuesto para la propiedades: Rural Residential-Conditional Zoning (RR-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

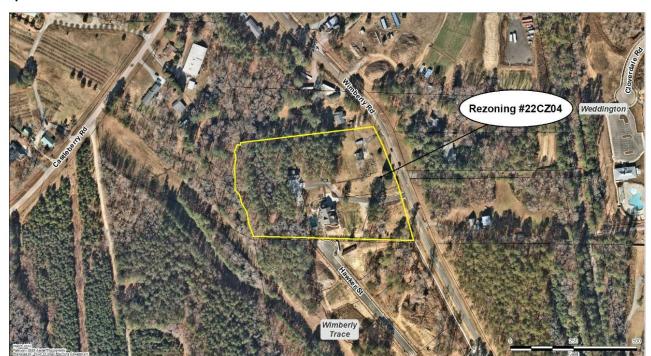
Fecha y hora de la audiencia pública de la Junta de Planificación: 11 de abril de 2022 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: https://www.youtube.com/c/townofapexgov. Por favor visite www.apexnc.org el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaría de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión de la Junta de Planificación se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: https://www.youtube.com/c/townofapexgov.

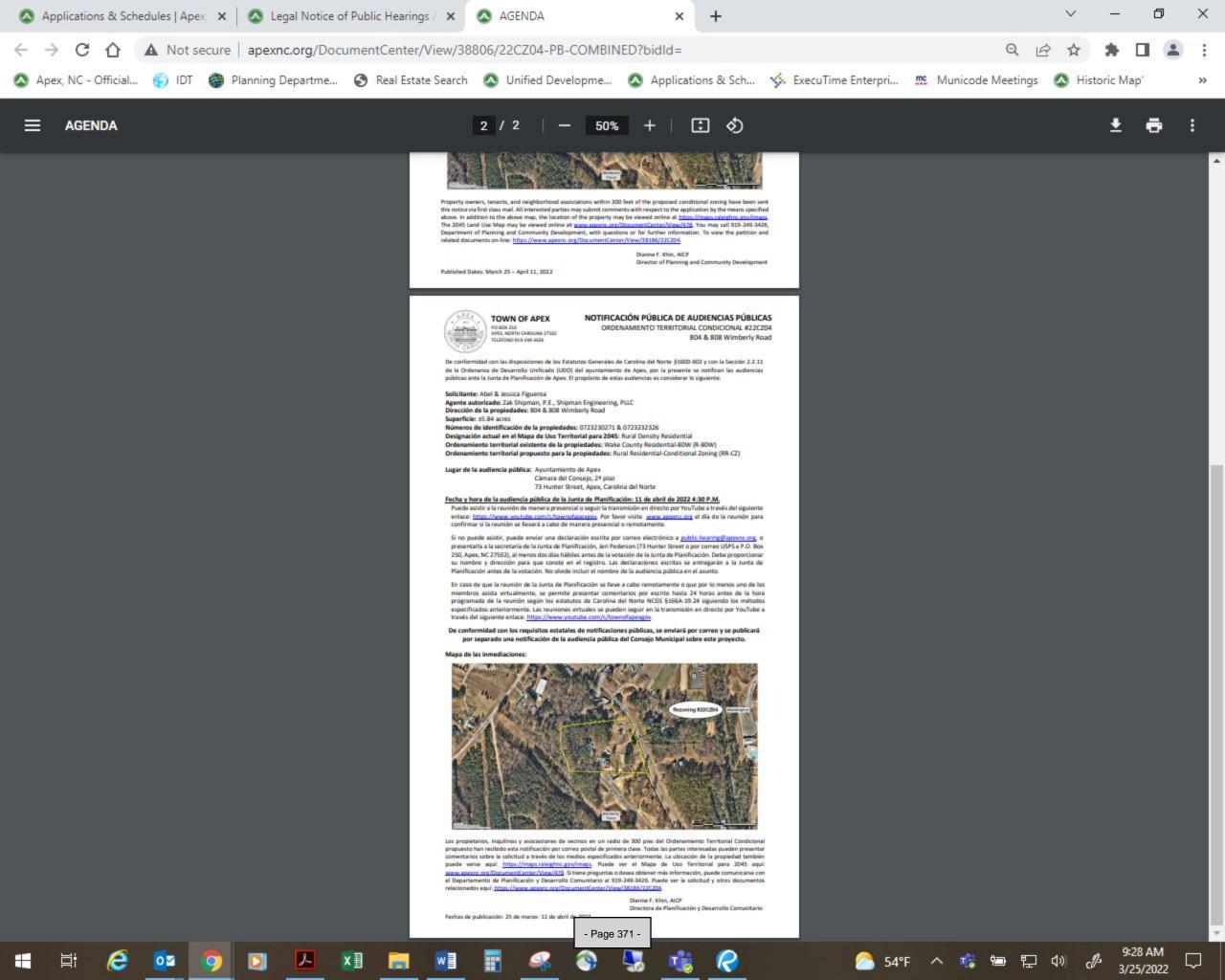
#### De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.



Mapa de las inmediaciones:

Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: https://maps.raleighnc.gov/imaps. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: https://www.apexnc.org/DocumentCenter/View/38186/22CZ04.

#### Dianne F. Khin, AICP Directora de Planificación y Desarrollo Comunitario





## TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

Conditional Zoning #22CZ04 **Project Name:** 804 & 808 Wimberly Road Project Location: 804 & 808 Wimberly Road Applicant or Authorized Agent: Zak Shipman, P.E.

Firm:

Shipman Engineering, PLLC.

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on March 25, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

3/28/2022

Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

Jeri Chastain Aderson, a Notary Public for the above 28 day of March , 202 Z.

State and County, this the

JERI CHASTAIN PEDERSON
Notary Public Wake County, North Carolina
Wake County, North Carolina
My Commission Expires
March 10, 2024

Jui Chastain Pederson Notary Public

My Commission Expires: 3 / 10 / 2024

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TOWN OF APEX

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #22CZ04

## 804 & 808 Wimberly Road

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: Abel & Jessica Figueroa Authorized Agent: Zak Shipman, P.E., Shipman Engineering, PLLC Property Addresses: 804 & 808 Wimberly Road Acreage: ±5.84 acres Property Identification Numbers (PINs): 0723230271 & 0723232326 2045 Land Use Map Designation: Rural Density Residential Existing Zoning of Properties: Wake County Residential-80W (R-80W) Proposed Zoning of Properties: Rural Residential-Conditional Zoning (RR-CZ)

Public Hearing Location: Apex Town Hall Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

#### *Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.*

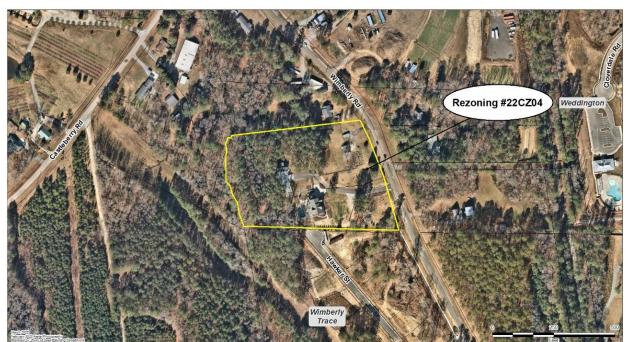
#### Town Council Public Hearing Date and Time: April 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the office of the Town Clerk, (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

#### Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38186/22CZ04">https://www.apexnc.org/DocumentCenter/View/478</a>.



#### Dianne F. Khin, AICP Director of Planning and Community Development

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PUBLIC NOTIFICATION

OF PUBLIC HEARINGS

804 & 808 Wimberly Road

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#### 🙆 Legal Notice of Public Hearing... 🙆 apexnc.org



CONDITIONAL ZONING #22CZ04

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Owner/Applicant: Abel & Jessica Figueroa Authorized Agent: Zak Shipman, P.E., Shipman Engineering, PLLC Property Addresses: 804 & 808 Wimberly Road Acreage: ±5.84 acres Property Identification Numbers (PINs): 0723230271 & 0723232326 2045 Land Use Map Designation: Rural Density Residential Existing Zoning of Properties: Wake County Residential-80W (R-80W) Proposed Zoning of Properties: Rural Residential-Conditional Zoning (RR-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

#### Town Council Public Hearing Date and Time: April 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: https://www.youtube.com/c/townofapexgov. Please visit www.apexnc.org on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the office of the Town Clerk, (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at https://www.youtube.com/c/townofapexgov.

#### Vicinity Map



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at https://maps.raleighnc.gov/imaps. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, rtment of Planning and Community Development, with questions or for further information. To view the petition and ted documents on-line: https://www.apexnc.org/DocumentCenter/View/38186/22C204.

> Dianne F. Khin, AICP Director of Planning and Community Development

Published Dates: April 1 - April 26, 2022

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PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

# NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ04 804 & 808 Wimberly Road

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: Abel & Jessica Figueroa Agente autorizado: Zak Shipman, P.E., Shipman Engineering, PLLC Dirección de la propiedades: 804 & 808 Wimberly Road Superficie: ±5.84 acres Números de identificación de la propiedades: 0723230271 & 0723232326 Designación actual en el Mapa de Uso Territorial para 2045: Rural Density Residential Ordenamiento territorial existente de la propiedades: Wake County Residential-80W (R-80W) Ordenamiento territorial propuesto para la propiedades: Rural Residential-Conditional Zoning (RR-CZ)

#### Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

#### Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

#### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de abril, 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, 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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

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Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/38186/22CZ04</u>.

#### Mapa de las inmediaciones:

- Page 375 -

# Dianne F. Khin, AICP

Directora de Planificación y Desarrollo Comunitario

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#### TOWN OF APEX NO BOX 250 APEX, NORTH CAROLINA 27502 APEX, NORTH CAROLINA 27502

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#### NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ04 804 & 808 Wimberly Road

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

#### Solicitante: Abel & Jessica Figueroa

Agente autorizado: Zak Shipman, P.E., Shipman Engineering, PLLC Dirección de la propiedades: 804 & 808 Wimberly Road Superficie: ±5.84 acres Números de identificación de la propiedades: 0723230271 & 0723232326 Designación actual en el Mapa de Uso Territorial para 2045: Rural Density Residential Ordenamiento territorial existente de la propiedades: Wake County Residential-80W (R-80W) Ordenamiento territorial propuesto para la propiedades: Rural Residential-Conditional Zoning (RR-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

#### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de abril, 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>. Por favor visite <u>www.apexnc.org</u> el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, 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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov.</u>

#### Mapa de las inmediaciones:

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Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el partamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos prionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/38186/22C204</u>.

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Fechas de publicación: 1 de abril- 26 de abril 2022

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Dianne F. Khin, AICP Directora de Planificación y Desarrollo Comunitario

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## **TOWN OF APEX**

POST OFFICE BOX 250 APEX, NORTH CAROLINA 27502 PHONE 919-249-3426

# **AFFIDAVIT CERTIFYING** Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

**Project Name:** 

**Project Location:** 

Applicant or Authorized Agent:

Zak Shipman, P.E.

Firm:

Shipman Engineering, PLLC.

Conditional Zoning #22CZ04

804 & 808 Wimberly Road

804 & 808 Wimberly Road

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on April 1, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

4/4/2022

Seanne F. Khin

Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

State and County, this the

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and the second	JERI CHASTAIN PEDERSON	Z
and the	NOIST Public	
E HILL	Wake County, North Carolina My Commission Expires	K
The second	March 10, 2024	K
1		

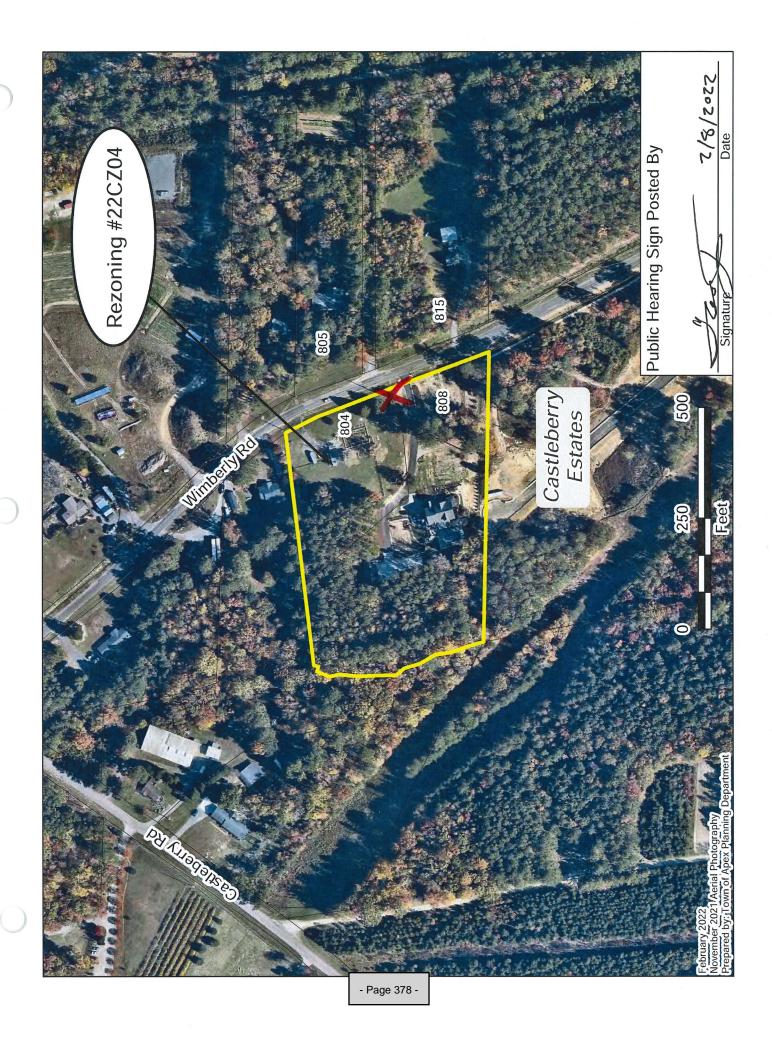
Jeri Chastain Lederson, a Notary Public for the above

4 day of April , 202 2.

Ju Chastaen Rederson Notary Public

My Commission Expires: <u>3 / 10 / 2024</u>

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WAKE COUNTY PUBLIC SCHOOL SYSTEM

Student Assignment 5625 Dillard Drive Cary, NC, 27518 Email: studentassignment@wcpss.net

March 7, 2022

Dianne Khin, AICP Director, Department of Planning and Community Development Town of Apex <u>Dianne.Khin@apexnc.org</u>

Dear Dianne,

The Wake County Public School System (WCPSS) Office of School Assignment received information about a proposed rezoning/development within the Town of Apex planning area. We are providing this letter to share information about WCPSS's capacity related to the proposal. The following information about the proposed rezoning/development was provided through the Wake County Residential Development Notification database:

- Date of application: February 1, 2022
- Name of development: 22CZ04 804 & 808 Wimberly Rd
- Address of rezoning: 804 & 808 Wimberly Rd
- Total number of proposed residential units: 4 (2 existing)
- Type(s) of residential units proposed: Single-family detached

Based on the information received at the time of application, the Office of School Assignment is providing the following assessment of possible impacts to the Wake County Public School System:

- □ Schools at <u>all</u> grade levels within the current assignment area for the proposed rezoning/development are anticipated to have <u>sufficient</u> capacity for future students.
- Schools at <u>the following</u> grade levels within the current assignment area for the proposed rezoning/development are anticipated to have <u>insufficient</u> capacity for future students; transportation to schools outside of the current assignment area should be anticipated:
  - $\square$  Elementary  $\square$  Middle  $\square$  High

The following mitigation of capacity concerns due to school construction or expansion is anticipated:

- □ Not applicable existing school capacity is anticipated to be sufficient.
- □ School expansion or construction within the next five years is not anticipated to address concerns.
- School expansion or construction within the next five years may address concerns at these grade levels:
  - $\Box$  Elementary  $\Box$  Middle  $\Box$  High

Thank you for sharing this information with the Town of Apex Planning Board and Town Council as they consider the proposed rezoning/development.



tel: (919) 431-7333 fax: (919) 694-7753 STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.84 ACRES LOCATED AT 804 & 808 WIMBERLY ROAD FROM WAKE COUNTY RESIDENTIAL-80W (R-80W) TO RURAL RESIDENTIAL-CONDITIONAL ZONING (RR-CZ)

#### #22CZ04

**WHEREAS**, Zak Shipman, Shipman Engineering, PLLC, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1st day of February 2022 (the "Application"). The proposed conditional zoning is designated #22CZ04;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ04 before the Planning Board on the 11<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 11<sup>th</sup> day of April 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ04. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ04;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ04 before the Apex Town Council on the 26<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 26<sup>th</sup> day of April 2022. Lauren Staudenmaier, Planner II, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #22CZ04 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

WHEREAS, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Low Density Residential. This designation on the 2045 Land Use Map includes the zoning district Rural Residential-Conditional Zoning (RR-CZ) and the Apex Town Council has further considered that the proposed rezoning to Rural Residential-Conditional Zoning (RR-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 proposed rezoning is reasonable and in the public interest because it will permit singlefamily residential development consistent and compatible with the surrounding area. In addition, the proposed rezoning will allow the properties to connect to Town water and sewer services; and

**WHEREAS**, the Apex Town Council by a vote of \_\_\_\_\_ to \_\_\_\_ approved Application #22CZ04 rezoning the subject tract located at 804 & 808 Wimberly Road from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ).

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

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

**Section 2:** The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a <u>part of said Ordinance</u>, is hereby amended by changing the

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#### Ordinance Amending the Official Zoning District Map #22CZ04

zoning classification of the "Rezoned Lands" from Wake County Residential-80W District (R-80W) to Rural Residential-Conditional Zoning (RR-CZ) District, subject to the conditions stated herein.

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

**Section 4:** The "Rezoned Lands" are subject to all of the following conditions which are imposed as part of this rezoning:

#### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

#### Permitted Uses and Limitations:

- 1. Single-family (P)
- 2. Accessory apartment (P)

#### Conditions:

- 1. A maximum of 0.75 dwelling units per acre are permitted.
- 2. A minimum front setback of 65 feet from the current Wimberly Road right-of-way for all residences.
- 3. Outdoor lighting shall be full cut-off and shielded to prevent glare and light spillover to minimize the impact on neighboring residential properties. LED fixtures shall be used and the lighting temperature shall be a maximum of 3,000k.
- 4. The project shall install light timers, motion sensors, or other smart technology for all exterior lighting for the residences.
- 5. All single family detached homes shall be pre-configured with conduit for a solar energy system.
- 6. An additional 25 feet of riparian buffer shall be observed on the existing stream on the rear of the lot if it is intermittent, or 50 feet of buffer if it is ephemeral.
- 7. Vinyl siding is not permitted; however vinyl windows, decorative elements, and trim are permitted.
- 8. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
- 9. Eaves shall project at least 12 inches from the wall of the structure.
- 10. Garage doors shall have windows or decorative details on them.
- 11. Garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
- 12. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
- 13. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- 14. Front porches shall be a minimum of 6 feet deep.
- 15. The number of private driveways accessing Wimberly Road shall not be increased from the existing two (2) driveways.
- 16. The visible side of a home on a corner lot facing the public street shall contain at least three decorative elements such as, but not limited to:

a. Windows

h. Decorative Shake

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#### Ordinance Amending the Official Zoning District Map #22CZ04

- b. Bay Windowc. Recessed Windowd. Trim around the windows
- e. Two or more building materials
- f. Decorative Brick/Stone
- g. Decorative Trim

i. Decorative air vents on gablej. Decorative gablek. Columnl. Porticom. Dormer

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

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

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

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

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

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

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

TOWN OF APEX

ATTEST:

Mayor

Interim Town Clerk

**APPROVED AS TO FORM:** 

Town Attorney

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:NEW BUSINESSMeeting Date:April 26, 2022

# Item Details

Presenter(s):Christopher "C.J." Valenzuela, Housing Program ManagerDepartment(s):Planning and Community Development

#### Requested Motion

Possible motion to provide financial support to Evergreen Construction Company for the residential affordable housing senior (55 yrs. +) rental project known as Abbey Spring in the form of a loan from the Affordable Housing Fund for permanent financing contingent upon final project approval, and authorize the Town Manager to execute loan and compliance project documentation.

### Approval Recommended?

Yes

## <u>Item Details</u>

On March 25, 2021 Town Council approved two prior Evergreen Construction Company (Developer) Fiscal Year (FY) 2022-23 funding requests which included a \$500,000 loan for permanent financing and \$171,700 grant for reimbursement of a parks and recreation fee-in-lieu from the Town's Affordable Housing Fund (AHF) for the Abbey Spring residential affordable housing senior (55 yrs. +) rental project (Project). On January 22, 2022, the Developer submitted an additional \$500,000 permanent financing loan request to the Town for consideration due to increases in overall project costs. The Developer will competitively apply to the North Carolina Housing Finance Agency (NCHFA) for a nine percent (9%) Low-Income Housing Tax Credit (LIHTC), and if awarded the funding would provide a substantial amount of investment into the Project. In addition, the Developer recently applied to Wake County through their competitive Affordable Housing Development Program (AHDP) Request for Proposals (RFP) application process for a maximum of up to \$1,940,000 for the Project. The Developer needs all financial commitments by no later than the nine percent (9%) NCHFA LIHTC application deadline of May 13, 2022.

<u>Attachments</u>

- Staff Report
- Evergreen Construction Company Funding Request Letter



#### April 26, 2022 Town Council Meeting



On March 25, 2021 Town Council approved two prior Evergreen Construction Company (Developer) Fiscal Year (FY) 2022-23 funding requests from the Town's Affordable Housing Fund (AHF) for the Abbey Spring residential affordable housing senior (55 yrs. +) rental project (Project). The prior FY 2022-23 funding request included: (1) a 30-year term, two-percent (2%) interest rate loan in the amount of \$500,000 for permanent financing, and (2) grant totaling \$171,700 for reimbursement of a parks and recreation fee-in-lieu. The proposed Project will include a total of eighty-four (84) residential affordable housing senior (55 yrs. +) rental units (Affordable Units). Ten percent (10%) of the Affordable Units within the Project will be set-aside for targeted populations such as disabled and homeless. An additional ten percent (10%) of the Affordable Units within the Project will be set-aside for Wake County Rental Assistance Housing Program (RAHP) voucher holders. The Affordable Units will be offered to households earning no more than thirty percent (30%) to sixty percent (60%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI), adjusted for family size, as published by the U.S. Department of Housing and Urban Development (HUD). This proposed Project will be the largest affordable housing senior (55 yrs. +) rental project in Town history. Table 1 below provides a summary of the Town's affordable housing projects to-date.

Town Affordable Housing Projects					
Project Name	# of Affordable Units	Project Date			
*Abbey Spring	84	Pending			
Broadstone Walk	164	Approved, Construction Not Started			
Beechridge	72	Completed 1999			
West Haven	72	Completed 1998			
Wake Acres	48	Completed 1983			
White Oak Villas	16	Completed 2013			
Oak Grove	10	Completed 1963			
Kissena Lane	9	Under Construction			
Total	475				

Table 1	
n Affordable Housing	Proie

\*Proposed project would be the largest affordable housing senior (55 yrs. +) project in Town history.

North Carolina General Statute (N.C.G.S.) 160A-20.1 provides authority for the Town to expend funds for public purposes, including providing affordable housing, and N.C.G.S. 157-3(12)(e) authorizes the Town "to provide grants . . . and other programs of financial assistance to public or private developers of housing for persons of low income, or moderate income, or low and moderate income."

On January 22, 2022, the Developer submitted an additional \$500,000 permanent financing loan request to the Town for consideration due to increases in overall project costs, such as; (1) supply chain delays, (2) rising construction costs, (3) rising labor costs and (4) permanent financing mortgage interest rate increases. The Developer will competitively apply to the North Carolina Housing Finance Agency (NCHFA) for a nine percent (9%) Low-Income Housing Tax Credit (LIHTC), and if awarded the funding would provide a substantial amount of investment into the Project. In addition, the Developer recently applied to Wake County through their

competitive Affordable Housing Development Program (AHDP) Request for Proposals (RFP) application process for a maximum of up to \$1,940,000 for the Project. The Wake County Board of Commissioners are proposed to make final AHDP RFP funding awards prior to the nine percent (9%) NCHFA LIHTC application deadline of May 13, 2022. The Developer needs all financial commitments by no later than the nine percent (9%) NCHFA LIHTC application deadline of May 13, 2022.

LIHTC's are federal tax incentives given to states who then award developers these credits for projects that meet certain criteria as outlined by both the state and federal government. Once developers are awarded, they go and market these tax credits to investors who will then purchase them in exchange for offsetting taxes otherwise owed over a ten (10) year period. Developers can then use the funding provided from the tax credit investors as equity in a project. However, the disbursement of the tax credit funding is subject to negotiation between the developer and an investor and in most cases, the bulk is only distributed upon stabilization because the credits are not officially awarded until the project is up and running. Because this is a negotiation process between the developer and an investor and due to other market factors, the developer's equity pricing is not locked in until an investor formally accepts the terms and conditions.

Table 2 below shows the proposed budget impact to the AHF for the upcoming FY 2022-23.

Fund 21 – Afford	lable Housing			
FY 2022-23 Revenues				
Activity	Est. Dollar Amount			
Est. Initial Starting Balance	\$1,500,000			
Est. Total Revenues	\$1,500,000			
FY 2022-23	Expenses			
Activity	Est. Dollar Amount			
Apex Cares Housing Rehabilitation Grant	\$250,000			
Abbey Spring Affordable Housing Project Grant	\$171,700			
Abbey Spring Affordable Housing Project Loan	\$500,000			
*Abbey Spring Affordable Housing Project Loan Additional Funding Request	*\$500,000			
Reserved for Future Expenditures	\$78,300			
Est. Total Expenses	\$1,500,000			

Table 2 Affordable Housing Fund Budget Summary

\*Subject to Town Council Approval

Table 3 below provides a summary of the estimated total Project costs itemized by funding source, dollar amount and percentage of funding.

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Funding Source	Estimated Dollar Amount	Percentage (%) of Funding
Permanent Loan	\$3,000,000	17.53%
NCHFA RPP Loan	\$800,000	4.68%
*Wake County Loan (FY 2022-23)	\$1,940,000	11.34%
Town of Apex Grant (FY 2022-23)	\$171,700	1.00%
Town of Apex Loan (FY 2022-23)	\$500,000	2.92%
**Town of Apex Loan (FY 2022-23)	\$500,000	2.92%
NCHFA 9% Federal LIHTC Equity	\$10,198,980	59.61%
Est. Total Project Costs	\$17,110,680	100.00%

Table 3 Abbey Spring Estimated Project Budget

\*Subject to Wake County Board of Commissioners Approval

\*\*Subject to Town Council Approval

The primary goal of the Town's AHF is to support affordable housing development. The Town's FY 2022-23 funding to the Developer through this request would come in the form of a 30-year term, two-percent (2%) interest rate loan in the amount of up to \$500,000 for permanent financing. If the Developer is able to obtain the necessary financial commitments in order to receive project and underwriting approval, the Town would execute the following documents with the Developer to ensure compliance and regulatory requirements are carried out: (1) Development Agreement, (2) Promissory Note, (3) Deed of Trust and (4) other due diligence documentation. The Town's funding to the Developer will also require a 30-year affordability restriction period to ensure rents remain affordable long-term, which is consistent with NCHFA LIHTC regulations.

#### Staff Recommendation:

Planning staff recommends approval of up to \$500,000 for this FY 2022-23 AHF loan request in order to provide the Developer with the necessary financial commitments needed for the Project and in order to meet the nine percent (9%) NCHFA LIHTC application deadline of May 13, 2022.

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January 22, 2022

Mr. Shawn Purvis Assistant Town Manager Town of Apex 73 Hunter Street Apex, NC 27502 Mr. Christopher Valenzuela Housing Program Manager Town of Apex 73 Hunter Street Apex, NC 27502

Re: Abbey Spring Funding Request

Dear Mr. Purvis & Mr. Valenzuela:

Abbey Spring – A Senior Living Community is a proposed new construction development that is to be located on the parcel next to 511 W Williams Street in Apex. The project will consist of (42) one-bedroom, one bath units and (42) two- bedroom, one bath units for persons 55 years of age and older. The building will be a 3 story L shape design, served by two elevators with all residential units opening into an interior hallway. The main entrance will have a call panel system will all exterior doors self-locking. On-site amenities will include a main lobby, a TV lounge area, a computer center, a fitness center, a multi-purpose room with kitchen, coin-op laundry facilities and tenant storage areas.

All 84 units will be affordable to seniors at or below 60% of the area median income with a portion of those set aside at or below 50%, 40% and 30% of the area median income. In addition, 10% of the units will be targeted to persons with disabilities or who are homeless with KEY rental assistance available to those persons through the North Carolina Housing Finance Agency (NCHFA) and 10% will be set aside for Wake County Rental Assistance Housing Program (RAHP) holders.

This proposal has been submitted to the North Carolina Housing Finance Agency as a 2022 application, requesting 9% credits along with a \$800,000 RPP loan request. A funding request has also been made to Wake County in the form of a construction/permanent loan in the amount of \$1,940,000 at a 2% rate with a 30-year term and amortization period. Funding requests to Wake County also require the applicant to request financial support from local municipalities that offer gap financing for affordable housing. In order for our proposal to be competitive, Evergreen is requesting the Town of Apex provide a permanent loan in the amount of \$1,000,000 at the same terms as the county's loan request, along with a \$171,700 parks and recreation fee reimbursement. I have included the applications sent to Wake County and to NCHFA for the town to get a better understanding of our proposal.

I believe this development will provide a much-needed housing alternative for Apex's growing senior population.

Please advise if I can be of further service.

Sincerely,

methy D. Mon

Timothy G. Morgan President

Equal Housing Opportunity (5

This institution is an equal opportunity provider and employer

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Agenda Item   cover sheet for consideration by the Apex Town Council					
		Item Type:	CLOSED SESSION		
		Meeting Date:	April 26, 2022		
<u>Item Det</u>	ails				
Presenter:	Steve Adams, Real Estates & Public Utilitie	es			
Department:	Administration				
	Requested Motion	<u>n</u>			
Possible motion to go into closed session pursuant to NCGS 143-318.11(a)(5) to discuss the Town's negotiating position to the acquisition of real property					
	Approval Recommen	ded?			
Yes					
	<u>Item Details</u>				
<u>Attachments</u>					
N/A					
			APEH 1873		

CAR